



National Sea Grant Law Center

Legislative Development

August 2006



California Enacts Sustainable Oceans Act

On May 26, 2006, California became the first state to enact stringent environmental standards for marine finfish aquaculture. California's aquaculture industry currently brings in \$83 million a year and is expected to grow as the demand for fish increases. The Sustainable Oceans Act, SB 201, requires the Department of Fish and Game (Department) to administer leases for marine finfish farming in state waters and mandates that the State Water Resources Control Board (Board) and regional water boards monitor water quality surrounding aquaculture operations.

Programmatic Environmental Impact Report

S.B. 201 adds § 15008 to the Cal. Fish and Game Code to require the Department, in consultation with the Aquaculture Development Committee, to prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland waters, but only if funds are appropriated to the Department for this purpose and matching funds are provided by the aquaculture industry. If the Department prepares the report, it must provide a framework for managing marine finfish aquaculture in an environmentally sustainable manner that considers the following factors:

- ❖ Appropriate areas for siting operations to avoid adverse impacts;
- ❖ Effects on marine ecosystems, commercial and recreational fishing, and other uses;
- ❖ Effects on other plant and animal species;
- ❖ Effects on the use of chemical and biological products and pollutants and nutrient wastes on human health and the marine environment;
- ❖ Effects of interactions with marine mammals and birds;
- ❖ Cumulative effects of a number of similar operations;
- ❖ Effects of feed, fish meal, and fish oil on marine ecosystems;
- ❖ Effects of escaped fish on wild fish and the marine environment; and
- ❖ Design of facilities and farming practices to avoid adverse environmental impacts.

Aquaculture Leases

S.B. 201 amends Cal. Fish and Game Code § 15400 to authorize the California Fish and Game Commission to lease state water bottoms or the water column for marine finfish aquaculture. Water bottom leases will be awarded to the highest responsible bidder, as long as the bid meets or exceeds the annual rent established by the Commission (which shall not be less than \$2.00 per acre). The initial lease term may not exceed ten years. A lease may be renewed for additional periods not to exceed five years.

The Commission may only issue a lease once it determines that the lease is in the public interest following a public hearing. All leases must meet the following standards:

- ❖ The site must be appropriate for marine finfish aquaculture;
- ❖ The lease shall not unreasonably interfere with fishing or public trust values or unreasonably disrupt wildlife or harm the environment;
- ❖ The operation must minimize the use of fish meal and fish oil;
- ❖ Use and amounts of all drugs, chemicals, and antibiotics shall be minimized;

- ❖ Lessees shall establish best management practices, approved by the Commission, which include a regular monitoring, reporting, and site inspection program.
- ❖ All farmed fish must be marked, tagged, or otherwise identified as belonging to the lessee in a manner determined appropriate by the Commission, unless the Commission determines that identifying farmed fish is unnecessary for protecting wild fish stocks, the marine environment, or other ocean uses;
- ❖ All facilities and operations shall be designed to prevent the escape of farmed fish and to withstand severe weather conditions and marine accidents.

Upon termination of a lease, all structures shall be removed at the lessee's expense and the area shall be restored to its original condition. (Cal. Fish and Game Code § 15409). The Commission shall require financial assurances, in the form of surety bonds, irrevocable letters of credit, trust funds, etc., to ensure that restoration is performed to its satisfaction. Aquaculture lessees shall be responsible for damages caused by their operations, including reimbursement for any costs for natural resource damage assessment.

Water Quality Monitoring

Lessees will be required to meet all applicable requirements imposed by the Board and regional water quality control boards and prevent discharges to the maximum extent possible. Monitoring and testing of water quality will be required on a regular basis and all reports must be kept on file and available for public review. Lessees must submit baseline benthic habitat and community assessments of the proposed lease site to the applicable water quality control board prior to the issuance of the lease. The lessee must monitor the benthic habitat and community during the operation of the lease.

Exceptions

The lease requirement does not apply to (1) the artificial propagation, rearing, and stocking projects for the purposes of recovery, restoration, or enhancement of native fish stocks carried out under a scientific collection or research permit or the California Ocean Resources Enhancement Program; or (2) nonprofit hatcheries and artificial propagation projects operated by, or on behalf of, licensed commercial or sport fishermen for the purpose of recovery, restoration, or enhancement of California's native marine fish populations *if*

- ❖ A restoration or enhancement plan is submitted to, and approved by the Commission, which provides for the monitoring and protecting the benthic habitat; prevention of pollution; and prevention of adverse impacts on wild fish stocks from disease, parasites, and genetic alterations.

Fact Sheet Provided by:

National Sea Grant Law Center

University of Mississippi
Kinard Hall, Wing E – Room 256
University, MS 38655

Phone: (662) 915-7775
Email: sealaw@olemiss.edu

<http://www.olemiss.edu/orgs/SGLC>

MASGP-06-021