HOUSE BILL REPORT

SHB 1169

As Passed Legislature

Title: An act relating to marine finfish rearing facilities.

Brief Description: Regulating marine finfish rearing facilities.

Sponsors: By House Committee on Fisheries & Wildlife (originally sponsored by Representatives King, Basich, Orr, Fuhrman, Chappell and Wood).

Brief History:
Reported by House Committee on:
Fisheries & Wildlife, February 11, 1993, DPS;
Appropriations, March 3, 1993, DPS(FW);
Passed House, March 9, 1993, 98-0;
Amended by Senate;
Passed Legislature, April 20, 1993, 96-0.

HOUSE COMMITTEE ON FISHERIES & WILDLIFE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives King, Chair; Orr, Vice Chair; Fuhrman, Ranking Minority Member; Basich; Chappell; Foreman; Lemmon; and Scott.

Staff: Keitlyn Watson (786-7310).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Fisheries & Wildlife be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Locke, Chair; Valle, Vice Chair; Silver, Ranking Minority Member; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; Jacobsen; Lemmon; Linville; Morton; Peery; Rust; Sehlin; Sheahan; Sommers; Stevens; Talcott; Wang; Wineberry; and Wolfe.

Staff: Nancy Stevenson (786-7137).

Background: Aquaculture is defined in RCW 15.85.020 as "the process of growing, farming, or cultivating private sector

cultured aquatic products in marine or fresh waters and includes management by an aquatic farmer." Aquaculture products include oysters, clams, and finned fish. In Washington, commercial finned fish aquaculturists primarily raise Atlantic or coho salmon in Puget Sound, where there are approximately 13 floating commercial net pen facilities. Salmon are initially hatched and reared in a freshwater environment until they are smolts - ready for the marine environment. The smolts are transferred to net pens, and are held in net enclosures until reaching marketable size.

Environmental concerns associated with net pen facilities were identified by the Department of Fisheries in a 1990 Programmatic Environmental Impact Statement on floating net pens. These include water pollution, effect on benthic invertebrates, genetic mixing with native species, odors, noise, disease, and visual quality.

Under the federal Clean Water Act, National Pollution Discharge Elimination System (NPDES) permits are required for waste discharges from all upland finned fish and net pen facilities that produce more than 20,000 pounds of fish annually. The Department of Ecology (DOE) administers this permitting process. Under current state law, commercial or industrial net pen facilities must obtain a state discharge permit if discharging waste into water of the state, regardless of size. If the DOE does not act on a state discharge permit application within 60 days, the applicant shall be deemed to have received a temporary permit and may begin to discharge effluent. No such provision exists for NPDES permits. Under both state and federal law, a "general permit" may be issued when a large number of dischargers dispose similar types of effluent. Standard permit requirements are developed under the general permit.

The issuance of NPDES permits to marine finned fish rearing facilities has recently been delayed. In April of 1990, the DOE issued three NPDES permits to marine net pens. These permits were appealed by the Marine Environmental Consortium, Protect Our Waters and Environmental Resources and the Washington Environmental Council. A settlement agreement between the DOE, appellants, and permittees was reached in May 1991, allowing reduced production by the net pen permittees while recommendations by the parties on net pen regulations were developed. The recommendations will be tied to the results of the investigations of a scientific panel on net pen siting. The scientific panel is scheduled to complete a draft report by May 15, 1993, and submit recommendations for regulations including waste discharge standards by February 24, 1994.

Summary of Bill: "Marine finfish rearing facilities" are defined as "private and public facilities located within the salt water of the state where finfish are fed, nurtured, held, maintained, or reared to reach the size of release or for market sale."

By October 31, 1994, the Department of Ecology is directed to adopt criteria for allowable sediment impacts from organic enrichment due to marine finfish rearing facilities. By June 30, 1995, the department is directed to adopt standards under chapter 34.05 RCW for waste discharges from marine finfish rearing facilities. In establishing these standards, the department is directed to review and incorporate studies conducted by state and federal agencies on waste discharges from marine finfish rearing facilities and any reports and other materials prepared by technical committees on waste discharges from these facilities. The department shall approve or deny discharge permit applications for marine finfish rearing facilities within 180 days from the date of application, unless a longer time is required to satisfy public participation requirements in the permit process in accordance with applicable rules, or compliance with the State Environmental Policy Act (SEPA). The department shall notify applicants as soon as it determines that a proposed discharge meets or fails to comply with the standards, or if a time period longer than 180 days will be needed to satisfy public participation requirements of the SEPA.

The act is null and void if not referenced by bill number in the Omnibus Appropriations Act.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (On Original Bill): (Fisheries & Wildlife) The establishment of net pen facilities is in limbo and creating a general permit will allow the industry to move forward. Permitting is costly and general permits will create some predictability.

(Appropriations) The salmon aquaculture industry is at a standstill. Standards are needed to allow the industry to move forward. The bill will help meet salmon enhancement needs.

Testimony Against (On Original Bill): (Fisheries & Wildlife) Use of general permits is not appropriate for marine net pens because each is different. The time requirements in the bill are unrealistic given the time

constraints of compliance with other applicable state laws such as the State Environmental Policy Act. There is insufficient data available to develop net pen discharge standards within time frame of the bill.

(Appropriations) Standards can be implemented without this bill. The cost of the program is not borne by the polluters.

Witnesses (On Original Bill): (Fisheries & Wildlife) Cyreis Schmitt and Hal Michael, Department of Fisheries (support intent, but have concerns that the deadline is unfeasible, and suggest that smaller facilities producing less than 20,000 pounds per year be exempted); Dan Swecker and John Woodring, Washington Fish Growers Association (pro); Jim Krull, Department of Ecology (con); and Terese Wells, Scan Am Fish Farms (pro).

(Appropriations) Representative Dick King, prime sponsor (pro); Cyreis Schmitt, Department of Fisheries, (pro, with concerns); Dan Swecker, Washington Fish Growers Association (pro); Bill Moore, Department of Ecology (pro); and Barbara Stenson, Marine Environment Consortium (con).