

DISCUSSION POINTS FOR DEVELOPING COMMENTS ON SENATOR WICKER'S AQUACULTURE BILL (S.1520)

SAFMC Executive Finance Committee
September 20, 2018 & December 6, 2018

The Councils cannot lobby but if requested, the Councils can provide comments on how such a bill may affect the Council's operations. The following points are provided by staff for the Committee/Council's consideration in providing guidance in the event we are requested to provide comments.

- Lots of good in bill; coordinating permitting process and developing some national consistency.
- In current form, missing the opportunity to use the Regional Fishery Management Council (RFMC) process to address aquaculture in a fully transparent manner. The process would work more effectively if the RFMC's developed Aquaculture Plans to address:
 - Siting – the RFMC's have extensive experience dealing with user conflicts; siting also needs to be done with habitat protection and protected/managed areas in mind.
 - Species – the species could have a direct interaction with Council-managed species. Issues like law enforcement (size, bag, season, and possession limits) need to be addressed.
 - Permits – the RFMC's could review general and specific permits within the context of a national permitting process developed by NMFS.
- What level of role do the RFMCs' want? Active participation versus consultation? The RFMCs are mentioned 4 times:
 - The RFMCs are mentioned on page 9: “(b) DUTIES. —The Office of Marine Aquaculture shall—....(4) provide opportunities for engagement with owners and operators of offshore aquaculture facilities, fishery management councils, conservation organizations, fisheries associations, State governments, and other interested stakeholders;”
 - The RFMCs are mentioned on page 11: “(c) REGULATIONS. — The Secretary shall — (1) promulgate regulations, after consulting with relevant Federal agencies, coastal States, regional fishery management councils, and tribal governments (within the meaning of such term in Executive Order 13175 (65 Fed. Reg. 67249)) to implement this act, including—.....”
 - The RFMCs are mentioned on page 35: “SEC. 10. ENVIRONMENTAL AND MANAGEMENT STANDARDS. In issuing permits under section 6 and conducting the programmatic environmental impact statements under section 9, the Secretary shall—(1) consult with appropriate Federal agencies, coastal States, and regional fishery management councils to identify the environmental and management requirements and standards that apply to offshore aquaculture under existing Federal and State laws (including regulations); and
 - The RFMCs are mentioned on page 37: “SEC. 11. RESEARCH AND DEVELOPMENT GRANT PROGRAM. (a) IN GENERAL.—The Secretary

shall establish, in consultation with applicable Federal agencies, coastal States, tribal governments, regional fishery management councils, academic institutions, and interested stakeholders, a research and development grant program to further the purposes of this Act. In carrying out this subsection, the Secretary shall consider utilizing existing programs that leverage State and local partnerships and take advantage of the extramural research community, including the Saltonstall-Kennedy Grant Program, the National Sea Grant College Program, the National Oceanographic Partnership Program, and consortium of institutions.”

- Clarify whether someone can get a permit and then lease the permit to another business or individual.
- Will there be sufficient money from an applicant to decommission a facility? A bond is required (see page 23) but what happens if the company goes out of business?
- Timing questions: the time requirements are much faster than anything we experience in MSA implementation:
 - Page 17, (2) – public notice with no indication of how long the public has to comment
 - Page 17, (3) – 10 days after receipt of application for permit the Secretary shall...
 - Page 18, (4) – 30 days after the period for public comments the Secretary shall issue the permit....
- Page 23: “(k) MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT.—Beginning on the effective date of the final regulations promulgated under section 5(c)(1), the conduct of offshore aquaculture that is in accordance with an offshore aquaculture permit issued under this Act shall not be considered fishing for purposes of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).” Note: This raises issues with law enforcement if they are culturing species that are under RFMC management.
- Page 34: SEC. 9. PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS. (a) IN GENERAL.—The Secretary shall initiate and lead programmatic environmental impact statements (referred to in this section as “EISs”) for areas of the exclusive economic zone determined by the Secretary to be highly favorable for marine aquaculture and likely compatible with other uses of such areas.” Are the RFMCs in agreement with the Secretary choosing the areas or would the transparent RFMC process be more effective in determining areas?
- Page 44: Funding – this is a lot of money - - do the RFMCs want to suggest that the process would be more efficient if some money was provided to the States to beef up their ability to participate in the process? Do the RFMCs want to suggest \$500,000 be provided to any RFMC that decides to prepare an Aquaculture Fishery Management Plan so that the management process within each of the RFMCs not be significantly affected?