

## Policy and Regulatory: Environment, Land, and Natural Resources

# FISHERIES AND AQUACULTURE

The fishing and aquaculture sectors face a diverse and complicated set of legal, regulatory, and policy challenges at the federal, state, and local levels. Our lawyers and industry professionals have decades of experience counseling seafood companies, aquaculture operations, trade associations, fishing vessel owners, fish and shellfish processors, importers and exporters, and domestic and international lenders and investors. As an international firm, we represent such clients throughout the United States and across the globe.

### Our Capabilities

Our firm has been at the forefront of every major legislative and regulatory change affecting the fishing and aquaculture industries, beginning with the United States' passage of the Magnuson-Stevens Fishery Conservation and Management Act in 1976. We have a deep understanding of the seafood industry and our lawyers and professionals have exceptional capabilities to serve our clients.

We provide a comprehensive set of legal services to companies and organizations involved with seafood production. In addition to legislative and regulatory work, we have handled some of the largest transactions and litigated some of the most contested cases in the industry. From lobbying and advocacy before

Congress and administrative agencies to litigation and transactional work, we have maintained a longstanding reputation for excellence in representing clients in the fishing and aquaculture industries.

### Policy and Regulatory

Our highly ranked Policy and Regulatory team helps clients engage and shape governmental actions. The team has significant experience working with legislative and executive branch agencies at state and federal levels, and with international governmental bodies and officials.

Our lawyers have experience with the relevant House and Senate committees, drafting legislation and successfully shepherding it through Congress and into law. We regularly present the views of companies, nongovernmental organizations, and coalitions to members of Congress and administrative agencies through written correspondence and personal visits.

We also represent aquaculture clients concerning proposed regulatory changes or actions, including negotiations with the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, and U.S. Food and Drug Administration concerning proposed rulemaking. We have extensive experience with fishery management issues before the regional fishery management councils and the National Marine Fisheries Service. The team frequently drafts and delivers public testimony, and develops strategies for advancing or resisting various management proposals.

The team counsels clients on strategic policy and political issues affecting their interests, ranging from environmental matters, fisheries management and aquaculture issues, and federal funding opportunities, to customs and tariff issues, vessel operational and ownership issues, and multilateral treaties involving fisheries.

We have a deep understanding of the seafood industry and our lawyers and professionals have exceptional capabilities to serve our clients.

## Aquaculture

Our firm handles the regulatory and permitting process, providing strategic counsel concerning environmental review, addressing and eliminating public and agency opposition, and navigating clients through the complex maze of local, state, and federal permitting. This experience includes defending companies in litigation if project approvals are challenged. Additionally, our team is well-versed in real estate transactions, negotiating with Tribal governments, trademark matters, and employment and immigration issues.

## Vessel Documentation and Citizenship Compliance

Fishing vessels operating in the United States are subject to construction and citizen ownership requirements. Operation in the United States is broadly defined to include processing, storing, transporting, planning cultivation, or taking or harvesting fish, marine animals, pearls, shells, or marine vegetation in the 200-mile Exclusive Economic Zone (EEZ). Such operation requires the vessel to be built in the United States and never rebuilt abroad. The firm has comprehensive experience with these vessel-related matters. Our work ranges from advising vessel owners on the construction, documentation, permitting, and manning requirements to safety regulations, tax issues, coastwise and fisheries eligibility of vessels, and compliance with the 75% U.S. citizen ownership and control requirements, as well as those that are unique to the fishing industry.

## Transactions and Financing

We frequently counsel clients on acquisitions and divestitures of fishing industry vessels and related assets, vessel-owning entities, and fishing quotas, including compliance with U.S. citizenship ownership and Coast Guard documentation requirements.

Our lawyers guide clients through complex transactions, taxation issues, financing, and restructuring. In addition to acquisitions and divestitures, we advise clients on fishing and delivery agreements, custom processing arrangements, credit agreements, secured vessel financing, project financing, leveraged lease transactions, and international structured financial transactions.

We also counsel clients on the formation and operation of fishery cooperatives and trade associations.

## Litigation and Dispute Resolution

The firm has won a number of high-profile lawsuits involving fisheries and aquaculture issues over the past two decades. We have both successfully challenged and defended various regulatory proposals, particularly involving individual fishing quotas or “catch share” management.

We litigate cases arising under the Magnuson-Stevens Act, American Fisheries Act, Endangered Species Act, Clean Water Act, Marine Mammal Protection Act, Lacey Act, Administrative Procedure Act, National Environmental Policy Act, California Environmental Quality Act, and other environmental laws. We also defend clients facing enforcement actions by the National Marine Fisheries Service, Environmental Protection Agency, Army Corps of Engineers, and other federal and state agencies.

## Traditional Maritime Issues

The scope of our services includes traditional maritime and admiralty matters such as handling arrests, attachments, and seizures of vessels, cargo, and other property; cargo claims; limitation of liability proceedings; vessel collisions, allisions, and groundings; personal injury and death; marine insurance claims; and charter party, bill of lading, and other maritime contractual disputes.

## U.S. Coast Guard Issues

The Coast Guard has broad authority over the operation of vessels within our territorial waters as well as the EEZ, particularly with respect to those documented under U.S. flag. The firm has extensive experience in helping vessel owners comply with the construction and documentation requirements for U.S. flag vessels, as well as inspection and related requirements including those that are unique for uninspected commercial fishing industry vessels, and may vary depending on the particular fishery.

## Employment

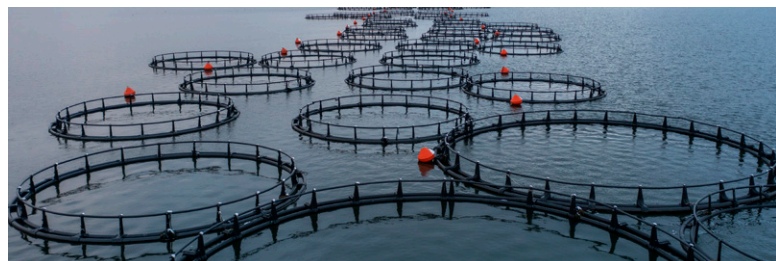
We regularly counsel clients on a range of conventional employment matters as well as those that are unique to the fishing industry. Although crews on U.S. flag vessels are generally required to be U.S. citizens, there is a greater measure of flexibility for those involved in the fishing industry depending on the particular operations.

## Antitrust Issues

We advise clients on the formation and operation of fishery cooperatives with antitrust immunity under the Fishermen's Collective Marketing Act and advise clients on a range of other antitrust issues. We serve as antitrust counsel to several fishing industry trade associations. We also represent seafood companies in litigation involving allegations of price fixing and other anticompetitive practices.

## Environmental

Our fisheries and aquaculture practice is also supported by a strong group of lawyers across the United States experienced in all manner of environmental issues. Notably, some of our lawyers are former regulatory lawyers and prosecutors, having served with the Environmental Protection Agency, Department of Justice, Department of Energy, Department of Transportation, National Marine Fisheries Service, and various state agencies. Our team assists clients in successfully navigating the maze of regulatory requirements, maintaining good relations with regulatory agencies, elected officials, nongovernmental organizations, Native American tribes, and the public.



## Our Services

### Policy and Regulatory

- U.S. Congress
- U.S. federal agencies
- National Oceanic and Atmospheric Administration
- U.S. Maritime Administration
- U.S. Environmental Protection Agency
- U.S. Coast Guard
- U.S. Customs and Border Protection
- U.S. Food and Drug Administration
- U.S. Fish & Wildlife Service
- U.S. Army Corps of Engineers

### International

- Customs
- Cross-border transactions
- Foreign investment in the United States
- Export/import restrictions

### Transactional

- Acquisition/sale of vessels/quota
- Financing
- Cooperatives
- Real estate

### Litigation

- Challenges to fishing regulations and fishery management plans
- Government enforcement
- Commercial disputes
- Antitrust
- Jones Act

## FEATURED ACCOLADES

U.S. NEWS – BEST LAWYERS®

“BEST LAW FIRMS” 2023

NATIONAL TIER 1, ENVIRONMENTAL LAW

CHAMBERS USA GUIDE 2022

ENVIRONMENT

THE LEGAL 500 UNITED STATES 2022

INDUSTRY FOCUS, REGULATORY

---

“Excellent knowledge in all areas. Well respected by regulatory agencies while still being aggressive and innovative in approach.”

– *U.S. News – Best Lawyers®*  
“Best Law Firms 2023”

K&L Gates is a fully integrated global law firm with lawyers and policy professionals located across five continents. For more information about K&L Gates or its locations, practices, and registrations, visit [klgates.com](http://klgates.com).

This publication is for informational purposes only and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer.

©2022 K&L Gates LLP. All Rights Reserved.