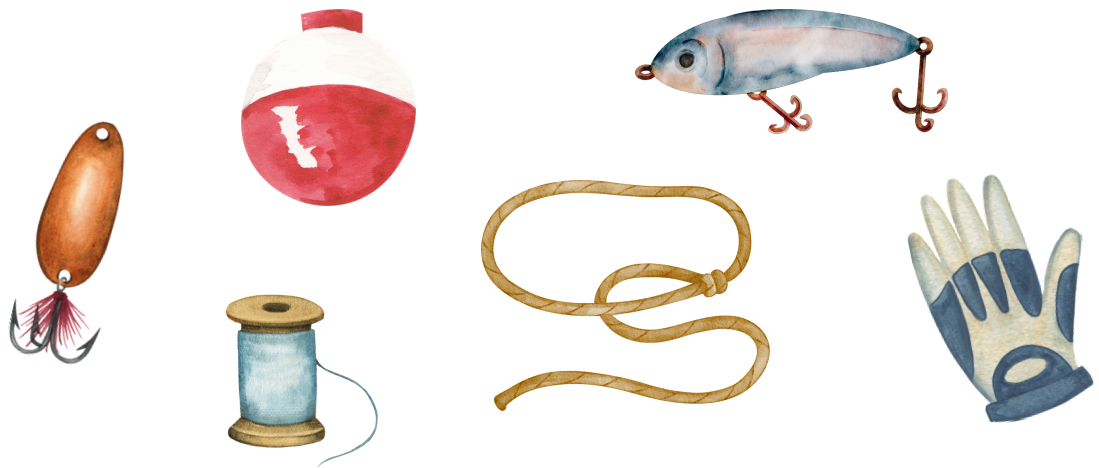
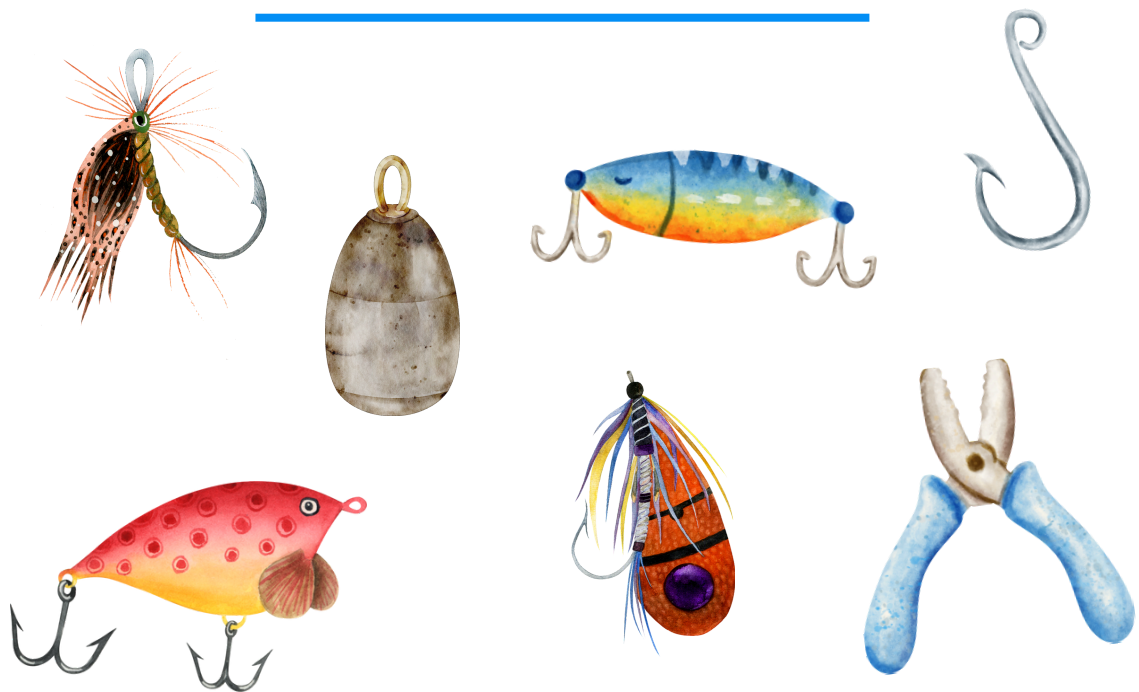




State Policy Tackle Box

Finfish Aquaculture



STATE INNOVATION EXCHANGE



DON'T CAGE
OUR OCEANS

What's this and who is it for?

This toolkit, or “tackle box,” provides you, the state legislator, with the tools needed to protect your coastal waters from the threat of industrial finfish farming, also known as commercial finfish net pen aquaculture, or ocean-based CAFOs (concentrated animal feeding operations). At your fingertips you will have access to science, policy rationale, and templates of various legislative proposals, ranging from resolutions to state laws. By helping to craft sound policy for your state, you will be able to protect not only your state waters, but even prevent the development of finfish net pens in *federal* waters that lie just beyond the state line, since any such facilities would also harm state residents.

These policy templates are provided to inspire you as you craft the appropriate response for your state, as there is no on-size-fits-all policy fix. As you know, the most impactful policy is created in consultation with the communities that you represent. In that vein, this toolkit will provide you with the resources to engage with, and support, values-based aquaculture practitioners and their ability to develop farmed seafood systems that benefit local economies and healthy marine ecosystems.

Let's get started!



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What is finfish aquaculture and why is it a threat?

Finfish aquaculture refers to the farming of fish species in controlled environments, such as tanks, ponds, and ocean pens. This practice involves breeding, raising, and harvesting carnivorous fish for food. The most common species include salmon, tilapia, catfish, and trout.

This tackle box will not address inland forms of fish farming in tanks or ponds, and instead specifically focus on carnivorous finfish aquaculture in the ocean, which involves farming these fish in net pens.

As an important disclaimer, **not all marine aquaculture is the same**. There can be ecological and economic benefits of *appropriately scaled* farming of seaweed and filter-feeding shellfish that is *responsibly managed* under state law. These forms of seafood production require no feed, actively clean the water, and typically don't cause significant pollution, assuming the operator does not have issues with plastic debris. These facilities are typically owned and operated by community members and residents of your state. Policies that support values-based aquaculture can also support such operations.

The polar opposite is known as **finfish net pen farming or offshore¹ finfish aquaculture**, and is what the tackle box is all about. This form of aquaculture is more akin to intensive [factory farming](#) of livestock on land, except in the ocean. It involves the rearing of hundreds of thousands of finfish in crowded, submersed net pens. These operations can stretch across hundreds of acres in the ocean. They are often backed by foreign or distant investors, have minimal community involvement or support, and employ an extractive agenda. The ocean becomes a dumping ground, with no compensation to the public or to nature. It is in stark contrast to more sustainable forms of aquaculture. The following boxes outline some of the major concerns



Science Advances
Oct 2024

For more on the science, we encourage you to review the [October 2024 issue of Science Advances](#), which features a collection of peer-reviewed studies and articles outlining the many problems associated with this method of fish farming, ranging from feed inputs to parasitic spread to wild fish populations to ethical concerns with the practice.

In addition, both Don't Cage Our Oceans (info@dontcageouroceans.org) and State Innovation Exchange (agriculture@stateinnovation.org) can provide more resources, as additional investigative reports and scientific studies are being published on an ongoing basis.

¹ Offshore typically denotes U.S. federal waters, which in most cases lies 3-200 miles off shore in the Exclusive Economic Zone (EEZ)

POLLUTION

Waste from intensive finfish farming (excess feed, fish poop and any chemicals used on the fish or pens) [readily flows from the net pens into surrounding waters](#). In many cases, the nitrogen outputs associated with the concentrated rearing of hundreds of thousands of fish in a limited area is equivalent to the sewage output of major U.S. cities; worse, in this case, it is *untreated*.

The **open discharge** of feces along with uneaten fish feed — which results in nutrient pollution — decreases oxygen levels in our waters, leading to harmful algal blooms, low-oxygen “dead zones,” and the death of aquatic life. Climate change further exacerbates these risks of harmful algal blooms, as warmer, more acidic ocean waters increase both their frequency and toxicity. These algal blooms produce toxic chemicals that can kill fish and other vertebrates by attacking their central nervous systems, and can cause serious illness in humans with severe or chronic respiratory conditions.

DISEASE

The [spread of disease](#) is also of grave concern to wild fish populations, and has been occurring worldwide with regular frequency (often at least one major mortality event per month). In net pens, salmon farm associated pathogens such as sea lice (external parasites that can cause health issues and death), *Tenacibaculum* (causes a bacterial infection known as tenacibaculosis, which causes skin lesions, frayed fins, tail rot, etc.), and piscine orthoreovirus (causes a health condition known as HSMI, heart and skeletal muscle inflammation) propagate and then spread to wild fish populations, harming them.

There are documented studies of **large populations of sea lice having left their origin sites of fish farms into the broader ocean environment**, both in the Atlantic and Pacific oceans. In March 2022, a study from *Scientific Reports* notes: “Our results suggest that salmon lice in the Pacific Ocean have recently **evolved substantial resistance to the antibiotic EMB** [“SLICE”], and that salmon-lice outbreaks on Pacific farms will therefore be more difficult to control in the coming years.” A May 2021 study from *Royal Society* shows how the industry is losing the “arms race” in the North Atlantic Ocean because multiresistant salmon lice are dispersed throughout. In Nova Scotia, the use of the antibiotic EMB resulted in “widespread damage to wildlife,” including “substantial, wide-scale reductions” in crabs, lobsters and other crustaceans close to marine finfish facilities.

As parasites develop resistance to these chemicals, there is a growing trend to increase the level of toxicity of the chemicals used in response; this of course further increases the load of toxic chemicals in the marine environment. The chemicals used as anti-foulants, antibiotics, antifungals, and pesticides are often **toxic to marine life and, in some cases, potentially carcinogenic**; these chemicals (e.g., organophosphates, cypermethrin) are openly discharged into the marine environment. In fact, up to 75% of antibiotics used by the industrial aquaculture industry directly absorb into the surrounding environment.



The promotion of ocean net-pen aquaculture and the protection of wild species are incompatible.

“Phasing out open net-pen salmon farming in British Columbia”
by Charles Mather, Science Advances 2024

ESCAPES

The **threat of fish escaping** is inevitable, [and fish escapes and related disasters are a regular and ongoing occurrence in the industry](#); often escaped fish number in the hundreds of thousands. This is problematic because escaped fish disrupt ecosystems by spreading disease, competing with wild species, and in some cases even interbreeding with wild species. After a massive escape of Atlantic salmon from an aquaculture facility in state waters, the state of Washington investigated the site’s operator, Cooke Aquaculture, and found that the company lied about both the cause of the escape and its magnitude. The true number of fish that escaped ended up being roughly 263,000 Atlantic salmon in the Pacific Ocean, much higher than Cooke Aquaculture was willing to admit. Recognizing the regularity of fish escapes from ocean-based net pens, the U.S. Council on Environmental Quality has stated that it “[must be assumed that escapes will occur](#)” from net pens.

PRIVATIZATION

Privatizing public resources for the benefit of multinational corporations and private equity firms is a direct harm to coastal communities. Offshore (> 3 miles out) aquaculture proponents have requested long-term (25-year) leases for their facilities spanning hundreds of acres, which essentially blocks off a swath of public oceans for more than an entire generation. Through the Aquaculture Opportunity Area designation process, outlined in the next section of this tackle box, NOAA is proposing to carve up and hand control of our federal ocean spaces, a public resource that should be managed for the benefit of all Americans, to private interests. In rushing through permitting for marine finfish aquaculture, NOAA is actively harming fishing families and the many small businesses in coastal communities that support them. As a legislator, you can redirect support and funds instead towards supporting independent fishermen and co-ops in your state.



The environmental impacts of [global aquaculture], in its current form and structure, are sufficiently large that directives to expand this sector on sustainability grounds should be reconsidered.

“Feeding Global Aquaculture”
by Spencer Roberts et al, Science Advances 2024

FALSE PROMISE OF FOOD SECURITY

The higher trophic level fish is intended for **the higher-end market**, given the high cost of setting up the infrastructure. This often **includes foreign markets**, as most of our country's wild-caught fish and aquaculture is sold abroad. In other words, opening up our waters for foreign investors and mega corporations does not necessarily mean that the farmed fish would be sold domestically, nor at an affordable price. This would **leave us with an ecological and economic mess** and little else.

EXACERBATING OVERFISHING

Industrial offshore finfish aquaculture **leads to overfishing** of forage fish.² Most farmed marine finfish require staggering quantities of fish in their feed – much of this comes from globally-sourced wild forage fish, including anchovies, menhaden, sardines and other small fish that are critically important to the diet of marine wildlife, including birds, dolphins, sharks, and other fish. Removing massive amounts of forage fish from our oceans reduces prey availability for other marine species and can change relationships in our ecosystem with potential widespread consequences. It also threatens food security in the Global South.

In most cases, it takes more fish to feed the ocean-farmed fish than it does to simply eat the lower-trophic level (forage) fish in the first place. This is an **inherently unsustainable and energy-intensive model** that leads to a **net loss in fish and animal protein**, debunking the purported “feed the world” claims of NOAA and industry alike, through offshore finfish aquaculture.

² Forage fish are also known as prey or bait fish, and are the small pelagic fish that are critical for stable marine ecosystems. They are sought after by the fish feed industry for their high oily content, and rendered into fishmeal and fish oil at great ecological and socio-economic cost.

Charting a positive vision on aquaculture — a sneak peak at the Atlas Project

So what's the answer? We can return to a point introduced earlier: *not all aquaculture is the same*. Some ways of farming aquatic animals or plants reflect values that center community and ecological concerns, instead of private profit at the expense of the public commons.

North American Marine Alliance kickstarted a three-year initiative (called “**The Atlas Project**”) to determine exactly what those values will look like, and it began with a visioning project. That [preliminary report can be found here](#). As of the time of writing this state policy toolkit, a coalition of groups and individuals are working together to build this initiative, and how we can find a unified vision for sustainable, ecological, and community-centered aquaculture across various geographic regions in the U.S.

The Atlas Project is all about painting a positive vision for what values-based aquaculture is and can be, and will look towards bivalve and seaweed farming, as well as traditional forms of low-impact finfish aquaculture (such as indigenous Hawaiian fishponds) to draw lessons from those non-industrial models. It will continue to consult with scientists, fishermen, and aquaculture practitioners from represented and marginalized communities to co-create a definition and deeper understanding of these values. And finally, it will also be working with state legislators to explore policy opportunities in this space - and **welcomes the opportunity to work with you in the near future!**

In the meantime, if you are facing a proposed facility or are concerned about a facility in your state, a good shorthand way to look at this complex issue is to consider the scale and location of a proposed project, the species being farmed, the method in which it is farmed, whether folks from the community are integrally involved in ownership and operation of that project, and what the impact is on the public commons and other user groups. Since industrial finfish aquaculture fails in every one of these regards, we need not wait for the completion of the Atlas Project before taking action on preventing dangerous and destructive finfish aquaculture projects.



Aquaculture Atlas
tinyurl.com/AquaAtlas

The federal landscape so far

For decades, the National Oceanic and Atmospheric Administration (NOAA) has sought to regulate and permit fish farms in the ocean without Congressional authorization. Now, the irony is that the current Administration is actively dismantling federal agencies (like NOAA), thereby undercutting much of the valuable work that these agencies also do and the service that they provide to the public. *This makes work at the state level even more critical in holding the line*, especially if it's the public-friendly policies that are being eroded at the federal level, while the corporate-friendly policies remain unimpacted.

We'll look at the judicial branch (federal courts), the legislative branch (U.S. Congress), and the executive branch (specifically an executive order during Trump's first term).

A portrait of Ronalda Angasan, a woman with long dark hair, smiling. She is wearing a black top with a white floral pattern and a blue necklace with yellow beads. The background is a solid light blue.

@dontcageouroeans

My community has been fishing for sockeye salmon in Bristol Bay for hundreds of years. Our fish is high-quality, high-nutrition, the best in the world. And it's sustainable. I know that word is thrown around a lot, but it truly is. Now I've been told there's a glut of our fish, and they can't be sold. Yet people say they want to build more fish farms because there's not enough food. That doesn't compute with me.

Ronalda Angasan
Ugashik and Kanatak fisher in Anchorage, AK
Agriculture Program Director at Alaska Village Initiatives

U.S. Congress

For decades, offshore finfish aquaculture proponents have been pressuring Congress to pass legislation that would grant NOAA the authority to permit aquaculture in U.S. federal waters. While these bills have been introduced nearly every legislative session, they have not gained much traction so far because they are (and remain) controversial. Coastal residents do not want to sell off their oceans to industrial fish farm interests who only seek to make a profit at their expense. The global track record of these companies is very poor, and [many nations are seeking to reverse course](#) after years of mistakes. [Here are just some examples](#) of the many ongoing disasters.

The most recent iteration of this kind of legislation is known as the AQUAA Act ([H.R. 4013](#) / [S. 1861](#)). It would authorize the development of an extensive network of finfish farms in the U.S. exclusive economic zone (EEZ) with NOAA at the helm of management and permitting. These fish farms would have direct negative impacts on your state's water quality, the health of wild fish, and the recreation, health, and livelihood of your state's residents.

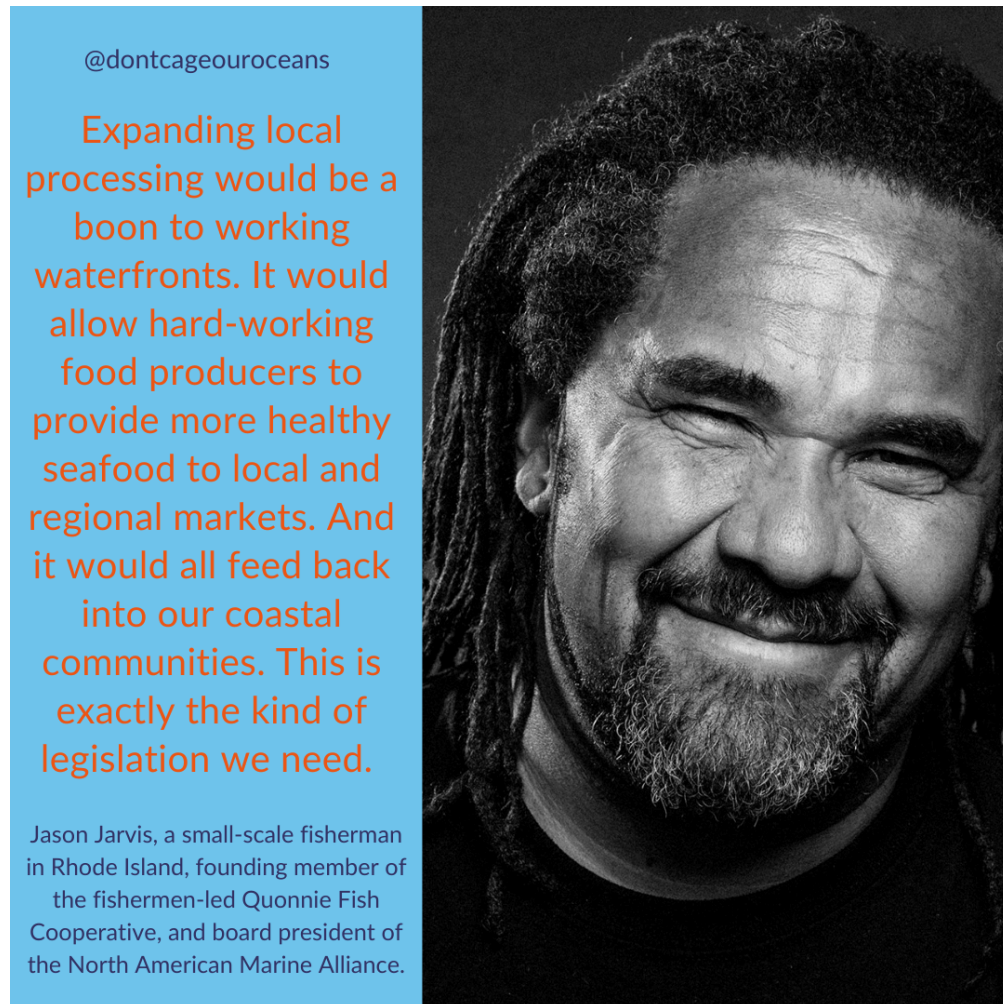
@dontcageouroceans

It was through commercial fishing in Alaska that I came to deeply value the way that strong seafood systems are tied to the wellbeing of coastal communities — which directly ties to the wellbeing of the ocean. The Domestic Seafood Production Act provides much-needed support to communities that have long been rooted in fisheries for resilience, security, and cultural heritage. It also helps protect our shared oceans in Alaska and beyond.

Ryan Horwath
Cod fisher out of Kodiak, AK
Owner of Pacific Cloud Seafood



Fortunately, last session there was a positive bill - the **Domestic Seafood Production Act**, also known as **DSPA** ([H.R. 9226](#)). This legislation was introduced in July 2024 by former Congresswoman Peltola of Alaska, and co-sponsored by Congressman Carter of Louisiana and Congresswoman Bonamici of Oregon.

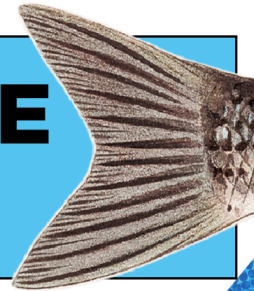


DSPA would provide federal grants to help small-scale fishermen and mariculture producers (bivalve/seaweed farmers) process their seafood locally at ports in your state, thereby alleviating the processing bottleneck and providing greater opportunities for local seafood economies. It would reshore domestic processing jobs and keep seafood local. Furthermore, this legislation would also push back on federal agency efforts to develop fish farms in the absence of any Congressional authorization to do so. Portions of this bill might also apply to your state, either as a way to inspire creative thinking on how to promote seafood processing that benefits local communities, or even as outright text in a state bill.

Incidentally, groups such as Don't Cage Our Oceans and its many partners are looking to reintroduce this piece of legislation in the 119th Congress (2025-2026).

Good news: a subset of DSPA, known as the Keep Finfish Free Act of 2025 ([S. 1529](#)) was introduced on April 30, 2025. This bill would bar federal agencies from permitting and authorizing finfish aquaculture projects in the EEZ without an Act of Congress. This [bipartisan legislation](#) was introduced by Senator Booker of New Jersey and Senator Sullivan of Alaska.

KEEP FINFISH FREE ACT OF 2025



"Factory farming on land has displaced small producers and depleted natural resources. Now, industrial fish farming threatens to do the same at sea. The Keep Finfish Free Act is a vital push toward keeping food production in the hands of those who put food on our plates."

*-Cali Alexander,
board member and
policy chair with the
Northeast Organic
Farming Association
of NJ, and former
state seafood
administrator with
the NJ
Department of
Health*



KEEP FINFISH FREE ACT OF 2025



“Industrial finfish farming puts wild fish, the quality of our waters, and our cultural seafood traditions at risk. We’ve been enjoying wild-caught fish from these waters for generations, and I want to ensure we can keep doing that for many years.”

*-Cassandra Loftlin,
chef, sustainable food
systems advocate,
owner of Goodness
Gracious
Grocery*

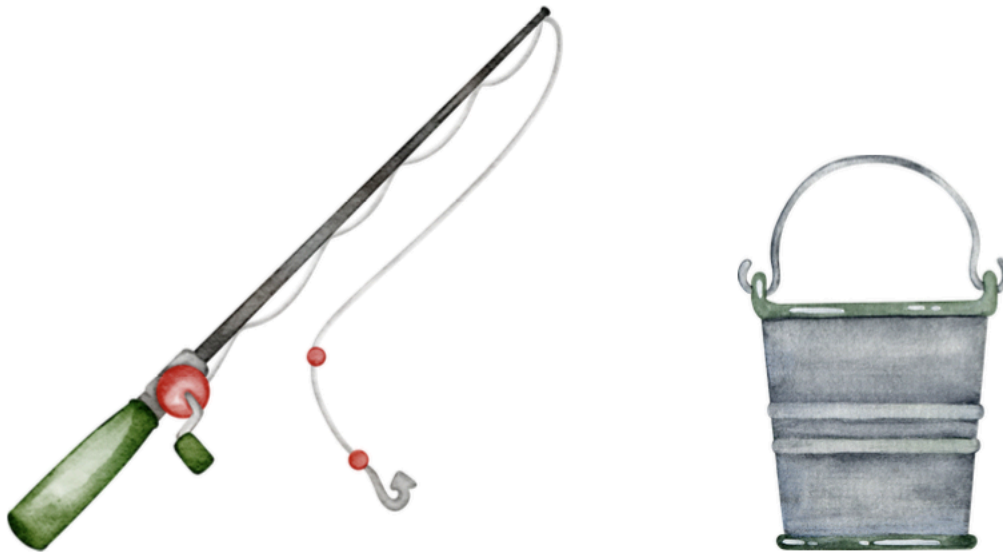


Federal Courts

More good news! There are two recent court decisions that align with the position that agencies (whether of their own volition or following a presidential executive order) cannot “legislate” by creating a whole new permitting scheme in the absence of any Congressional authorization.

The **5th Circuit court case *Gulf Fishermen's Ass'n v. NMFS*³ upheld** the lower court’s decision that **NOAA’s National Marine Fisheries Service (NMFS) does not have authority to permit or regulate aquaculture in the U.S. federal waters of the Gulf of Mexico**, as there is no Congressional authorization to do so under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). For years, NOAA had claimed that the MSA provided authority under the contorted view that aquaculture falls under the statutory definition of “fishing” for purposes of the MSA, as fish are ultimately extracted from net pens, and that NOAA could thus create a fishery management plan (FMP) to regulate aquaculture. The 5th Circuit Court saw through this nonsensical justification, and ruled against it.

Even more recently, on September 30, 2024, the U.S. Federal Court for the Western District of Washington ruled that the U.S. Army Corps of Engineers' (Corps) approval of Nationwide Permit 56 (NWP 56)—which authorizes industrial finfish aquaculture structures in federal ocean waters around the country—[was unlawful](#). The court held that the agency violated several core environmental laws, including the National Environmental Policy Act, the Rivers and Harbors Act, and the Administrative Procedure Act. Of note, this NWP derived from a [2020 executive order](#) from Trump’s first administration (EO 13921) – an EO that sought to inappropriately “legislate” in this space (see more below). **In March 2025, the court ruled on the remedy, and opted to vacate NWP 56 entirely.**



³ *Gulf Fishermens Ass'n v. Nat'l Marine Fisheries Serv.*, 968 F. 3d 454 (5th Cir. 2020).

Executive Order 13921 (2020)

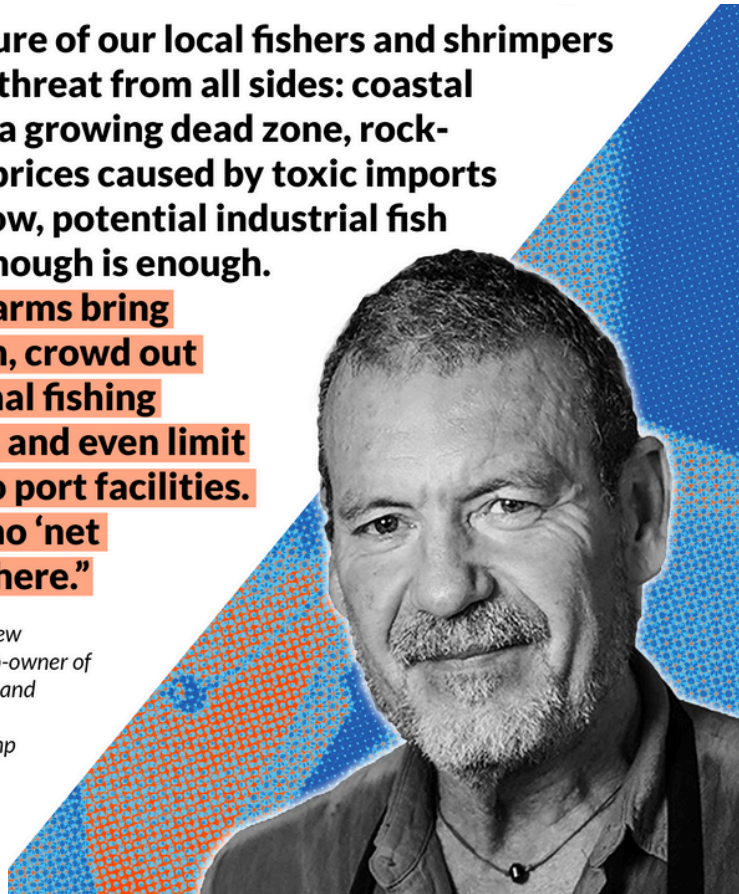
The aforementioned executive order (EO 13921) signed by Trump during his first term, sought to do three things in the area of finfish aquaculture. First, it ordered NOAA to be the lead agency on pressuring other agencies to rush any permits or consultation requirements that required their input, in order to expedite commercial finfish farming. Second, it issued Nationwide Permit 56 for offshore aquaculture, which was struck down by court order (see the “Federal Courts” section above). Third, it ordered NOAA to designate so-called “Aquaculture Opportunity Areas” (AOAs) where prospective net pen fish farm applicants could avail of long-term leases (up to 25 years!) and other benefits to incentivize their development.

Importantly, while NWP 56 was struck down, the AOA portion has not yet been challenged in court, and has been very controversial during the rulemaking process, revealing high levels of opposition in the public comments from coastal residents in the two first areas where this process has begun (the Gulf of Mexico and Southern California bight). Two new areas are expected to be chosen every four years for further AOA development, unless this provision in EO 13921 is struck down. In November 2024, the next phase of AOA selection process for the Gulf of Mexico began, and in early 2025, NOAA solicited additional feedback on its more narrowed selection of proposed sites.

“The future of our local fishers and shrimpers is under threat from all sides: coastal erosion, a growing dead zone, rock-bottom prices caused by toxic imports — and now, potential industrial fish farms. Enough is enough.

Finfish farms bring pollution, crowd out traditional fishing grounds, and even limit access to port facilities. There’s no ‘net benefit’ here.”

-Dana Honn, New Orleans chef, co-owner of Nikkei Izakaya, and founder of the Louisiana Shrimp Festival and Shrimp Aid



How to protect your state from federal projects using the CZMA

Section 307 of the "[Coastal Zone Management Act of 1972](https://www.ecm.noaa.gov/actof1972)" (CZMA) ([bit.ly/CZMNOAA](https://www.ecm.noaa.gov/actof1972)), aka the "federal consistency" provision, gives states a strong voice in federal agency decision making, which they otherwise would not have, **for activities that may affect a state's coastal uses or resources**. The federal consistency provision is a tool that state programs use to manage coastal activities and resources and to coordinate with federal agencies.

Generally, federal consistency requires that **federal actions, within and outside the coastal zone, which have reasonably foreseeable effects on any coastal use (land or water) or natural resource of the coastal zone** be **consistent with the enforceable policies** of a state's federally approved coastal management program. Federal actions include federal agency activities, federal license or permit activities, and federal financial assistance activities. Federal agency activities must be consistent to the maximum extent practicable with the enforceable policies of a state coastal management program, and license and permit and financial assistance activities must be fully consistent.

NOAA provides the **coastal management plans** of all 35 coastal states (except AK) [here](https://www.noaa.gov/education/outreach-and-engagement/35-state-coastal-management-plans) (bit.ly/35stateCZM).

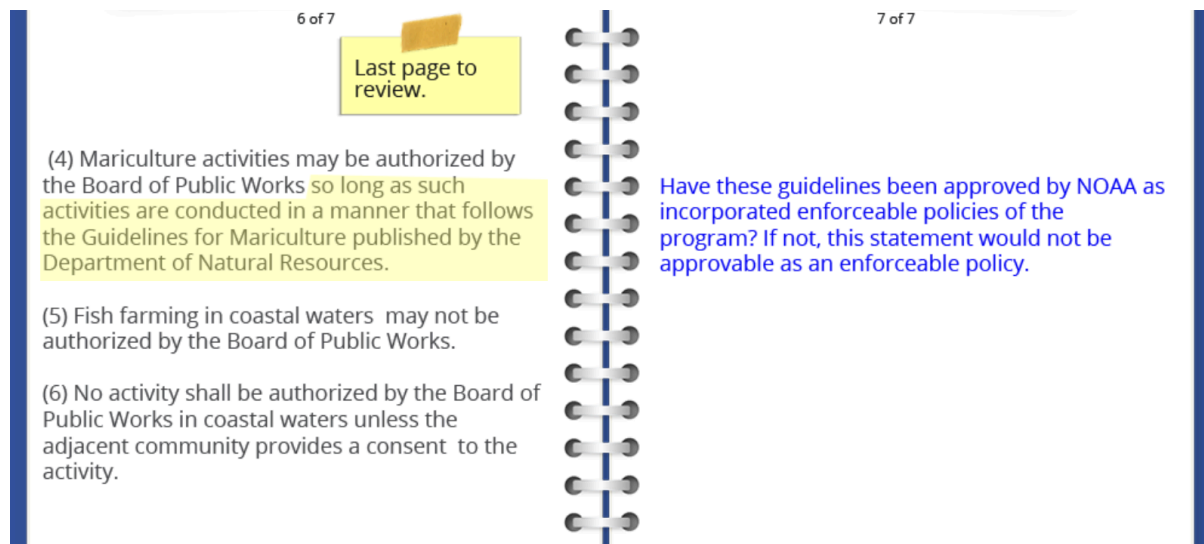
So what is an enforceable state policy that would trigger this review? There is a [free online training module](#) (bit.ly/TrainingNOAA) to help you understand what an enforceable policy is. It teaches you about spotting red flags primarily based on whether state laws use mandatory language and whether they are enforceable, for example, or how to identify when state laws are preempted by federal law (for example, aviation). Some laws, such as an *absolute* ban on oil and gas production, could be found contrary to the national interest objectives of the CZMA.

This [FAQ \(bit.ly/FAQNOAA\)](https://bit.ly/FAQNOAA) on enforceable policies is a valuable resource as well. It highlights red flags that would make it *less likely* that NOAA would approve a state law as an enforceable policy for purposes of the federal consistency review process:

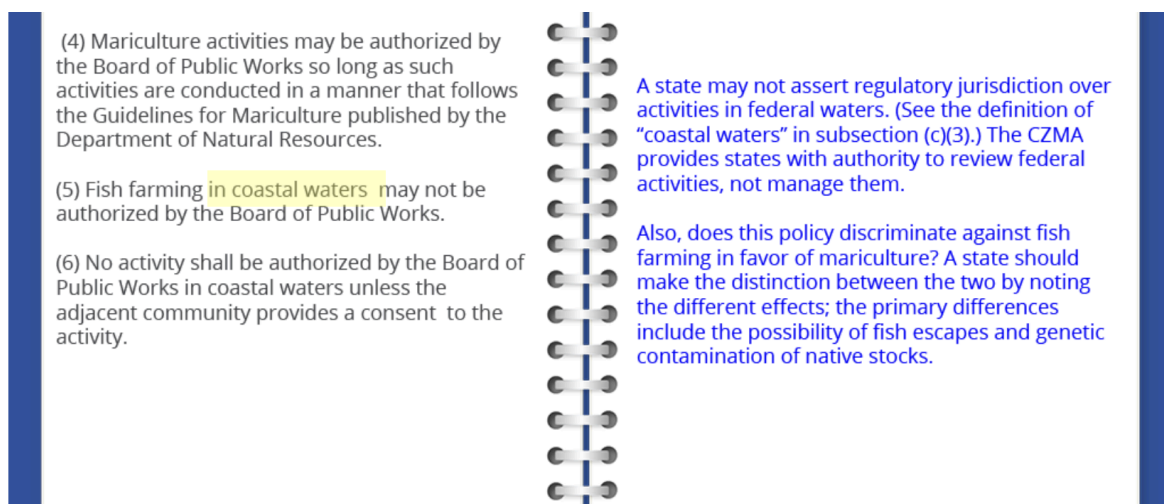
- Does the policy include **mandatory** language?
- Does the policy contain a **clear standard**?
- Is the policy **preempted by federal law**?
- Does the policy regulate **federal** agencies, lands, or waters?
- Does the policy **discriminate** against a **particular coastal user or federal agency**?
- Does the policy hinder the **national interest objectives** of the CZMA?
- Does the policy **incorporate other policies or requirements by reference**?

The online training module referenced earlier *actually presents aquaculture in a hypothetical*. In the first screenshot below, a hypothetical regulation on mariculture references other state guidelines.

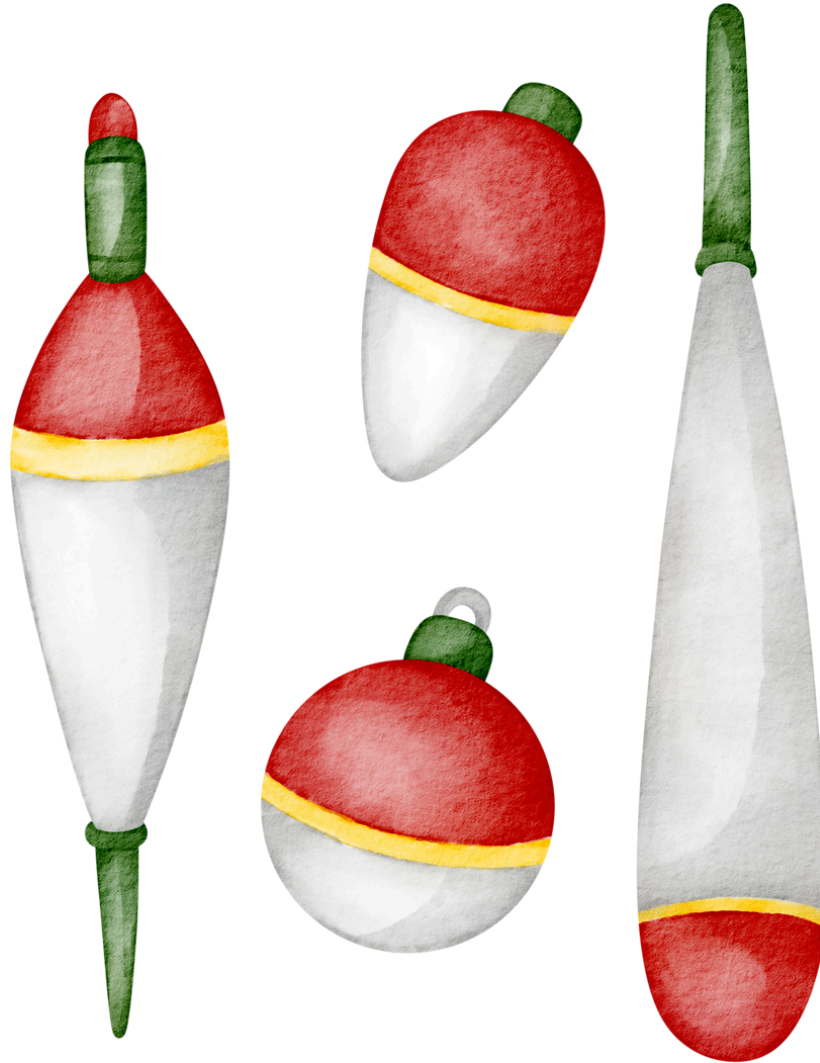
Yet these guidelines *must be approved by NOAA* as “incorporated enforceable policies of the program” for it to be approvable as an enforceable policy.



In the **second screenshot**, there are **two red flags** with an effort to ban fish farming. **The first** is straightforward - a state cannot outright ban fish farming that takes place in coastal waters (here, defined as including the whole EEZ up to 200 miles) because it does not have jurisdiction over federal waters. **The second** has to do with discriminating against fish farming and being in favor of mariculture (we can presume this means bivalve and seaweed farming). This appears to only pass muster **if the state properly distinguishes between the two practices with a rationale**. While the hypothetical only discusses fish escapes and genetic contamination of native stocks (both solid arguments), we would encourage you all to also list concerns with pollution, harms to marine wildlife, and toxic chemical contamination as well (for more ideas, see [Why Finfish Aquaculture is a Threat](#)).



For your purposes, you must ensure that your state's CMP is explicitly clear on defining the various forms of aquaculture, explaining the reasons why finfish farms should be banned, and ensuring that it is an enforceable policy for federal consistency review purposes.



Legislative tools - brief overview of options

In the next section, there are suggested various approaches to consider for your state, depending on where you are in the process of working on aquaculture policy. State Innovation Exchange and Don't Cage Our Oceans also have write-ups for the following states – Alabama, Connecticut, Florida, Georgia, Hawaii, Louisiana, Maine, Mississippi, North Carolina, Oregon, Rhode Island, South Carolina, Washington – to bring you up to speed on what the legal lay of the land is in each area, including the ideal points of contact. If your state isn't listed but you'd like further information, please reach out to either organization.

It's important to note that in each state, various laws may or may not already be in existence for other forms of aquaculture, such as land-based farms, or seaweed/bivalve farms in state waters. There may be an expensive regulatory process already in effect, or it may be in its infancy. **In most states, net pen fish farms are neither banned nor explicitly permitted; they fall in an informal gray zone of “allowed, but no one has really tried it before.”** With the exception of Maine and Hawaii (that have operational fish farms in state waters), as well as the exclusion of [hatcheries](#) in other states like Washington, all other states may have commercial net pen fish farm proposals in federal waters, but not in state waters.

In the next section, we provide a selection of options from existing examples, ranging from most stringent to least stringent, including:

1. Existing state law banning commercial net pen aquaculture in state waters (Alaska)
2. A 2025 bill that would ban commercial net pen aquaculture in state waters (Oregon)
3. A state agency's rulemaking process to implement a state executive order banning commercial net pen aquaculture in state waters (Washington)
4. A state resolution (draft; not yet introduced) providing an avenue for a state to be on the record as opposing commercial net pen aquaculture as a matter of policy in both its state waters and in the adjacent federal waters (Massachusetts)
5. Local/municipal response - testing the waters with home rule (Maine)
6. A letter from state legislators to Congress expressing state and local concerns with offshore fish farming (applies to any state)



Options: existing and proposed legislative templates

Alaska – State law

This is **existing** state law and can be considered the most stringent protection of the examples provided.

The relevant portion of the Alaskan Code reads as follows: TITLE 16. Fish and Game. Chapter 40. Commercial Use of Fish and Game. Article 3. Finfish Farming. Sec. 16.40.210. Finfish farming prohibited.

Article 3. Finfish Farming.

Sec. 16.40.210. Finfish farming prohibited.

(a) A person may not grow or cultivate finfish in captivity or under positive control for commercial purposes.

(b) This section does not restrict

(1) the fishery rehabilitation, enhancement, or development activities of the department;

(2) the ability of a nonprofit corporation that holds a salmon hatchery permit under AS 16.10.400 to sell salmon returning from the natural water of the state, as authorized under AS 16.10.450, or surplus salmon eggs, as authorized under AS 16.10.420 and 16.10.450;

(3) rearing and sale of ornamental finfish for aquariums or ornamental ponds provided that the fish are not reared in or released into water of the state.

(c) In this section “ornamental finfish” means fish commonly known as “tropical fish,” “aquarium fish,” or “goldfish,” that are imported, cultured, or sold in the state customarily for viewing in aquaria or for raising in artificial systems, and not customarily used for sport fishing or human consumption purposes.



Oregon – State bill (2025)

In January 2025, Oregon State Representative Gamba and State Senator Pham introduced [House Bill 2965](#), a bill regulating aquaculture in Oregon state waters. While including several criteria and standards for raising aquatic animals and aquatic plants for aquaculture, it also features an outright prohibition on finfish aquaculture.

As captured in the screenshot below, Section 5 (1)(b)(B) reads: **“To protect public health and promote environmental protection, an aquaculture facility may not raise finfish in marine or estuarine waters in nets, cages or other vessels.”** The bill provides a solid rationale for the prohibition (as well as additional context in its many requirements for other forms of aquaculture), that this bill, if it were to become state law, could lay the foundation for a CZMA federal consistency review.

FINFISH AND CEPHALOPOD AQUACULTURE

SECTION 4. (1) An agency of this state may not issue a license or permit to an aquaculture facility that is in violation of this section or section 5 of this 2025 Act.

(2) The provisions of ORS 468B.025 and 468B.050 apply to an aquaculture facility licensed under this section.

SECTION 5. (1) To protect public health and promote environmental protection, an aquaculture facility:

(a) Must address water quality at the aquaculture facility, including by:

(A) Providing aeration and oxygen.

(B) Removing or filtering water so water parameters remain within limits for optimal welfare conditions and for specific species of aquatic animals based on the best available scientific evidence.

(C) Remediating the effects of feed in the water.

(b) May not:

(A) Stock aquatic animals at levels that exceed the optimal density for specific species of aquatic animals, based on the best available scientific evidence to allow ample space in which aquatic animals can engage in or express natural behaviors.

(B) Raise finfish in marine or estuarine waters in nets, cages or other vessels.

(C) Discharge water or waste into marine waters or estuaries.

Washington — Rulemaking to implement executive order

The state of Washington has had a difficult history with the Canadian company Cooke Aquaculture operating in its state waters. In August 2017, a net pen owned by Cooke Aquaculture near Cypress Island in Skagit Co. collapsed and released hundreds of thousands of Atlantic salmon into surrounding waters. For more on that disaster and the associated clean-up response undertaken by local Tribes, [please read this account by Carl Wassilie](#), featured in the Seattle Times.



As a Yup'ik Salmon Person, I know that for coastal tribes, including the Lummi, Samish and Swinomish, wild Pacific salmon are sacred and inextricably tied to cultural, physical, nutritional and spiritual well-being. Tribal fishers [cleaned up Cooke's mess](#), recapturing 55,000 escaped salmon. In return, Cooke [tried bribing](#) the Lummi Nation to keep quiet on the harms of net-pen aquaculture. Timothy Ballew II, of the Lummi Indian Business Council, responded, 'The Lummi Nation is not willing to be muzzled.' Brazenly, Cooke restocked its Cypress Island net pen just two months after the collapse.

These events reveal the danger in allowing private interests to dictate the future of our oceans. Yet, that is exactly what is happening. Behind greenwashed (or bluewashed) calls for a "[blue economy](#)," we find powerful corporate interests masquerading as proponents of sustainable seafood. The leading finfish aquaculture lobbying group, Stronger America Through Seafood, is backed by Cargill, Merck, Sysco and others whose primary concern is their bottom lines, not the well-being of our communities or oceans.

Carl Wassilie
Yup'ik biologist and salmon activist, Vashon Island, WA

In response to this disaster, the state legislature worked on [HB 2957](#) and in March 2018, Gov. Inslee signed the bill, resulting in RCW 79.105.170. This phased out Atlantic salmon net pens by 2022 and prohibited new commercial aquaculture operations from raising non-native fish in state waters. At this point, Cooke Aquaculture pivoted to raising Steelhead trout in the same pens where Atlantic salmon were once raised - cleverly farming a similar carnivorous finfish.

In November 2022, Commissioner of Public Lands, Hilary Franz, [issued Commissioner's Order 202211](#), directing Department of Natural Resources (DNR) staff to begin rulemaking for banning all commercial finfish net pen aquaculture on State-Owned Aquatic Lands. This process began in April 2023 and concluded in early 2025.

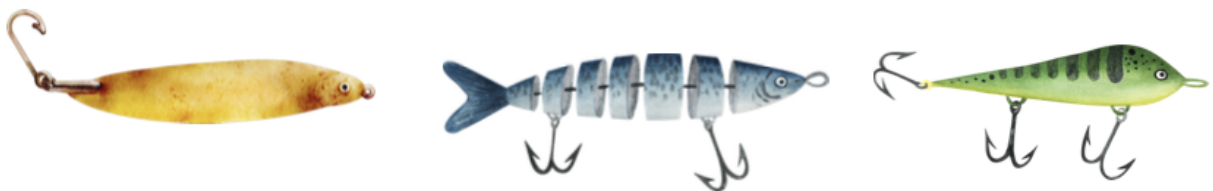
The proposed rulemaking for [CR-102](#) includes two significant steps, which could be potentially replicated in your state. First, it **defined** the term commercial finfish net pen aquaculture as follows:

"Commercial finfish net pen aquaculture" means a system of nets, cages, or other containment systems in open water used to cultivate, feed, and raise "finfish" (as defined in WAC 220-370-050(3)) to marketable size for the purpose of harvesting and selling the same as a crop. Commercial finfish net pen aquaculture does not include operations and containment systems used to raise finfish for open-water release or used to raise finfish solely for tribal ceremonial and subsistence uses.

Here, the state was careful to exclude hatchery operations and any potential Tribal uses associated with ceremonial and subsistence purposes. In other words, an emphasis on "commercial." The next step was a simple one-line addition to the state code, as follows:

WAC 332-30-138 Commercial finfish net pen aquaculture. Commercial finfish net pen aquaculture shall not be authorized on state-owned aquatic lands.

Taking into account the Commissioner's Order (providing the authority and rationale for this rulemaking), along with the extensive public comment process, approaching a similar executive order and subsequent rulemaking is another avenue towards protecting your state from commercial finfish net pen aquaculture in your state's waters (or "state-owned aquatic lands.")



Massachusetts – State resolution

Below is the draft state resolution that was shared by request with members of the Massachusetts State Legislature in October 2024.

Note that the bill begins with a focus on the value that commercial fishing brings to the state, followed by a list of problems associated with commercial finfish aquaculture in the ocean, and then three points (“thereby be it resolved that”) to (1) note the state’s concern about ongoing federal efforts to site fish farms in federal waters off of Massachusetts (in this case, a proposal off of Newburyport, MA); (2) urging that the federal representatives of MA advocate for better policies that would aid coastal ports and protect them from the threat of net pen aquaculture, and (3) stressing the clear opposition of the legislature to development of fish farms in state waters.

The text reads as follows:

WHEREAS fishing has been an integral part of the culture and economy of the Commonwealth of Massachusetts for centuries, as a leading state for commercial seafood landings and value in the country, providing an ex-vessel landing value of over \$679 million per year;

WHEREAS wild-caught seafood is integral to the health of Massachusetts residents, providing a valuable source of nutrition with more omega-3 fatty acids, vitamins, and antioxidants;

WHEREAS coastal and offshore industrial finfish farms directly threaten the economic livelihood of the existing fishing industry;

WHEREAS the quality of marine farmed fish is inferior to its wild counterpart in terms of nutrition, taste, and presence of toxic residues in flesh;

WHEREAS the pollution impacts associated with industrial finfish farms are extremely harmful and include concentrated fecal waste and uneaten fish feed, are left untreated and openly discharged into the waters of the Commonwealth of Massachusetts;

WHEREAS industrial finfish farms are known to incubate, propagate, and spread harmful parasites to each other and wild fish populations, including sea lice, intra-salmon anemia, piscine orthoreovirus, *Tenacibaculum*, and many others;

WHEREAS industrial finfish farms rely upon toxic chemicals, including organophosphates and cypermethrin, to treat some of the aforementioned diseases in farmed fish, and that pesticides, antibiotics, and antifoulants are openly dispersed into the marine environment and can cause harm to other marine life, including crustaceans and mollusks, such as lobsters and scallops;

WHEREAS escapement of farmed fish into the marine environment is an ongoing occurrence in the Atlantic and Pacific Oceans, and recognizing the regularity of fish escapes from ocean-based

net pens, the U.S. Council on Environmental Quality has stated that it “must be *assumed* that escapes will occur” from net pens, even in the absence of severe weather;

WHEREAS the aforementioned fish escapes indicate insufficient federal oversight over the existing finfish farm industry and these escapes can interfere with commercial fish populations via competition over resources and the degradation of the genetic fitness of wild fish populations;

WHEREAS it requires an unsustainable quantity of fish to be taken out of the global fish supply to create fish pellets to feed farmed fish, meaning that more animal protein is wasted in an effort to farm fish and yield less animal protein, and rendering the “fish in / fish out” ratios ecologically and mathematically illogical;

WHEREAS the vast majority of indigenous populations and Tribes both nationally and within the Commonwealth oppose the industrialization of our oceans via massive net pen fish farms;

WHEREAS state waters within the Commonwealth and Federal waters beyond already abound with user conflicts, including non-extractive recreational enjoyment, tourism, commercial and recreational fishing, regenerative ocean farming (e.g., seaweed and bivalve farming), energy, marine conservation, and more, thereby rendering long-term leases for exclusive use of space for private fish farms problematic;

WHEREAS the international community where intensive fish farming has taken place for decades continues to experience massive public opposition and several of those countries’ governing bodies are now reversing course via higher taxation of the industry, sunset clauses, and net pen finfish farm bans;

WHEREAS more sustainable and responsible aquaculture methods currently exist and are practiced in the Commonwealth of Massachusetts, including bivalve and seaweed farming;

WHEREAS the Federal government is moving forward to champion the development of coastal and offshore finfish farms in the complete absence of Congressional authorization and under the encouragement of a legally dubious Trump-era executive order from 2020 (EO 13921);

WHEREAS on September 30, 2024 a United States district court ruled that one of the nationwide permits (NWP 56) issued under the aforementioned Trump-era executive order was unlawful;

WHEREAS the states of Alaska, Washington, and California already have either significant or complete restrictions on finfish farming in state waters;

THEREFORE BE IT RESOLVED THAT the Commonwealth of Massachusetts has significant concerns about the aggressive spearheading of Federal efforts to develop federal finfish farm permitting;

The Commonwealth of Massachusetts encourages our Federal legislators to sign on to legislation that would promote economic opportunities for coastal communities for providing wild-caught seafood, bivalve, and seaweed to local communities;

The Commonwealth of Massachusetts opposes the development of commercial finfish farms in state waters.



Maine — Local and municipal strategies

Maine serves as an interesting case example of a state where **adopting local ordinances** may serve as an effective tool in protecting coastal communities from commercial-scale fish farms in the state. The following borrows heavily from a legal analysis from a Maine law firm, as well as two existing local ordinances.

To be frank, these strategies are not fully established, and can be described as **testing the boundaries of legal theory** in Maine state law. A group known as [Protect Maine's Fishing Heritage Foundation \(PMFHF\)](#) has provided [this template](#) for Maine municipalities, but there are limitations. The theory is that state law *should* allow towns to regulate what happens in subtidal waters, although it appears that, for now, that authority may still reside at the state level. These efforts may ultimately be litigated, and Mainers may need the courts to provide the final verdict.

Home rule

Maine is a state that has adopted municipal “home rule” since 1969. This means that Maine municipalities have had the power to enact ordinances on most areas without needing state enabling laws. It is a broad grant of local authority; the home rule statute provides that the ordinance power granted to municipalities, **being necessary for the welfare of the municipalities and their inhabitants, is to be liberally construed**, and there is a *presumption* that an ordinance is a valid exercise of a municipality’s home rule authority.

Maine courts favor upholding local ordinances if they are subject to legal attack, and the burden rests on the person attacking an ordinance to prove that it violates home rule (and not on the municipality to prove that it does not). The only instances where ordinance power can be curtailed are (1) when a state law expressly prohibits local regulation; (2) when state law provides for the Legislature and municipalities to *share authority* over a subject matter; or (3) when state law is silent regarding local regulation and a court determines that the Legislature intended to prohibit local regulation because such local action would frustrate the purpose of a state law.

The first two scenarios above are clear, though the third category is more nuanced. Yet even then, the presumption is always that the local ordinance is valid. The challenger has to show that the local regulation is so inconsistent with the state law that it would frustrate the purpose or actual operation of the state law.

How home rule and aquaculture fit together

State law confers leasing authority over aquaculture projects to Maine’s Department of Marine Resources (DMR). However, there is no state law that expressly prohibits municipalities from regulating aquaculture development via local ordinances. There is then a potential conflict between the laws, and the dispute may arise over whether state licenses for aquaculture are

considered a “permission to act: as opposed to “requiring” those activities to occur, and whether municipal ordinances that bar, curtail, or otherwise regulate aquaculture can be considered to “frustrate the purposes of a state law.”

Proponents of local ordinances argue that if aquaculture is allowed by a municipality, then DMR would handle the leasing. But all other parameters on what kind of aquaculture is allowed – presumably including environmental and social safeguards – would be dictated by the municipal ordinance. In sum, this is all unsettled law, and is cited here in the toolkit for awareness.

Three examples of local ordinances

The first kind of ordinance would be a moratorium, for example, to temporarily defer all large-scale commercial finfish aquaculture development within a municipality’s geographic boundaries. Moratoria are generally allowed by Maine law, and feature a municipality temporarily deferring development by withholding local permits, authorizations, and approvals that are necessary for development.

If moratoria are ever to be used, they have to be done right. Moratoria are generally controversial, and can have [unintended consequences](#) if the strategy or narrative is misguided. It could also spur the commercial net pen fish farm proponents to lobby for the creation of either municipal or state law that would then provide such regulations that feign to address or curtail serious harm.

A second example of a local ordinance comes from the town of Cutler, Maine. The [Industrial-Scale Coastal Waters Aquaculture Ordinance](#) was adopted in November 2022, and features strict requirements that a prospective applicant must follow before being allowed to set up a commercial project. Interestingly, its requirements that the project have “no adverse effect on habitats; fisheries” and “no adverse effect on natural environment” mean that setting up a commercial finfish project is not practicable, as a system that openly discharges untreated waste cannot meet those stringent requirements.

There are some elements that may create confusion, objection, or present challenges, such as the “adverse visual impact” consideration. Objecting to aquaculture development based on such a subjective standard would be overly-broad and might cast a negative light on nearly *any* kind of working waterfront aquaculture project that is associated with small bivalve cages, seafood processing, or otherwise. It also elicits imagery of “pearl clutchers” and elitism, when the goal of most state legislators is to bolster their coastal communities and local economies in a sensible manner, and not simply erase any and all human activities along the coast.

A third example comes from Machiasport, Maine, and is called the [Town of Machiasport Commercial Aquaculture Licensing Ordinance](#). Similar to the Cutler ordinance, there are extensive requirements that consider things such as adverse economic impacts and impacts on fisheries, surface and ground water quality, and the oceanographic environment. This stresses high levels of disclosure by the applicant, and even focuses on noise and light pollution of the proposed

activities. Interestingly, if an applicant is granted a permit, it is non-transferable and is the only permit available for the town. There is only one lease available.



State legislator sign-on letter to U.S. Congress

Finally, possibly the easiest lift of all is to gather a series of prominent state legislators from relevant committees and/or coastal regions to write a letter to the U.S. Congress (either regionally focused or to the relevant committees).

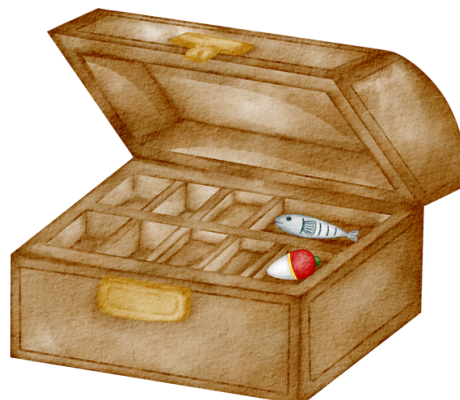
Such a letter serves many purposes.

- It puts federal decision makers on notice that state legislators are watching this space, and especially since the states have a say over what kinds of aquaculture activities happen in state waters.
- It can educate Congress on how not all forms of aquaculture are the same, and that states have an interest in making sure values-based aquaculture is led by people who actually live in the coastal states, as opposed to distant or foreign corporations.
- It is a way for legislators to emphasize how any federal activities that seek to authorize commercial finfish farming in the ocean would harm the state's ecological health and economy.

If your state has an existing ban on commercial finfish farming in state waters (say, for example, in Washington), you would be encouraged to lean heavily on the CZMA. However, if it does not have a ban at this time, you would not necessarily want to focus too much on the federal consistency review provision of the CZMA.

Such a letter should be no more than 2 pages in length, and it should ensure that the state legislators are more or less in agreement on this issue, so that there is a united voice. For awareness, the relevant committees that purport to deal with oceans and aquaculture issues include the Senate Commerce Committee and the House Natural Resources Committee. SiX and Don't Cage Our Oceans can both provide assistance with crafting such letters, by either providing templates or suggested content.

It is important to have regular, ongoing conversations with your state's Congressional delegations about aquaculture, including why you support values-based aquaculture and oppose more extractive forms of aquaculture like ocean-based finfish aquaculture.





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