

FINAL BILL REPORT

EHB 2957

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Synopsis as Enacted

Brief Description: Reducing escape of nonnative finfish from marine finfish aquaculture facilities.

Sponsors: Representatives Lytton, Peterson, Robinson, Wilcox, Taylor, Stambaugh, Sawyer, Chapman, Pollet and Stanford.

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture, Water, Natural Resources & Parks

Background:

Finfish Aquaculture.

Aquaculture is the process of growing, farming, or cultivating aquatic products in marine or freshwater environments. Aquatic products include plants, shellfish, and finfish. Finfish raised in Washington's marine waters are initially hatched and reared in a freshwater environment until they are ready for the marine environment, at which point they are transferred to net pens in marine waters, where they are held until reaching market size.

Aquatic Land Lease Requirements.

State-owned aquatic lands include approximately 2,000 square miles of beaches, tidelands, and bedlands throughout the marine waters of Puget Sound and along the Strait of Juan de Fuca and the Pacific Ocean coast, as well as most of the navigable rivers, streams and lakes. The Department of Natural Resources (DNR) manages the state's aquatic lands and issues leases for a variety of activities and projects, including finfish and aquaculture that take place on such lands. Potential lessees must obtain all permits necessary to conduct a proposed activity or project before the DNR may authorize the activity or project on leased land.

Marine Finfish Aquaculture Permitting.

In addition to local permits and federal permits through the United States Army Corps of Engineers, United States Coast Guard, and Food and Drug Administration, there are four main state permits or approvals necessary to conduct net pen aquaculture in Washington's marine waters:

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- a National Pollutant Discharge Elimination System (NPDES) permit through the Department of Ecology (Ecology);
- an Aquatic Farm Registration through the Department of Fish and Wildlife (WDFW);
- a Marine Finfish Aquaculture Permit through the WDFW; and
- Fish Transport Permits through the WDFW.

National Pollutant Discharge Elimination System.

The federal Clean Water Act establishes the NPDES, which regulates discharges of pollutants to surface waters. In Washington, NPDES permitting authority is delegated to the state, allowing Ecology to issue NPDES permits. The NPDES permits are issued for terms of no more than five years at a time. Wastewater discharge permits place limits on the quantity and type of contaminants that may be discharged. There are several plans and reports addressing accidental fish release and pollution and disease control required as a part of the NPDES permit for aquaculture. These include an accidental fish release response plan and a fish release prevention and monitoring plan, both coordinated with the WDFW. Marine finfish farms that harvest more than 20,000 pounds of fish per year, or that feed more than 5,000 pounds of fish food per month, must obtain NPDES permits from Ecology.

Aquatic Farm Registration.

The WDFW is required to register each aquatic farm and to maintain a database of aquatic farm registrations. Each aquatic farmer must renew their registration annually and provide a quarterly report on the farm's monthly production including species cultured, quantity harvested for sale, and unit value. Reporting of aquaculture activity during the previous calendar year constitutes renewal for the following year. Additionally, the WDFW and the Department of Agriculture have developed a disease inspection and control program for aquatic farmers.

Marine Finfish Aquaculture Permit.

An aquatic farmer must obtain a Marine Finfish Aquaculture Permit, valid for five years, from the WDFW in order to raise any species of marine finfish in net pens in Washington's marine waters. The aquatic farmer must include an operations plan, escape prevention plan, and an escape reporting and recapture plan with the Marine Finfish Aquaculture Permit application.

Live Fish Transport Permit.

In order to transport live fish or eggs into or within the state, a person must obtain a Live Fish Transport Permit from the WDFW to ensure that:

- fish or eggs brought into the state are free from reportable fish pathogens;
- aquatic invasive species are not shipped with the fish to be transported; and
- undesirable species do not cause harm to native species.

A Live Fish Transport Permit is required each time live fish or eggs are to be transported into or within the state.

Guidance for Net Pen Aquaculture.

The state, through the departments of Agriculture, Ecology, and Fish and Wildlife, with assistance from the National Center for Coastal Ocean Science, the Northwest Indian

Fisheries Commission, and the Port Gamble S'Klallam Tribe, has begun to research and prepare new guidelines for commercial salmon farms in Washington. The stated purpose of the guidelines is to build the state's knowledge about the commercial salmon farming industry, deliver science-based planning tools to regulators and industry, and contribute to protecting native Pacific salmon.

Dislocated Workers.

The Training Benefits program, administered by the Employment Security Department, provides extended unemployment benefits while a person participates in approved training for another career.

Summary:

Atlantic Salmon Aquaculture, Aquatic Land Leases, and Permitting.

The DNR may not enter into any new lease or use authorization, or renew or extend any lease or use authorization, for nonnative finfish aquaculture on state-owned aquatic lands.

The WDFW and Ecology may only authorize or permit nonnative finfish aquaculture activities that are authorized under a current lease of state-owned aquatic lands. The WDFW and Ecology may not permit any nonnative finfish aquaculture activities after the expiration date of current leases. This requirement covers authorization or permits issued:

- by WDFW, generally;
- by Ecology under its water pollution control authority generally, and specifically for waste discharges from marine finfish rearing facilities;
- under statutes regulating aquatic farm disease inspection and control, specifically;
- under statutes governing marine finfish aquaculture escapement prevention, management planning, and recapture administered by the WDFW, specifically; and
- for fish and wildlife possession and transportation administered by the WDFW, specifically.

Any marine finfish aquaculture facility permitted by the WDFW must be inspected by a marine engineering firm approximately every two years, when net pens are fallow, at the expense of the finfish facility operator. The engineering firm must be hired by the operator and approved by the WDFW. Inspections must include topside and mooring assessments related to escape potential, structural integrity, permit compliance, and operations. Net pen facilities must be found in good working order to receive fish, and the Director of the WDFW may require the removal of fish, or may deny a fish transport permit, if a facility is found to be in imminent danger of collapse.

Guidance for Net Pen Aquaculture.

The WDFW, Department of Agriculture, and Ecology, as well as DNR, must continue the interagency effort to update guidance for planning and permitting of commercial marine net pen aquaculture. The departments must seek advice and technical assistance from the Northwest Indian Fisheries Commission and the National Centers for Coastal Ocean Science. The departments must also invite consultation and participation from:

- academic institutions such as the University of Washington School of Aquatic and Fishery Sciences, Washington State University, Western Washington University, and the Northwest Indian College; and
- additional authorities as appropriate, including federally recognized Indian tribes.

The guidance must address several topics including local and state regulatory requirements and enforcement, best management practices for finfish aquaculture, water quality, the state of the science concerning marine finfish aquaculture impacts to native species, and recommendations for future legislative oversight of marine finfish net pen aquaculture. The departments must report to the Legislature by November 1, 2019.

Dislocated Workers.

Separation from employment that may result from the lease and permitting prohibitions is a qualifying event for the purpose of dislocated worker eligibility.

Votes on Final Passage:

House	67	31
Senate	31	16

Effective: June 7, 2018