

# **NATIONAL AQUACULTURE DEVELOPMENT ACT OF 1980**

*Citation:* 16 U.S.C. §§ 2801-2810 (2002).

***Legislative Purpose:***

The National Aquaculture Act was enacted to promote aquaculture in the United States.

***Summary:***

To promote the development of aquaculture in the U.S., the act requires that the Secretaries of Agriculture, Commerce, and Interior establish and periodically amend a National Aquaculture Development Plan. The Plan must identify aquatic species that the Secretaries determine to have significant potential for culturing on a commercial or other basis, recommend any action to be taken by the public or private sectors to achieve that potential, and address various research and conservation programs necessary to help encourage the development of aquaculture. The Secretaries are required to submit a biennial report to Congress that contains a description and evaluation of the actions undertaken with respect to the Plan and provide information and assistance on aquaculture activities.

The Act establishes the Office of Science and Technology Policy as an interagency aquaculture coordinating group known as the Joint Subcommittee on Aquaculture composed of the Secretaries of Agriculture, Commerce, Interior, Energy, Health and Human Services; the Administrators of the EPA, the Small Business Administration, the Agency for International Development; the Chief of Engineers; the Chairman of the Tennessee Valley Authority; the Director of the National Science Foundation; and the Governor of the Farm Credit Administration.

The Secretaries are charged with studying the States regulation of the development of aquaculture and the capital requirements of successful aquacultural projects.

## TITLE 16. CONSERVATION

### CHAPTER 48. NATIONAL AQUACULTURE POLICY, PLANNING AND DEVELOPMENT

16 U.S.C. §§ 2801-2910 (2002).

§ 2801. Congressional findings, purpose, and policy

(a) Findings. Congress finds the following:

(1) The harvest of certain species of fish and shellfish exceeds levels of optimum sustainable yield, thereby making it more difficult to meet the increasing demand for aquatic food.

(2) To satisfy the domestic market for aquatic food, the United States imports more than 50 per centum of its fish and shellfish, but this dependence on imports adversely affects the national balance of payments and contributes to the uncertainty of supplies.

(3) Although aquaculture currently contributes approximately 13 per centum of world seafood production, less than 6 percent of current United States seafood production results from aquaculture. Domestic aquacultural production, therefore, has the potential for significant growth.

(4) Aquacultural production of aquatic plants can provide sources of food, industrial materials, pharmaceuticals, and energy, and can assist in the control and abatement of pollution.

(5) The rehabilitation and enhancement of fish and shellfish resources are desirable applications of aquacultural technology.

(6) The principal responsibility for the development of aquaculture in the United States must rest with the private sector.

(7) Despite its potential, the development of aquaculture in the United States has been inhibited by many scientific, economic, legal, and production factors, such as inadequate credit, diffused legal jurisdiction, the lack of management information, the lack of supportive Government policies, and the lack of reliable supplies of seed stock.

(8) Many areas of the United States are suitable for aquaculture, but are subject to land-use or water-use management policies that do not adequately consider the potential for aquaculture and may inhibit the development of aquaculture.

(b) Purpose. It is the purpose of this Act [*16 USC § § 2801 et seq.*] to promote aquaculture in the United States by--

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national aquaculture development plan;

(3) establishing the Department of Agriculture as the lead Federal agency with respect to the coordination and dissemination of national aquaculture information by designating the Secretary of Agriculture as the permanent chairman of the coordinating group and by establishing a National Aquaculture Information Center within the Department of Agriculture; and

(4) encouraging aquaculture activities and programs in both the public and private sectors of the economy;

that will result in increased aquacultural production, the coordination of domestic aquaculture efforts, the conservation and enhancement of aquatic resources, the creation of new industries and job opportunities,

and other national benefits.

(c) Policy. Congress declares that aquaculture has the potential for reducing the United States trade deficit in fisheries products, for augmenting existing commercial and recreational fisheries and for producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

#### § 2802. Definitions

As used in this Act [16 USC § § 2801 et seq.], unless the context otherwise requires--

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching (except private ocean ranching of Pacific salmon for profit in those States where such ranching is prohibited by law).

(2) The term "aquaculture facility" means any land, structure, or other appurtenance that is used for aquaculture and is located in any State. Such term includes, but is not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.

(3) The term "aquatic species" means any species of finfish, mollusk, crustacean, or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) The term "coordinating group" means the interagency aquaculture coordinating group established by section 6 [16 USC § 2805].

(5) The term "person" means any individual who is a citizen or national of the United States or of any State, any Indian tribe, any institution of higher education, and any corporation, partnership, association or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any State.

(6) The term "Plan" means the National Aquaculture Development Plan required to be established under section 4 [16 USC § 2803].

(7) The term "Secretaries" means the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior.

(8) The term "Secretary" means the Secretary of Agriculture.

(9) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands of the United States, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

#### § 2803. National Aquaculture Development Plan

(a) In general.

(1) Within eighteen months after the date of the enactment of this Act [enacted Sept. 26, 1980], the Secretaries shall establish the National Aquaculture Development Plan.

(2) In developing the Plan, and revisions thereto under subsection (d), beginning not later than six months after the date of enactment of this Act [enacted Sept. 26, 1980], the Secretary shall consult with the Secretary of Commerce and the Secretary of the Interior, other appropriate Federal officers, States, regional fishery management councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (16 U.S.C. 1852) [16 USC § 1852], and representatives

of the aquaculture industry. In addition, the Secretary shall give interested persons and organizations an opportunity to comment during the development of the Plan.

(b) Contents of Plan. The Plan shall--

(1) identify aquatic species that the Secretaries determine to have significant potential for culturing on a commercial or other basis;

(2) recommend actions to be taken by the public and private sectors (which may include, but are not limited to, research and development, technical assistance, demonstration, extension education, and training activities) that are necessary to achieve such potential;

(3) address, after taking into account the status of aquaculture regarding the aquatic species concerned--

(A) aquaculture facility design and operation,

(B) water quality management,

(C) use of waste products (including thermal effluents),

(D) nutrition and the development of economical feeds, including natural food sources,

(E) life history, genetics, physiology, pathology, and disease control (including research regarding organisms that may not be harmful to fish and shellfish, but are injurious to humans),

(F) processing and market development,

(G) production management and quality control, and

(H) the development of adequate supplies of seed stock;

(4) include, where appropriate, research programs on the effect of aquaculture on estuarine and other water areas and on the management of such areas for aquaculture;

(5) include, where appropriate, programs to analyze, and formulate proposed resolutions of, the legal or regulatory constraints that may affect aquaculture; and

(6) include such other research and development, technical assistance, demonstration, extension education, and training programs as the Secretary deems necessary or appropriate to carry out this Act [16 USC § 2801 et seq.].

In formulating the Plan, the Secretary shall, to the extent practicable, take into account any significant action that (i) has been, or is proposed to be, undertaken by any other Federal department or agency, any State agency, or any person, and (ii) may affect the implementation of the Plan.

(c) Actions and implementation. The Plan shall specify--

(1) with respect to those actions that the Secretary determines should be undertaken, the period of time within which each such action should be completed, in order to implement the Plan; and

(2) with respect to each such action which of the Secretaries, acting individually, jointly, or collectively, has the responsibility for implementing the action.

The specifications of Secretarial responsibilities under paragraph (2) for implementing actions shall be determined on the basis of--

(A) the responsibilities conferred on the respective Secretaries by law or by any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970 [5 USC § 903 note]);

(B) the experience, expertise, and other appropriate resources that the department of each such

Secretary may have with respect to the action required under the activity concerned; and  
(C) the concurrence of the Secretaries.

(d) Revision of Plan. The Secretaries shall undertake periodic reviews of the operation and effectiveness of the Plan. If as a result of any such review, or the aquaculture assessment required under subsection (e), the Secretaries determine that--

- (1) any aquatic species not currently identified in the Plan has significant potential for aquaculture;
  - (2) any action specified in the Plan is not being accomplished on a successful and timely basis; or
  - (3) any action specified in the Plan should be terminated because its objectives have been achieved or its projected benefits do not warrant further support;
- the Secretaries shall appropriately amend the Plan.

(e) Continuing aquaculture assessment. The Secretaries, through the coordinating group, shall undertake a continuing assessment of aquaculture in the United States for the purpose of maintaining, on a continuing basis--

- (1) a complete profile of the aquacultural industry with respect to the incidence, size, and status of commercial aquacultural enterprises;
- (2) the identification of the private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;
- (3) the identification of the various aquatic species being cultured and a description of the status of commercial development of each of those species;
- (4) to the extent practicable, the identification of aquacultural production regions, species, and markets that have significant potential for development;
- (5) a catalog describing all Federal programs and activities that directly or indirectly encourage, support, or assist aquaculture; and
- (6) the identification of the economic, physical, legal, institutional, and social constraints that inhibit the development of the aquaculture in the United States.

#### § 2804. Functions and powers of Secretaries

(a) Mandatory functions. In implementing the Plan, the Secretaries shall--

- (1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture to interested persons, and in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal departments and agencies and by State agencies;
- (2) consult and cooperate with interested persons, Federal departments and agencies, State agencies, and regional fishery management councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act of 1976 (*16 U.S.C. 1852*);
- (3) encourage the implementation of aquacultural technology in the rehabilitation and enhancement of publicly owned fish and shellfish stocks (including rehabilitation and enhancement by private nonprofit enterprises), and in the development of private commercial aquacultural enterprises; and
- (4) prescribe such regulations as may be necessary to carry out the Plan.

(b) Discretionary functions. In implementing the Plan, the Secretaries may--

(1) for the purposes of assessing the biological, technical, and economic feasibility of any aquacultural system--

(A) conduct tests of the system, and, if necessary to demonstrate its feasibility, construct, operate, and maintain developmental aquaculture facilities for testing laboratory results, and

(B) conduct such other tests or analyses as may be necessary;

(2) develop methods to enhance seed stocks of aquatic species; and

(3) conduct such other tests or analyses or take such other actions as the Secretaries deem necessary or appropriate.

(c) Information Services.

(1) In addition to performing such other mandatory functions under this Act [*16 USC § § 2801 et seq.*]-

(A) the Secretaries shall collect and analyze scientific, technical, legal, and economic information relating to aquaculture, including acreages, water use, production, marketing, culture techniques, and other relevant matters;

(B) the Secretary shall--

(i) establish, within the Department of Agriculture, a National Aquaculture Information Center that shall serve as a repository for the information generated under subparagraph (A) and other provisions of this Act [*16 USC § § 2801 et seq.*] and shall, on a request basis, make that information available to the public,

(ii) arrange with foreign nations for the exchange of information relating to aquaculture and support a translation service, and

(iii) conduct a study of the extent to which the United States aquaculture industry has access to relevant Federal programs which assist the agricultural sector and report to Congress on the findings of such study by December 31, 1986;

(C) the Secretary of Commerce shall conduct a study, and report to Congress thereon by December 31, 1987, to determine whether existing capture fisheries could be adversely affected by competition from products produced by commercial aquacultural enterprises and include in such study an assessment of any adverse effect, by species and by geographical region, on such fisheries and recommend measures to ameliorate any such effect; and

(D) the Secretary of the Interior, in consultation with the Secretary of Commerce, shall undertake a study, and report to Congress thereon by December 31, 1987, to identify exotic species introduced into the United States waters as a result of aquaculture activities, and to determine the potential benefits and impacts of the introduction of exotic species.

(2) Any production information submitted to the Secretaries under paragraph (1)(A) shall be confidential and may only be disclosed if required under court order. The Secretaries shall preserve such confidentiality. The Secretaries may release or make public any information in any aggregate or summary form that does not directly or indirectly disclose the identity, business transactions, or trade secrets of any person who submits such information.

(d) Biennial report. The Secretary, through the coordinating group and in consultation with the Secretary of Commerce and the Secretary of the Interior,[,] shall prepare on a biennial basis, and submit to Congress,

a report on the status of aquaculture in the United States. Such report shall contain a description and evaluation of the actions undertaken with respect to the Plan during the reporting period, an explanation of any revisions made to the Plan during the reporting period, and such other comments and recommendations as the Secretary deems appropriate. The report required by this subsection shall be submitted to the Congress not later than February 1, 1988.

§ 2805. Coordination of national activities regarding aquaculture

(a) Establishment. There is established within the Office of Science and Technology Policy an interagency aquaculture coordinating group that shall, subject to subsection (f), operate as a Joint Subcommittee on Aquaculture of the Federal Coordinating Council on Science, Engineering, and Technology (hereinafter in this section referred to as the "Federal Council") established by Executive Order 12039, dated February 24, 1978 [42 USC § 6601 note]. The coordinating group shall be composed of the following members or their designees:

- (1) The Secretary of Agriculture, who shall be the permanent chairman of the coordinating group.
- (2) The Secretary of Commerce.
- (3) The Secretary of the Interior.
- (4) The Secretary of Energy.
- (5) The Secretary of Health and Human Services.
- (6) The Administrator of the Environmental Protection Agency.
- (7) The Chief of Engineers.
- (8) The Administrator of the Small Business Administration.
- (9) The Administrator of the Agency for International Development.
- (10) The Chairman of the Tennessee Valley Authority.
- (11) The Director of the National Science Foundation.
- (12) The Governor of the Farm Credit Administration.
- (13) The heads of such other Federal agencies as are deemed appropriate by the Director of the Office of Science and Technology Policy (hereinafter in this section referred to as the "Director"), after consultation with the coordinating group.

(b) Purpose and functions. The purpose of the coordinating group is to increase the overall effectiveness and productivity of Federal aquaculture research, transfer, and assistance programs. In fulfilling this purpose the coordinating group shall--

- (1) review the national needs for aquaculture research, transfer, and assistance;
- (2) assess the effectiveness and adequacy of the Federal efforts to meet those national needs;
- (3) undertake planning, coordination, and communication among Federal agencies engaged in the science, engineering, and technology of aquaculture;
- (4) collect, compile, and disseminate information on aquaculture;
- (5) encourage joint programs among Federal agencies in areas of mutual interest; and
- (6) recommend to the Federal Council specific actions on issues, problems, plans, and programs in aquaculture.

(c) Reports. The coordinating group shall regularly report to the Chairman of the Federal Council on the

coordinating group's activities and on recommendations concerning Federal policies and programs related to aquaculture.

(d) Federal consistency. Each Federal department and agency that has functions or responsibilities with respect to aquaculture or has jurisdiction over any activity that affects, or that may affect, the achievement of the purpose and policy of this Act [16 USC § § 2801 et seq.], shall, in consultation with the coordinating group and to the maximum extent practicable, perform such function, responsibility, or activity in a manner that is consistent with the purpose and policy of this Act [16 USC § § 2801 et seq.].

(e) Functions if Federal Council terminated. If at any time after the date of the enactment of this Act [enacted Sept. 26, 1980], the functions of the Federal Council are by executive action terminated or transferred to an agency other than the Office of Science and Technology Policy, the coordinating group shall carry out its purpose under the direction of the Director. In that event, the recommendations of the coordinating group referred to in subsection (b)(6) and the reports required under subsection (c) shall be made to the Director.

#### § 2806. Contracts and grants

(a) In general. The Secretaries may each carry out any action that such Secretary is responsible for implementing under the Plan through grants to, or contracts with, any person, any other Federal department or agency, any State agency, or any regional commission.

(b) Terms and conditions. Any contract entered into, or any grant made, under subsection (a) shall contain such terms and conditions as the Secretary concerned shall by regulation prescribe as being necessary or appropriate to protect the interests of the United States. No contract may be entered into, and no grant may be made under subsection (a), for any purpose that is in violation of any applicable State or local law.

(c) Limitation. The amount of any grant made under subsection (a) may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) Audit. Each recipient of a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any book, document, paper, or record that is pertinent to the funds received under such grant or contract.

#### § 2807. Capital requirements for aquaculture

(a) Capital requirements study. The Secretaries, through the coordinating group, shall conduct within twelve months after the date of enactment of this Act [enacted Sept. 26, 1980], a study of the capital requirements of the United States aquaculture industry. The study shall--

(1) document and analyze any capital constraints that affect the development of aquaculture in the United States; and

(2) evaluate the role that appropriate Federal financial assistance does or could play in filling gaps in the normal credit market with respect to aquaculture.

The study will identify the capital needs of the United States aquaculture industry, with emphasis on the needs that are not being filled either in normal credit channels or through government programs for direct loans, loan guarantees, disaster loans, and insurance. Upon its completion, the Secretaries shall submit the results of the study to Congress.

(b) Capital requirements plan. Based on the results of the Capital Requirements Study conducted under subsection (a), and within six months of the completion of the study, the Secretaries shall formulate a plan for acting on the study's findings. The plan shall include: (1) those Federal actions, if any, found to be necessary to meet financial needs unmet through normal credit channels and existing Federal programs; and (2) recommendations, if any, for legislative actions. Upon completion, the plan shall be submitted to Congress.

§ 2808. Regulatory constraints on aquaculture

(a) Regulatory constraints study. The Secretaries, through the coordinating group, shall conduct, within twelve months after the date of enactment of this Act [enacted Sept. 26, 1980], a study of the State and Federal regulatory restrictions to aquaculture development in the United States. The study shall--

- (1) include a literature review and a descriptive list identifying the parameters of the issue;
- (2) identify and list relevant current and pending Federal regulations restricting the development of commercial aquaculture operations;
- (3) identify and list relevant current State regulations restricting the development of commercial aquaculture operations in five States selected randomly in five separate geographic regions of the United States;
- (4) conduct case studies of ten commercial aquaculture operations in the United States representing a wide range of marine and fresh water species to determine the practical effects of regulatory restrictions on aquaculture; and
- (5) develop a flow-chart time line using the information obtained by means of paragraphs (1) through (4) to identify those regulations and restrictions that could have the most detrimental effect in establishing commercial aquaculture operations in the United States.

Upon completion of the study, the Secretaries shall submit its results to Congress.

(b) Regulatory constraints plan. Based on the results of the Regulatory Constraints Study conducted under subsection (a), and within six months of the study's completion, the Secretaries shall formulate a plan for acting on the study's findings. The plan will contain specific steps the Federal Government can take to remove unnecessarily burdensome regulatory barriers to the initiation and operation of commercial aquaculture ventures. Upon its completion, the Secretaries shall submit the plan to Congress.

§ 2809. Authorizations for appropriations

For purposes of carrying out the provisions of this Act [16 USC § § 2801 et seq.], there are authorized to be appropriated--

- (1) to the Department of Agriculture, \$ 1,000,000 for each of fiscal years 1991 through 2002;

- (2) to the Department of Commerce, \$ 1,000,000 for each of fiscal years 1991 through 2002; and
- (3) to the Department of [the] Interior, \$ 1,000,000 for each of fiscal years 1991 through 2002.

Funds authorized by this section shall be in addition to, and not in lieu of, funds authorized by any other Act.

§ 2810. Disclaimer

Nothing in this Act [*16 USC § § 2801 et seq.*] shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer, department, or agency to perform any function, responsibility, or activity authorized under any other provision of law.