

**Senate Bill 3138 – “Advancing the Quality and Understanding of American Aquaculture Act (AQUAA Act)”**

– **Senator Wicker (R-Mississippi)**

Introduced on June 26, 2018

**Section 1 – Short Title.**

**Section 2 – Findings and Purposes.** This section outlines the rationale for a nationwide aquaculture program.

**Section 3 – Definitions.** This section clarifies that terms used in the bill and addresses terms that need to be consistent with other Acts.

**Section 4 – Office of Marine Aquaculture.** This section establishes the Office of Marine Aquaculture and its duties.

Proposed Actions	Potential Impacts
(b)(4) Provides opportunities for engagement with... fishery management councils	This does not require a formal engagement with regional management councils. This means that a relationship and communication between office of marine aquaculture and the regional councils are not required
(b)(6) Establishes a panel of experts for each region	Consistent with the makeup of the Aquaculture AP established in the Gulf FMP, except that it doesn't include managers (such as Council members)
(c) Establishes an Aquaculture Subcommittee	May lack the regional expertise necessary to inform on regional conditions that would affect implementation of policies and responses. Regionalized subcommittees addressing aquaculture would be more appropriate, as should a formalized consultation process with regional management councils.

**Section 5 – Administration.** This section establishes that NOAA will be the lead federal agency and outlines many permitting procedures already outlined in the FMP.

Proposed Actions	Potential Impacts
(e) Establishes criteria for practicing veterinary medicine in waters outside of state jurisdiction	Does not specifically address how veterinary health will be addressed. In the FMP, it is outlined that only drugs, biologics, and other chemicals approved for aquaculture by the FDA, EPA, or USDA should be used, in compliance with applicable laws and regulations. Aquaculture facilities are not “closed loop” facilities, and administration of drugs, biologics, and other chemicals can have resounding effects on surrounding marine communities. In the FMP, it specifically states that the veterinarian must be certified by the American Fisheries Society, Fish Health Section, as a “Fish Pathologist” or “Fish Health Inspector”

**Section 6 – Offshore Aquaculture Permits.** This section outlines how permits will be issued.

Proposed Actions	Potential Impacts
(b)(2) Authorized activities would allow for the culture of “sterile or otherwise not capable of producing viable offspring” and “by the best available science, to be not likely to become invasive and cause undue harm to wild species, habitats, or ecosystems, or supplement existing invasive populations, in the event of an escape.”	<ul style="list-style-type: none"> <li>• The GMFMC Aquaculture FMP allows the culture of only native, non-genetically modified, non-transgenic species with progeny cultured from wild caught broodstock.</li> <li>• Language seems to allow for the culture of invasive species which could be a vector of introduction into a water body.</li> <li>• The FMP and Gulf Aquaculture Permit strictly prohibit culture of shrimp and corals. Under these authorized activities, each regional fishery management council would not determine which species should not be cultured if appropriate rationale were provided.</li> <li>• It is unclear who determines the best available science in this instance.</li> </ul>

Proposed Actions	Potential Impacts
(c) Permit procedure	<ul style="list-style-type: none"> <li>• All of these permit procedures are outlined in the FMP and also includes three items which would address disease outbreak reporting, significant weather plans, and environmental monitoring. Many of the timelines and requirements are consistent with the Gulf Aquaculture Permit.</li> <li>• Specifies that a permit holder will lose a permit after “repeatedly” violating permit conditions. Doesn’t allow revocation of permit after one violation- no matter how egregious.</li> <li>• This section does not specifically mention providing regional councils with the opportunity to provide comment on a permit, which is established in the final rule of the FMP.</li> </ul>
(e) Duration of 25 years	The duration of this permit is 2.5 times longer than the permit duration in the FMP which is 10 years and allows for renewals in 5 year increments.
(j) Fees	Allows the Secretary to determine the amount of financial guarantees to cover unpaid fees, cost of removing the facility, and cost of site remediation, but does not specifically address unforeseen escapement or allow any other unforeseen events. Also allows the Secretary to waive all fees.
(k) Magnuson-Stevens Fishery Conservation and Management Act	<ul style="list-style-type: none"> <li>• Removes the harvest of cultured species from the MSA definition of fishing.</li> <li>• Does not require consultation with regional fishery management councils on potential permits or existing permits. This is done in section 10.</li> <li>• Does require consultation with outer continental shelf lease holders.</li> </ul>

**Section 7. Restrictions on Offshore Aquaculture Activities.** This section outlines that only those with appropriate permits (unless otherwise noted) can conduct offshore aquaculture.

Proposed Actions	Potential Impacts
(a) (2) “Offshore aquaculture permits issued under MSA”	Grandfathers in any aquaculture permits prior to passing of this bill, but removes the GAP permit after bill passage.
(b) States with Certain Laws Regarding Aquaculture	Allows for offshore aquaculture in federal waters off states that specifically ban or prohibit aquaculture
(g) Revocation “the permit holder repeatedly violates the conditions of the aquaculture permit and the Secretary determines that such violations are severe enough to warrant discontinuation of operations.”	There is not a clear mechanism for how violations are determined and if these violations are a result of the biennial inspections. If so, then repeated offenses would only be documented at earliest every 4 years.

**Section 8 – Recordkeeping and Access to Information.** This section outlines what records and recordkeeping should be maintained and is consistent with those outlined in the FMP. Does not make reports confidential, but does not outline how reports will be communicated to the public. Also, only the Secretary of Commerce, in consultation with other federal agencies, is responsible for site inspections. Only other authority for inspection listed is the Secretary of Interior.

**Section 9 – Programmatic Environmental Impact Statement.** This section outlines the scope and geographic components of each regional EIS.

**Section 10 – Environmental and Management Standards.** This section requires specific actions on the issuance of permits and development of the EIS. Does not define what “unreasonably interferes with fishing access” is?

Proposed Actions	Potential Impacts
(1) Specifically, consultations with regional management councils must occur and outlines conservation measures consistent with MSA.	<ul style="list-style-type: none"> <li>• This requires consultations with regional fishery management councils for both section 6 and section 9 activities</li> <li>• Does not have the open process of Council (only two documents – DEIS, EIS)</li> <li>• Any issues that arise from the bill will need an act of congress to change any part of the bill.</li> </ul>

**Section 11 – Research and Development Grant Program.** This section outlines a grant program and research priorities.

Proposed Actions	Potential Impacts
(b)(3) Research and development section “to advance research... including access to safe and effective vaccines, therapeutants, and therapies.”	Does not make clear if these developing therapies are allowed in the offshore facilities, or if these therapies must be tested in facilities onshore, prior to use in offshore facilities. There is potential for escapement and contamination of wild stocks, should animals subject to novel medications and therapies be allowed in offshore facilities prior to approval by various federal entities (FDA, USDA, etc.)

**Section 12 – Enforcement.** This section outlines prohibited acts and executive authorities.

**Section 13 – Authorization of Appropriations.** This section outlines specific dollar amounts the Secretary of Commerce must use for Aquaculture. Initial funding will be \$60 million in 2018, and will increase to \$80 million in 2022.