H.R. 9226, the "Domestic Seafood Production Act"

Congresswoman Peltola (D-Alaska)

Introduced on July 30, 2024

A bill to direct the Secretary of Agriculture and the Secretary of Commerce to incentivize domestic seafood processing capacity, to strengthen local seafood supply chains, to prohibit any Federal agency from funding or regulating commercial finfish aquaculture operations in the Exclusive Economic Zone in the absence of specific congressional authority, and for other purposes.

Referred to the Houe Agriculture Committee, and in addition to the House Natural Resources Committee, and the House Transportation and Infrastructure Committee, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Note: this legislation is a free-standing bill and would not amend the Magnuson-Stevens Act.

Section 1. Short Title

Section 2. Domestic Seafood Production – This section defines "eligible community" to mean a population census track that: is without processing; historically economically dependent on the coast or oceans; or has a poverty rate equal or greater then 20% or meets other income criteria.

Defines "exclusive economic zone" to be the same as the MSA definition.

Defines "mariculture" to mean shellfish and aquatic plants grown under controlled conditions.

Defines "offshore aquaculture" to mean any activity related to the propagation, rearing, or attempted propagation or rearing of finfish in the EEZ.

Defines "seafood" to mean any wild-caught finfish and shellfish.

Defines "Secretary to mean the Secretary of Agriculture.

Defines "State" to include all 50 States as well as all territories and possessions of the U.S.

The bill would require the Secretary of Agriculture in consultation with the Secretary of Commerce to develop an "action plan" to facilitate increased domestic processing of U.S-caught seafood and mariculture within 180 days of the enactment of this legislation.

The "action plan" would be required to include: the identification of communities in which commercial fishing is an economic driver and there exists a need (and voiced community support) for the creation of new (or rehabilitated existing) seafood processing infrastructure (including cold storage). The purpose of the new processing would be to allow those identified communities to effective process the catch of communities locally and to provide of the local and domestic market.

The "action plan" would also be required to the identification of communities with existing or developing mariculture operations in which the processing infrastructure is not sufficient to meet the needs of the operations.

The “action plan” would be required to consider the diversity of the communities including the geographic diversity.

The “action plan” would be required to include an assessment of the number of communities that could qualify under the preceding criteria, and an analysis of the seafood supply chain for seafood consumed domestically, including its carbon footprint.

The “action plan” would be required to include an allocation of specific funds for community development projects in eligible communities that would be eligible for grants and cooperative agreements and without limit to geography or location.

The Secretary would be required to provide meaningful stakeholder engagement in the development of the “action plan”. The stakeholder engagement must prioritize outreach and engagement through methods that effectively reach residents of the eligible communities and provide an opportunity for public comment on a draft plan with 60 days for comments to be considered.

The Secretary would be required to consult with federally-recognized Indian Tribes and Alaska Native Corporations in developing the “action plan”. The Secretary would also be required to take into consideration each CDQ program established under the MSA.

The Secretary would be required, using funds made available under the legislation, to make competitive grants or enter into cooperative agreements for fiscal years 2025 and 2026. The grants or cooperative agreements would be to support pilot projects for several purposes – for new seafood or mariculture processing infrastructure in eligible communities; for rehabilitation, repair or retrofitting existing seafood or mariculture processing infrastructure in eligible communities; for hosting onsite local training, education, outreach, and technical assistance initiatives for working waterfront populations in eligible communities; or for providing preference for community members from eligible communities for startup pilot seafood or mariculture processing facilities designed for serving domestic and local markets and which can include entrepreneurship and business training, financial and risk management training, or food safety and recordkeeping.

To be eligible to receive funds under this section, one would be required to be an individual seafood or mariculture processing company or cooperative or be a collaborative State, Tribe, local or regionally-based network or a partnership of public and private entities.

The Secretary, in making grants or entering into cooperative agreements, would be required to give priority to projects that commit: to sell a substantial quantity of seafood domestically; to meaningful local-hire practices; to avoid overburdening eligible communities; and to support innovative transportation networks to minimize adverse impacts on adjacent communities. The Secretary would also be required to give priority to projects that: co-locate with or supply community fish markets or community-based seafood distributers; would retrofit or update existing infrastructure; are zoned for mixed use (such as a processing plant with an adjacent fish market); or include USDA and partnerships with schools or organizations such as food banks; and community-based businesses and organizations with expertise in working with eligible communities.

The Secretary would be required, in making grants or entering into cooperative agreements, to evaluate proposals for relevancy, technical merit, achievability/expertise/track record, and equity and environmental justice impacts.

The Secretary would be required to determine the amount and term for each grant or cooperative agreement.

The legislation would allow any Federal agency to participate in a grant or cooperative agreement by contributing funds if such agency determines the objective will advance the authorized programs of the agency.

A recipient of a grant or cooperative agreement would be limited to no more than 10 percent of the funds received for indirect costs of carrying out the grant or cooperative agreement.

The Secretary would be required, no later than 1 year after the date of the enactment of this legislation and in consultation with the Secretary of Commerce, to report to Congress on the effectiveness of the "action plan" and the grants or cooperative agreements entered into. The report must include an assessment of social and economic benefits resulting from projects, and recommendations to improve the effectiveness of the action plans and grants as well as recommendations for expanding projects to additional communities.

The legislation would include a prohibition on the head of any Federal agency from permitting, authorizing, or otherwise facilitating offshore aquaculture. The legislation would also prohibit the Administrator of NOAA from awarding any grant or other financial assistance to a person for the purpose of carrying out or otherwise facilitating offshore aquaculture unless subsequent legislation is enacted to authorize offshore aquaculture.

The legislation would repeal section 6 of Executive Order 13921 (signed by President Trump in May 2020). The Executive Order's purpose was to promote American seafood competitiveness and economic growth. Section 6 is titled "Removing Barriers to Aquaculture Permitting". (*Note: section 7 which required the Secretary of Commerce, in consultation with other agencies and groups, to establish Aquaculture Opportunity Areas was not repealed*. *Sections 8 and 9 also dealt with aquaculture and were not repealed.*)

The legislation would authorize $45 million for each of fiscal years 2025 and 2026. The legislation would provide $200,000 in each of the fiscal years for the Secretary or Agriculture and the Secretary of Commerce (to be divided equally). The legislation would cap administrative expenses at 5 percent.

Notes:

- The definition of "seafood" would appear to prohibit aquaculture products from being called seafood under this legislation. It also appears to prohibit mariculture products being called seafood despite including a definition of mariculture that makes a distinction between mariculture products and aquaculture products. It appears that this would require USDA to differentiate "seafood" under this authority from "seafood" under other authorities (such as the school lunch program). I am not sure how USDA would accomplish this.
- While I understand the interest in accessing funds under the USDA authority, I am not sure the authorities under this legislation are best put under USDA. By doing so, this legislation was given primary referral to the House Agriculture Committee. It is possible this was an attempt to make this legislation relevant for consideration in a large Farm Bill package.

- The requirements for a community to be eligible to receive funds from this legislation that deal with poverty rates and family income seem overly prescriptive. While this is only one of the potential criteria to be used to determine eligibility, it may be difficult for the Secretary of Agriculture to makes these determinations.
- The term "State" includes "possessions" of the United States as well as U.S. territories. The definition is not the same as the definition used in the MSA (though similar).
- Several random requirements are included which seem to track with Executive branch initiatives, but seem not to be consistently applied in the legislation including "diversity of communities", "geographic diversity", "carbon footprint", and "equity and environmental justice impacts".
- The provisions dealing with a prohibition of Federal funds being used for offshore aquaculture seem as though they should be a separate title and not a part of the grant program.
- In addition, the language in the legislation would prohibit NOAA awarding any funds (just funds under this legislation?) to any person that is "otherwise facilitating" offshore aquaculture. Does this mean that any entity that purchases offshore aquaculture products (from any source domestic or foreign?) is deemed to be ineligible for any other NOAA program?
- As noted above, the provision striking a portion of the Executive Order dealing with the promotion of domestic seafood does not strike all of the provisions dealing with aquaculture. I am not sure if this was deliberate or not.
- Administrative expenses under the legislation are capped at 5%. Is this a cumulative expenses cap for all entities cited in the legislation? Or does this cap apply to each entity distributing or receiving funds? In addition, there is a cap on recipient's use of funds for "indirect costs" at 10 percent.
- At the end of the legislation, there are two limitations on the use of appropriated funds; however, the legislation includes only one limitation. I'm not sure if this is drafting error or whether the draft legislation I am working from was not the final version (although I got it from the Congresswoman's website).