

116TH CONGRESS
2D SESSION

S. 4723

To establish a regulatory system for sustainable offshore aquaculture in the United States exclusive economic zone, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 24, 2020

Mr. WICKER (for himself, Mr. SCHATZ, and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish a regulatory system for sustainable offshore aquaculture in the United States exclusive economic zone, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Advancing the Quality and Understanding of American
6 Aquaculture Act” or the “AQUAA Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

Sec. 3. Definitions.

TITLE I—NATIONAL STANDARDS

Sec. 101. National standards for sustainable aquaculture.

Sec. 102. National plan to identify and designate aquaculture opportunity areas.

Sec. 103. Aquaculture outside of an aquaculture opportunity area.

TITLE II—CORE ACTIVITIES

Sec. 201. Aquaculture management plans.

Sec. 202. Offshore aquaculture permits.

Sec. 203. Research and development grant program.

Sec. 204. Economic soundness.

TITLE III—REFINEMENTS

Sec. 301. Recordkeeping, inspections, and access to information.

Sec. 302. Marine feed standards.

Sec. 303. Marine use rights.

TITLE IV—ADMINISTRATIVE PROVISIONS

Sec. 401. Office of Aquaculture.

Sec. 402. Support for industry.

Sec. 403. Outreach and education.

Sec. 404. Administration.

Sec. 405. Report and permit terms.

Sec. 406. Federal coordination.

Sec. 407. Prohibited acts.

Sec. 408. Enforcement.

Sec. 409. Authorization of appropriations.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to support the development of a sustainable
4 marine aquaculture industry in the United States
5 and enhance access to investment capital;

6 (2) to develop sustainable marine aquaculture
7 to complement sustainable fisheries and ecosystem-
8 based management;

9 (3) to clarify the Federal regulatory regime for
10 sustainable offshore aquaculture and safeguard the

1 marine environment, wild fish stocks, and our coast-
2 al communities;

3 (4) to support research and technology develop-
4 ment to further these goals;

5 (5) to create new jobs, and support existing
6 jobs within the seafood industry of the United
7 States, including jobs for traditional fishing industry
8 participants; and

9 (6) to reduce the United States seafood trade
10 deficit by expanding the domestic supply of seafood
11 through the production of sustainable offshore aqua-
12 culture.

13 **SEC. 3. DEFINITIONS.**

14 In this Act:

15 (1) **AQUACULTURE.**—The term “aqua-
16 culture”—

17 (A) means any activity involved in the
18 propagation, rearing, or attempted propagation
19 or rearing, of cultured species, including the
20 capture and rearing of broodstock;

21 (B) does not include the practice of cap-
22 turing juvenile finfish to rear to maturity in an
23 aquaculture facility for subsequent commercial
24 sale; and

1 (C) does not include the practice of rearing
2 and releasing cultured species for the purpose
3 of enhancing wild populations.

4 (2) AQUACULTURE STAKEHOLDER.—The term
5 “aquaculture stakeholder” means owners and opera-
6 tors of offshore aquaculture facilities, Regional Fish-
7 ery Management Councils, interstate fisheries com-
8 missions, conservation organizations, fisheries asso-
9 ciations, State, county, and federally recognized In-
10 dian Tribes, and other interested parties. The term
11 also includes other Federal agencies that have inter-
12 ests in aquaculture.

13 (3) COASTAL STATE.—Except as otherwise spe-
14 cifically provided, the term “coastal State” has the
15 meaning given the term “coastal state” in section
16 304(4) of the Coastal Zone Management Act of
17 1972 (16 U.S.C. 1453(4)).

18 (4) CULTURED SPECIES.—The term “cultured
19 species” means any species propagated and reared
20 for marine aquaculture. The term includes larval
21 marine shellfish species that self-recruit in the off-
22 shore environment. The term excludes any member
23 of the class aves, reptilia, or mammalia.

24 (5) EXCLUSIVE ECONOMIC ZONE.—

1 (A) IN GENERAL.—Unless otherwise speci-
2 fied by the President in the public interest in
3 a writing published in the Federal Register, the
4 term “exclusive economic zone” means a zone,
5 the outer boundary of which is 200 nautical
6 miles from the baseline from which the breadth
7 of the territorial sea is measured (except as es-
8 tablished by a maritime boundary treaty in
9 force or being provisionally applied by the
10 United States or, in the absence of such a trea-
11 ty, where the distance between the United
12 States and another country is less than 400
13 nautical miles, a line equidistant between the
14 United States and the other country).

15 (B) INNER BOUNDARY.—Without affecting
16 any Presidential proclamation with regard to
17 the establishment of the United States terri-
18 torial sea or exclusive economic zone, the inner
19 boundary of the exclusive economic zone is—

20 (i) in the case of the coastal States, a
21 line coterminous with the seaward bound-
22 ary of each such State, as described in sec-
23 tion 4 of the Submerged Lands Act (43
24 U.S.C. 1312);

1 (ii) in the case of the Commonwealth
2 of Puerto Rico, a line 9 nautical miles
3 from the coastline of the Commonwealth of
4 Puerto Rico;

5 (iii) in the case of American Samoa,
6 the United States Virgin Islands, or Guam,
7 a line 3 geographic miles from the coast-
8 lines of American Samoa, the United
9 States Virgin Islands, or Guam, respec-
10 tively;

11 (iv) in the case of the Commonwealth
12 of the Northern Mariana Islands—

13 (I) the coastline of the Common-
14 wealth of the Northern Mariana Is-
15 lands, until the Commonwealth of the
16 Northern Mariana Islands is granted
17 authority by the United States to reg-
18 ulate all fishing to a line seaward of
19 its coastline; and

20 (II) upon the United States
21 grant of such authority, the line es-
22 tablished by such grant of authority;
23 or

1 (v) for any possession of the United
2 States not under clause (ii), (iii), or (iv),
3 the coastline of such possession.

4 (C) CONSTRUCTION.—Nothing in this defi-
5 nition may be construed to diminish the author-
6 ity of the Department of Defense, the Depart-
7 ment of the Interior, or any other Federal de-
8 partment or agency.

9 (6) HEALTHY TARGET STOCK.—The term
10 “healthy target stock” means a component of a fish-
11 ery managed in a similar or equivalent way to fish-
12 eries managed under the Magnuson-Stevens Fishery
13 Conservation and Management Act (16 U.S.C. 1801
14 et seq.) or by a United States interstate marine fish-
15 eries commission, or a component of a fishery tar-
16 geted for harvest that is not overfished or experi-
17 encing overfishing.

18 (7) LESSEE.—The term “lessee” means any
19 party to a lease, right-of-use and easement, or right-
20 of-way, or an approved assignment thereof, issued
21 pursuant to the Outer Continental Shelf Lands Act
22 (43 U.S.C. 1331 et seq.).

23 (8) MULTI-TROPHIC AQUACULTURE.—The term
24 “multi-trophic aquaculture” means an assemblage of
25 cultured species grown in close enough proximity to

1 one another so that cultured species provide eco-
2 system services to one another.

3 (9) OFFSHORE AQUACULTURE.—The term “off-
4 shore aquaculture” means aquaculture conducted in
5 the exclusive economic zone.

6 (10) OFFSHORE AQUACULTURE FACILITY.—The
7 term “offshore aquaculture facility” means—

8 (A) an installation or structure used, in
9 whole or in part, for offshore aquaculture; or

10 (B) an area of the seabed, water column,
11 or the sediment used for offshore aquaculture.

12 (11) SECRETARY.—Except as otherwise specifi-
13 cally provided, the term “Secretary” means the Sec-
14 retary of Commerce, acting through the Under Sec-
15 retary of Commerce for Oceans and Atmosphere.

16 (12) SUSTAINABLY MANAGED FISHERY FOR
17 AQUACULTURE FEED.—The term “sustainably man-
18 aged fishery for aquaculture feed” means a fishery
19 that is used for feed and that is managed in such
20 a manner to maintain healthy target stocks, to pro-
21 tect marine ecosystem structure, productivity, func-
22 tion, and diversity, and to minimize impacts to non-
23 target stocks.

1 **TITLE I—NATIONAL STANDARDS**

2 **SEC. 101. NATIONAL STANDARDS FOR SUSTAINABLE AQUA-** 3 **CULTURE.**

4 (a) **RELATION TO CURRENT LAW.**—Nothing in this
5 Act shall be construed in derogation of applicable law, and
6 offshore aquaculture operations shall comply with all ap-
7 plicable statutes, rules, and regulations. In order to ensure
8 that implementing regulations for applicable statutes ap-
9 propriately account for the unique considerations arising
10 from offshore aquaculture, the Secretary shall comply with
11 the following:

12 (1) With respect to regulations administered by
13 the Department of Commerce or National Oceanic
14 and Atmospheric Administration, the Secretary shall
15 review such regulations in accordance with this sub-
16 section and update any regulations as appropriate or
17 necessary.

18 (2) With respect to Federal regulations not ad-
19 ministered by the Department of Commerce or Na-
20 tional Oceanic and Atmospheric Administration, the
21 Secretary shall confer with appropriate officials to
22 review such regulations in accordance with this sub-
23 section. After such review, the Agency that admin-
24 isters the regulations may, as appropriate or nec-
25 essary, update such regulations.

1 (b) NATIONAL STANDARDS.—Any designation and
2 establishment of an aquaculture opportunity area, any
3 aquaculture management plan prepared, any regulation
4 promulgated, and any permit granted, pursuant to this
5 Act, shall—

6 (1) encourage development of United States off-
7 shore aquaculture while remaining consistent with
8 environmental requirements established by law;

9 (2) be based on the best scientific information
10 available, taking into account traditional knowledge;

11 (3) be adaptive to offshore aquaculture develop-
12 ment, accounting for updates in technology and
13 changes in environmental conditions;

14 (4) prefer species that are native or historically
15 naturalized to the region; and

16 (5) prioritize the health of cultured species.

17 (c) GUIDELINES.—The Secretary shall establish advi-
18 sory guidelines (which shall not have the force and effect
19 of law), based on the national standards, to assist in the
20 development of aquaculture management plans, and regu-
21 lations promulgated and permits granted pursuant to this
22 title.

23 (d) PERIODIC REVIEW.—The Secretary shall periodi-
24 cally review the advisory guidelines established under sub-
25 section (c), as needed, but not less often than once every

1 5 years, to determine whether changed circumstances, ad-
2 vances in science, or improved management practices war-
3 rant an amendment or update to the guidelines.

4 **SEC. 102. NATIONAL PLAN TO IDENTIFY AND DESIGNATE**
5 **AQUACULTURE OPPORTUNITY AREAS.**

6 (a) **RELATION TO CURRENT LAW.**—Nothing in this
7 section shall be construed in derogation of applicable law
8 in effect on the date of enactment of this Act regulating
9 or restricting the use of the exclusive economic zone, and
10 the Secretary shall comply with all such applicable law
11 when proposing, designating, and operating an aqua-
12 culture opportunity area under this section. In order to
13 ensure that implementing regulations for applicable stat-
14 utes appropriately account for the unique considerations
15 arising from offshore aquaculture, the Secretary shall
16 comply with the following:

17 (1) With respect to regulations administered by
18 the Department of Commerce or National Oceanic
19 and Atmospheric Administration, the Secretary shall
20 review such regulations in accordance with this sub-
21 section and update any regulations as appropriate or
22 necessary.

23 (2) With respect to Federal regulations not ad-
24 ministered by the Department of Commerce or Na-
25 tional Oceanic and Atmospheric Administration, the

1 Secretary shall confer with appropriate officials to
2 review such regulations in accordance with this sub-
3 section. After such review, the Agency that admin-
4 isters the regulations may, as appropriate or nec-
5 essary, update such regulations.

6 (b) NATIONAL PLAN.—

7 (1) IN GENERAL.—Not later than 180 days
8 after the date of enactment of this Act, the Sec-
9 retary shall, consistent with this section, develop a
10 plan and timeline to systematically—

11 (A) assess the exclusive economic zone;

12 (B) prepare an inventory of sites suitable
13 for aquaculture opportunity areas; and

14 (C) designate aquaculture opportunity
15 areas.

16 (2) DESIGNATION.—The Secretary may des-
17 ignate an aquaculture opportunity area prior to com-
18 pletion of the entire inventory under paragraph
19 (1)(B) for locations where the Secretary has com-
20 pleted the assessment under paragraph (1)(A) and
21 developed an aquaculture management plan as re-
22 quired under subsection (f)(1).

23 (c) ASSESSMENT OF THE EXCLUSIVE ECONOMIC
24 ZONE; INVENTORY.—The Secretary shall conduct the as-
25 sessment and prepare the inventory described in sub-

1 section (b) using relevant scientific, social, and economic
2 data, and engagement with aquaculture stakeholders and
3 the public as provided in subsection (e). In conducting the
4 assessment, the Secretary may consider a cluster of loca-
5 tions in close proximity with similar conditions as a single
6 inventory item, provided that each of the locations meets
7 the criteria established in this section. Based on the fac-
8 tors listed in subsection (d) and the national standards
9 in section 101, the Secretary shall make a determination
10 based on the totality of the circumstances whether a site
11 under consideration is suitable for sustainable offshore
12 aquaculture. If the Secretary determines that a site is
13 suitable, then the site shall be listed in the inventory,
14 along with—

15 (1) a description of the site, including its co-
16 ordinates and a map;

17 (2) a thorough evaluation of each factor de-
18 scribed in subsection (d), and the Secretary's find-
19 ings regarding each of those factors; and

20 (3) an analysis of how these findings justify the
21 Secretary's determination that the site is suitable for
22 sustainable offshore aquaculture.

23 (d) **FACTORS FOR ASSESSMENT.**—In order to con-
24 duct the assessment in subsection (c), the Secretary shall
25 consider the following factors:

1 (1) The oceanographic characteristics of the
2 site.

3 (2) The bathymetry and availability of areas for
4 anchors, moorings, and other gear.

5 (3) Current and possible future human uses of
6 the site, and the areas in reasonable proximity to the
7 site.

8 (4) Current and possible future conservation
9 uses of the site, and the areas in reasonable prox-
10 imity to the site.

11 (5) Potential impacts to wild fisheries from the
12 escape of cultured species, or from cultured species
13 becoming invasive or hybridizing with wild stocks
14 within the region.

15 (6) Potential benefits from multi-trophic aqua-
16 culture, where cultured species provide ecosystem
17 services to one another.

18 (7) Availability of shore-side fishery infrastruc-
19 ture and other land-based support facilities to sup-
20 port offshore aquaculture operations.

21 (8) Expected socioeconomic impacts from oper-
22 ations on adjacent coastal communities.

23 (9) Other factors that the Secretary determines
24 are appropriate.

1 (e) ENGAGEMENT.—In conducting the assessment
2 and inventory under subsection (c), the Secretary shall
3 conduct engagement with aquaculture stakeholders and
4 the public as follows:

5 (1) PUBLIC MEETINGS AND WORKSHOPS.—The
6 Secretary shall conduct public meetings to inform in-
7 terested aquaculture stakeholders about the intent to
8 include a site in the inventory, share information
9 about the process, and solicit public feedback, in-
10 cluding written comments. In addition to public
11 meetings, the Secretary may, consistent with the
12 Federal Advisory Committee Act (5 U.S.C. App.),
13 convene workshops of particular aquaculture stake-
14 holders or aquaculture stakeholder groups to provide
15 insight, information, and comments to support the
16 assessment and inventory process.

17 (2) CONSULTATION WITH STATES, TRIBES, AND
18 TERRITORIES.—The Secretary shall consult with
19 States, federally recognized Indian Tribes, and terri-
20 tories adjacent to or within 100 miles of a site under
21 consideration for the inventory. Such States, feder-
22 ally recognized Indian Tribes, and territories may
23 submit comments to the Secretary, and the Sec-
24 retary shall consider such comments in the assess-
25 ment and inventory process.

1 (f) DESIGNATION AND ESTABLISHMENT OF AQUA-
2 CULTURE OPPORTUNITY AREA.—

3 (1) IN GENERAL.—In order to designate and
4 establish an aquaculture opportunity area, the Sec-
5 retary shall select a site from the inventory prepared
6 under subsection (c), and develop an aquaculture
7 management plan under section 201. In the event
8 that the Secretary determines the site is not viable
9 during the development of the aquaculture manage-
10 ment plan, the Secretary may abandon consideration
11 of the site, and revise the inventory accordingly.

12 (2) STATE PETITION.—The Governor of any
13 coastal State or territory, or a Tribal government in
14 a fisheries management region under the Magnuson-
15 Stevens Fishery Conservation and Management Act
16 (16 U.S.C. 1801 et seq.), may submit a request in
17 writing to the Secretary to petition for locating an
18 aquaculture opportunity area, or a group of aqua-
19 culture opportunity areas, in reasonable proximity to
20 the location of the requesting State, territory, or
21 Tribal government. The Secretary shall evaluate the
22 petition and may designate an aquaculture oppor-
23 tunity area or group of aquaculture opportunity
24 areas as provided in this section.

1 (3) INITIAL AND SUBSEQUENT ESTABLISHMENT
2 OF AQUACULTURE OPPORTUNITY AREAS.—The Sec-
3 retary shall initially establish at least 2 aquaculture
4 opportunity areas from the inventory developed
5 under subsection (b) not later than 1 year after the
6 date of enactment of this Act. Each year thereafter,
7 the Secretary shall establish not less than 1 addi-
8 tional aquaculture opportunity area from the inven-
9 tory until all sites from the inventory have been con-
10 sidered.

11 (4) ADJUSTMENT OF EXISTING AQUACULTURE
12 OPPORTUNITY AREAS.—The Secretary may adjust
13 the dimensions of an established aquaculture oppor-
14 tunity area as necessary, while accounting for im-
15 pacts to operating aquaculture facilities, the state of
16 science, the cost-benefit ratio of the adjustment, and
17 comments from aquaculture stakeholders and the
18 general public.

19 (g) DEMONSTRATION PROJECTS.—In order to test
20 the viability of sustainable offshore aquaculture in a site
21 listed on the inventory, the Secretary may support dem-
22 onstration projects in an inventory site to assist in devel-
23 oping the required contents for an aquaculture manage-
24 ment plan. Such demonstration projects shall be carried
25 out in a manner that is consistent with the national stand-

1 ards in section 101. Demonstration projects may include
2 multidisciplinary research to revive and adapt traditional
3 aquaculture systems, such as open sea ponds, to support
4 the needs of modern communities.

5 (h) STUDY ON AQUACULTURE OPPORTUNITY AREAS
6 IN STATE WATERS.—Not later than 18 months after the
7 date of enactment of this Act, the Secretary shall conduct
8 a study of the feasibility of allowing States to petition for
9 aquaculture opportunity areas in their waters. The study
10 shall include information and analysis on the benefits of
11 aquaculture opportunity areas in State waters and identify
12 barriers to implementation.

13 (i) REGULATIONS.—The Secretary may promulgate
14 regulations governing the process for implementing this
15 section.

16 (j) SPATIAL DATA.—To support the implementation
17 of this section, the National Oceanic and Atmospheric Ad-
18 ministration shall collect and curate spatial data relevant
19 to aquaculture and make such data publicly available, un-
20 less otherwise restricted by law.

21 **SEC. 103. AQUACULTURE OUTSIDE OF AN AQUACULTURE**
22 **OPPORTUNITY AREA.**

23 (a) DEFINITIONS.—In this section—

24 (1) the term “site proponent” means a non-
25 governmental entity that assesses a site and develops

1 an aquaculture management plan for that site in ac-
2 cordance with subsection (c); and

3 (2) the term “notice of intent” means a written
4 document that communicates the site proponent’s in-
5 tention to develop an offshore aquaculture site, and
6 includes the location, type of aquaculture, cultured
7 species, and other information the Secretary re-
8 quires.

9 (b) AQUACULTURE OUTSIDE OF AN AQUACULTURE
10 OPPORTUNITY AREA.—Offshore aquaculture may be con-
11 ducted outside of an aquaculture opportunity area only as
12 provided in this section.

13 (c) PROCESS AND REGULATIONS.—

14 (1) IN GENERAL.—The Secretary shall develop
15 a process and promulgate regulations, consistent
16 with this section, to allow a site proponent to, at its
17 own expense—

18 (A) assess sites smaller than an aqua-
19 culture opportunity area for offshore aqua-
20 culture in an exclusive economic zone;

21 (B) develop aquaculture management plans
22 for those sites;

23 (C) submit a notice of intent and applica-
24 tion to the Secretary requesting approval to
25 conduct aquaculture at the site; and

1 (D) apply for a permit under section 202.

2 (2) PROCESS.—The process developed by the
3 Secretary shall include—

4 (A) the process for submitting a notice of
5 intent, publishing the notice of intent, and solie-
6 citing comments under subsection (d);

7 (B) the form of application to be used by
8 the site proponent;

9 (C) the required contents of the applica-
10 tion, including an analysis of the factors in sec-
11 tion 102(d) and the items in section 201(c);

12 (D) a process for submitting the comments
13 received under subsection (d), along with the
14 disposition of each; and

15 (E) a timeline for the Secretary’s consider-
16 ation and action on the application, which may
17 be either to approve, deny, or request more in-
18 formation.

19 (d) NOTICE OF INTENT.—

20 (1) IN GENERAL.—The Secretary shall require
21 each site proponent that is assessing a site under
22 subsection (c)(1) to submit a notice of intent before
23 developing an aquaculture management plan or sub-
24 mitting an application under this section. The Sec-

1 retary, acting through the National Oceanic and At-
2 mospheric Administration, shall—

3 (A) publish the notice of intent, together
4 with information on the process under sub-
5 section (c)(2);

6 (B) deliver the notice of intent, together
7 with information on the process under sub-
8 section (c)(2), to—

9 (i) States and federally recognized In-
10 dian Tribes within 100 miles of the pro-
11 posed site; and

12 (ii) any local governments within 10
13 miles of the proposed site;

14 (C) convene meetings with aquaculture
15 stakeholders and the public—

16 (i) to solicit public comment, including
17 written comments, to be shared with the
18 site proponent; and

19 (ii) including, at a minimum—

20 (I) at least 1 public meeting for
21 aquaculture stakeholders; and

22 (II) meetings with State, local,
23 and Tribal government representa-
24 tives; and

1 (D) consult with interested Federal agen-
2 cies.

3 (2) COMMENTS.—States, federally recognized
4 Indian Tribes, and local governments described in
5 paragraph (1)(B) may submit comments on the no-
6 tice of intent to the Secretary, which shall be shared
7 with the site proponent.

8 (e) MANAGEMENT PLAN.—Each site proponent shall
9 include all comments received under subsection (d) in the
10 aquaculture management plan, along with a disposition of
11 each.

12 **TITLE II—CORE ACTIVITIES**

13 **SEC. 201. AQUACULTURE MANAGEMENT PLANS.**

14 (a) DEVELOPMENT AND ADOPTION.—In order to im-
15 plement this Act, the Secretary shall develop and adopt
16 for aquaculture opportunity areas established under sec-
17 tion 102, or locations where multiple aquaculture oppor-
18 tunity areas may be suitable for establishment—

19 (1) an aquaculture management plan; and

20 (2) amendments to each such plan that are nec-
21 essary from time to time.

22 (b) OVERLAPPING MANAGEMENT AREAS.—The Sec-
23 retary may use a single aquaculture management plan for
24 multiple aquaculture opportunity areas where such areas

1 are within reasonable proximity to each other and suffi-
2 ciently similar.

3 (c) ENGAGEMENT.—Prior to developing, adopting, or
4 amending an aquaculture management plan under this
5 section, the Secretary, acting through the National Oce-
6 anic and Atmospheric Administration, shall meet with
7 aquaculture stakeholders and the public to solicit their
8 comments, and consult with interested Federal agencies.
9 Such comments shall be duly reported in an addendum
10 to the aquaculture management plan, along with a disposi-
11 tion of each. At a minimum, meetings under this sub-
12 section shall include—

13 (1) at least one public meeting for aquaculture
14 stakeholders; and

15 (2) meetings with State, local, and Tribal gov-
16 ernment representatives.

17 (d) REQUIRED CONTENTS.—An aquaculture manage-
18 ment plan that is prepared by the Secretary under this
19 title shall—

20 (1) include information and analysis that the
21 Secretary determines is appropriate to establish
22 common reference points for conducting aquaculture
23 in the aquaculture opportunity area;

24 (2) specify parameters and guidance for con-
25 ducting aquaculture in the aquaculture opportunity

1 area, based on the information and analysis under
2 paragraph (1), including—

3 (A) the geographic boundaries of the aqua-
4 culture opportunity area;

5 (B) the number of sites that each aqua-
6 culture opportunity area will support;

7 (C) the species allowed for aquaculture in
8 the aquaculture opportunity area;

9 (D) standards for the structural integrity
10 of aquaculture facilities to prevent the escape of
11 cultured species; and

12 (E) contingency plans that will be re-
13 quired, along with standards for such plans, for
14 events including—

15 (i) severe weather;

16 (ii) escape of cultured species;

17 (iii) situations affecting, or compro-
18 mising, the health of cultured species; and

19 (iv) other contingencies the Secretary
20 identifies;

21 (3) describe how the Secretary will monitor as-
22 pects of aquaculture in the aquaculture opportunity
23 area in order to support compliance with this Act,
24 including—

25 (A) escape of cultured species;

1 (B) situations affecting, or compromising,
2 the health of cultured species;

3 (C) the economic and commercial produc-
4 tivity of the aquaculture opportunity area; and

5 (D) other matters the Secretary identifies;
6 and

7 (4) prescribe such other measures, require-
8 ments, or conditions and restrictions as are deter-
9 mined to be necessary and appropriate for imple-
10 mentation of this Act.

11 (e) IMPLEMENTING REGULATIONS.—The Secretary
12 shall develop and adopt regulations determined to be nec-
13 essary and appropriate to implement an aquaculture man-
14 agement plan or plan amendment developed under this
15 section.

16 (f) PERIODIC REVIEW.—The Secretary shall periodi-
17 cally review plans developed under subsection (a) as need-
18 ed, but not less often than once every 5 years, to deter-
19 mine whether changed circumstances, advances in science,
20 or improved management practices warrant an amend-
21 ment or update to the plan.

22 **SEC. 202. OFFSHORE AQUACULTURE PERMITS.**

23 (a) IN GENERAL.—After the Secretary promulgates
24 final regulations under section 404(a), the Secretary may

1 issue an offshore aquaculture permit if the Secretary de-
2 termines that—

3 (1) the proposed offshore aquaculture facility,
4 type of aquaculture operation, and cultured species
5 are consistent with the purposes in section 2 and the
6 national standards for sustainable offshore aqua-
7 culture in section 101;

8 (2) the proposed offshore aquaculture facility,
9 type of aquaculture operation, and cultured species
10 are consistent with an established aquaculture man-
11 agement plan, or the permit applicant has provided
12 the Secretary with sufficient information and anal-
13 ysis, such as would be included in an established
14 aquaculture management plan, to merit issuance, if
15 the permit is intended to be located outside of an
16 aquaculture opportunity area;

17 (3) the applicant is able to comply with this Act
18 and any terms and conditions prescribed under sec-
19 tion 404(a), is financially responsible, and will oper-
20 ate the offshore aquaculture facility using the best
21 practicable technology and maintain it in good work-
22 ing order; and

23 (4) issuance of the offshore aquaculture permit
24 is not prohibited under section 407.

1 (b) AUTHORIZED ACTIVITIES.—An offshore aqua-
2 culture permit holder shall be authorized to conduct off-
3 shore aquaculture consistent with—

4 (1) this Act, including regulations promulgated
5 to carry out this Act;

6 (2) other applicable provisions of law, including
7 regulations; and

8 (3) any terms or conditions imposed by the Na-
9 tional Oceanic and Atmospheric Administration.

10 (c) PERMIT PROCEDURE.—

11 (1) APPLICATION.—An applicant for an off-
12 shore aquaculture permit shall submit an application
13 to the Secretary. The application shall specify—

14 (A) the proposed location of the offshore
15 aquaculture facility and the location of on-shore
16 facilities used for propagation or rearing of cul-
17 tured species, such as hatcheries or research op-
18 erations;

19 (B) the type of aquaculture operations that
20 will be conducted at all facilities described in
21 subparagraph (A);

22 (C) the cultured species, or a specified
23 range of species, to be propagated or reared, or
24 both, at the offshore aquaculture facility;

1 (D) the source of eggs, larvae, or juvenile
2 cultured species that will be used in aquaculture
3 operations, an analysis of the likely impacts on
4 wild populations and habitats, such as preven-
5 tion of the spread of pathogens, and the infor-
6 mation upon which the assessment was made;

7 (E) plans to respond to—

8 (i) a natural disaster;

9 (ii) an escapement;

10 (iii) disease; and

11 (iv) other circumstances designate by

12 the Secretary; and

13 (F) such other design, construction, and
14 operational information as the Secretary may
15 require to ensure the integrity of the applicant's
16 operations and contingency planning.

17 (2) NOTICE.—Whenever the National Oceanic
18 and Atmospheric Administration receives an offshore
19 aquaculture permit application, the Secretary shall—

20 (A) provide notice and a copy of the appli-
21 cation to the Governor of every State or terri-
22 tory adjacent to or within 100 miles of the pro-
23 posed site and to the federally recognized In-
24 dian Tribes within those States; and

1 (B) provide public notice and an oppor-
2 tunity for public comment for a period of not
3 less than 60 days for each offshore aquaculture
4 permit application.

5 (3) COMMENTS AND CONSULTATION.—The Sec-
6 retary shall take any comments submitted by Gov-
7 ernors and the public into consideration, and shall
8 consult with interested aquaculture stakeholders as
9 warranted before making a final decision on the dis-
10 position of an offshore aquaculture permit applica-
11 tion.

12 (4) DEADLINES FOR CONSIDERATION OF APPLI-
13 CATIONS FOR PERMITS.—Not later than 30 days
14 after the date on which the Secretary receives an
15 offshore aquaculture permit application, the Sec-
16 retary shall—

17 (A) notify the applicant that the applica-
18 tion is complete; or

19 (B) notify the applicant that information is
20 missing and specify any information that is re-
21 quired to be submitted for the application to be
22 complete.

23 (5) ISSUANCE OR DEFERRAL.—Not later than
24 90 days after the period for public comments on a

1 completed application has concluded, the Secretary
2 shall—

3 (A) issue the permit, if the application
4 complies with the provisions of this Act, includ-
5 ing the national standards for sustainable off-
6 shore aquaculture in section 101, requirements
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.), and other appli-
9 cable law;

10 (B) defer the decision on the permit, if the
11 Secretary determines that the application can
12 be improved to meet the requirements of para-
13 graph (1), and provide to the applicant a notice
14 that specifies any steps that the applicant could
15 take for the permit to be issued; or

16 (C) deny the permit, providing a justifica-
17 tion for the Secretary's determination that the
18 application does not meet the requirements of
19 paragraph (1), or any other applicable law, and
20 that these issues cannot be remediated.

21 (6) EXTENSION OF REVIEW.—The Secretary
22 may extend the review period for an additional 90
23 days if the Secretary determines that further time is
24 needed to analyze the application. The Secretary
25 may further extend the review period beyond the ex-

1 tension provided in the preceding sentence if the
2 Secretary determines that the Department of Com-
3 merce needs more time to comply with applicable
4 Federal law, provided that the Secretary's deter-
5 mination states the specific actions the Department
6 must undertake, together with deadlines for com-
7 pleting such actions.

8 (d) PERMIT REQUIREMENTS.—

9 (1) IN GENERAL.—An offshore aquaculture per-
10 mit holder shall be—

11 (A) a citizen or permanent resident of the
12 United States; or

13 (B) a corporation, partnership, or other
14 entity that—

15 (i) is organized and existing under the
16 laws of the United States or a U.S. State;
17 and

18 (ii) is not owned by a foreign nation
19 or majority-controlled by a foreign nation.

20 (2) TERMS AND CONDITIONS.—Subject to sub-
21 section (n), the Secretary shall—

22 (A) prescribe the terms and conditions that
23 apply to each offshore aquaculture permit to
24 achieve the national standards for sustainable
25 offshore aquaculture in section 101, and an ap-

1 plicable aquaculture management plan and im-
2 plementing regulations developed under section
3 201; and

4 (B) specify in each offshore aquaculture
5 permit the duration, size, and location of the
6 offshore aquaculture facility.

7 (3) STATUTES AND REGULATIONS.—Offshore
8 aquaculture permits are subject to this Act, regula-
9 tions promulgated pursuant thereto, and other stat-
10 utes and regulations in existence upon the effective
11 date of the permit. When promulgating regulations,
12 the Secretary shall indicate whether and to what ex-
13 tent the regulations apply to existing offshore aqua-
14 culture permits.

15 (e) DURATION.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), an offshore aquaculture permit shall have
18 an initial 15-year duration, and may be renewed
19 subject to the terms of this Act.

20 (2) EXCEPTIONS.—

21 (A) AQUACULTURE OPPORTUNITY
22 AREAS.—A permit issued for offshore aqua-
23 culture to be conducted in an aquaculture op-
24 portunity area as provided in section 102 shall
25 have an initial 25-year duration.

1 (B) OUTER CONTINENTAL SHELF.—The
2 Secretary shall develop the duration of an off-
3 shore aquaculture permit subject to subsection
4 (o)(1), in consultation with the Secretary of the
5 Interior, except that the permit shall expire not
6 later than the date that the lessee or the les-
7 see’s operator submits, to the Secretary of the
8 Interior, a final application for the decommis-
9 sioning and removal of an existing facility upon
10 which an offshore aquaculture facility is lo-
11 cated.

12 (f) TRANSFER.—A permit may be transferred as pro-
13 vided under this subsection, provided that the permit is
14 still valid, and has not been amended due to emergency
15 circumstances. To propose a transfer, a permittee shall
16 submit an application to the Secretary, and the Secretary
17 shall review and make a determination of whether to ap-
18 prove, deny, or request additional information not later
19 than 60 days after the date of receipt of the application.
20 The application shall include—

- 21 (1) notice to the Secretary of the intention to
22 transfer;
- 23 (2) the reason for the transfer;

1 (3) the identity of the transferee, and whether
2 the transferee holds, has held, or is applying for a
3 permit under this Act;

4 (4) the transferee's assumption of responsi-
5 bility, coverage, and liability for activities performed
6 under the permit, as of the effective date of the
7 transfer; and

8 (5) any additional information requested by the
9 Secretary.

10 (g) RENEWAL.—The Secretary may renew an off-
11 shore aquaculture permit that has not been revoked for
12 an additional 15-year period, as provided in subsection (e),
13 before the end of the original permit's duration, if—

14 (1) the permit or amended permit complies with
15 existing requirements;

16 (2) the permit holder has not been subject to
17 sanctions under section 408 or committed a prohib-
18 ited act under such section;

19 (3) the permit has not been modified because of
20 emergency considerations; and

21 (4) notice under subsection (c)(2) has been
22 given.

23 (h) REVOCATION.—The Secretary may, pursuant to
24 regulations issued under this Act, revoke an offshore
25 aquaculture permit, if—

1 (1) the permit holder commits a prohibited act
2 under section 407;

3 (2) the permit holder fails to begin offshore
4 aquaculture operations within 2 years from the date
5 the required Federal permits are obtained; or

6 (3) there is an interruption of offshore aqua-
7 culture operations of at least 2 years in duration
8 that is unrelated to best management practices.

9 (i) EXPIRATION OR REVOCATION.—Not later than 1
10 year after the expiration or revocation of an offshore aqua-
11 culture permit, a permit holder shall—

12 (1) remove all structures, gear, and other prop-
13 erty from the offshore aquaculture facility site; and

14 (2) take such other measures to restore the site,
15 as the Secretary considers necessary.

16 (j) EMERGENCY DETERMINATION.—If the Secretary
17 determines that an emergency exists that poses a signifi-
18 cant risk to the safety of humans, to the marine environ-
19 ment, to cultured species, or to the security of the United
20 States and that requires suspension, modification, or rev-
21 ocation of an offshore aquaculture permit, the Secretary
22 may suspend, modify, or revoke the permit for such time
23 as the Secretary determines is necessary to address the
24 emergency. The Secretary shall afford the permit holder
25 a prompt post-suspension, post-modification, or post-rev-

1 ocation opportunity to be heard regarding the suspension,
2 modification, or revocation.

3 (k) FEES.—

4 (1) ESTABLISHMENT.—

5 (A) IN GENERAL.—The Secretary may es-
6 tablish, by regulation, application fees and an-
7 nual offshore aquaculture permit fees under
8 this section.

9 (B) DEPOSIT AND COLLECTION.—The fees
10 described in subparagraph (A) shall be depos-
11 ited as offsetting collections in the operations,
12 research, and facilities account of the National
13 Oceanic and Atmospheric Administration. Fees
14 may be collected and made available to the ex-
15 tent provided in advance in appropriation Acts.

16 (C) SETTING OF FEES.—The fees de-
17 scribed in subparagraph (A) shall be set as an
18 amount such that the total revenue from such
19 fees does not exceed the amount required to
20 cover the costs of management, data collection,
21 analysis, annual inspection, and enforcement
22 activities related to permits under this section.

23 (2) WAIVERS.—The Secretary may waive, in
24 whole or in part, any fee under this section if an off-

1 shore aquaculture facility is used primarily for re-
2 search.

3 (3) GUARANTEES.—The Secretary shall require
4 a permit holder to post a bond or other form of fi-
5 nancial guarantee in an amount determined by the
6 Secretary, to be reasonable and commensurate with
7 the offshore aquaculture operation and as sufficient
8 to cover, without duplication—

9 (A) any unpaid fees;

10 (B) the cost of removing an offshore aqua-
11 culture facility at the expiration or revocation of
12 an offshore aquaculture permit; or

13 (C) the cost of site remediation for impacts
14 arising from authorized activities.

15 (1) MAGNUSON-STEVEN'S FISHERY CONSERVATION
16 AND MANAGEMENT ACT.—Beginning on the effective date
17 of the final regulations promulgated under section 404,
18 the conduct of offshore aquaculture that is in accordance
19 with an offshore aquaculture permit issued under this sec-
20 tion shall not be considered fishing for purposes of the
21 Magnuson-Stevens Fishery Conservation and Manage-
22 ment Act (16 U.S.C. 1801 et seq.), but shall be considered
23 a fishery under section 3 of the Marine Mammal Protec-
24 tion Act of 1972 (16 U.S.C. 1362).

1 (m) COMPATIBILITY WITH OTHER USES.—Each
2 Federal agency implementing this section, person subject
3 to this section, and coastal State seeking to review a per-
4 mit application under this section shall comply with the
5 applicable provisions of the Coastal Zone Management Act
6 of 1972 (16 U.S.C. 1451 et seq.), including regulations
7 promulgated to carry out such Act.

8 (n) STATUTORY CONSTRUCTION.—An offshore aqua-
9 culture permit issued under this section shall not super-
10 sede or substitute for any other authorization required
11 under Federal or State laws.

12 (o) ACTIONS AFFECTING THE OUTER CONTINENTAL
13 SHELF.—

14 (1) NOTIFICATION OF SECRETARY OF THE IN-
15 TERIOR.—The Secretary shall notify the Secretary
16 of the Interior for each application for an offshore
17 aquaculture permit that is located on the outer con-
18 tinental shelf.

19 (2) PRIOR CONSENT REQUIRED.—An offshore
20 aquaculture facility may not be located on a lease,
21 right-of-use and easement, or right-of-way author-
22 ized or permitted under the Outer Continental Shelf
23 Lands Act (43 U.S.C. 1331 et seq.) without the
24 prior consent of any lessee and other owner of oper-
25 ating interest.

1 (3) COMPLIANCE REVIEW.—The Secretary of
2 the Interior shall review each agreement between a
3 prospective offshore aquaculture operator and a les-
4 see. The Secretary of the Interior shall approve such
5 agreement if it is consistent with the Federal lease
6 terms, the Department of the Interior regulations,
7 and the Secretary of the Interior’s role in the protec-
8 tion of the marine environment, property, and
9 human life or health. An agreement under this sub-
10 section shall—

11 (A) be part of the information reviewed
12 under paragraph (4); and

13 (B) not be subject to a separate Coastal
14 Zone Management Act of 1972 (16 U.S.C.
15 1451 et seq.) review.

16 (4) COORDINATED COASTAL ZONE MANAGE-
17 MENT ACT REVIEW.—

18 (A) STATE REVIEW.—

19 (i) IN GENERAL.—A coastal State’s
20 review under the Coastal Zone Manage-
21 ment Act of 1972 (16 U.S.C. 1451 et seq.)
22 shall include any modification or change to
23 a lessee’s approved plan that results from,
24 or is necessary for, the issuance of an off-

1 shore aquaculture permit if the State si-
2 multaneously receives—

3 (I) the information related to the
4 modification or change; and

5 (II) the offshore aquaculture per-
6 mit applicant's consistency certifi-
7 cation.

8 (ii) SIMULTANEOUS RECEIPT.—If the
9 coastal State simultaneously receives the
10 information related to a modification or
11 change to a lessee's approved plan and the
12 offshore aquaculture permit applicant's
13 consistency certification, then—

14 (I) a lessee shall not be required
15 to submit a separate consistency cer-
16 tification for the modification or
17 change under section 307(c)(3)(B) of
18 the Coastal Zone Management Act of
19 1972 (16 U.S.C. 1456(c)(3)(B)); and

20 (II) the coastal State's concur-
21 rence (or presumed concurrence) or
22 objection to the consistency certifi-
23 cation for the offshore aquaculture
24 permit under section 307(c)(3)(A) of
25 such Act shall apply both—

1 (aa) to the offshore aqua-
2 culture permit; and

3 (bb) to any related modifica-
4 tion or change to a lessee's plan
5 approved under the Outer Conti-
6 nental Shelf Lands Act (43
7 U.S.C. 1331 et seq.).

8 (B) STATE REVIEW UNDER SECTION
9 307(C)(3)(B) OF THE COASTAL ZONE MANAGE-
10 MENT ACT OF 1972.—To the extent that a
11 coastal State is not authorized by section
12 307(c)(3)(A) of the Coastal Zone Management
13 Act of 1972 (16 U.S.C. 1456(c)(3)(A)) to re-
14 view an offshore aquaculture permit application
15 submitted under this Act, then a modification
16 or change to a lessee's approved plan shall be
17 subject to coastal State review under section
18 307(c)(3)(B) of such Act if a consistency cer-
19 tification for the modification or change is re-
20 quired under applicable Federal regulations.

21 (C) DEFINITIONS.—In this paragraph:

22 (i) LESSEE'S APPROVED PLAN.—The
23 term "lessee's approved plan" includes a
24 document for which a consistency certifi-
25 cation is required under applicable Federal

1 regulations, such as a change to the ap-
2 proved plan for decommissioning a facility.

3 (ii) OFFSHORE AQUACULTURE PERMIT
4 APPLICANT.—The term “offshore aqua-
5 culture permit applicant” means an appli-
6 cant for an offshore aquaculture permit
7 under this section that—

8 (I) will locate the proposed facil-
9 ity in an area that would require con-
10 sent from the lessee as described in
11 paragraph (2); and

12 (II) is required to submit a con-
13 sistency certification for its offshore
14 aquaculture application under section
15 307(c)(3)(A) of the Coastal Zone
16 Management Act of 1972 (16 U.S.C.
17 1456(c)(3)(A)) to the coastal State.

18 (iii) OFFSHORE AQUACULTURE PER-
19 MIT APPLICATION.—The term “offshore
20 aquaculture permit application” means an
21 application for an offshore aquaculture
22 permit under this section that will locate
23 the proposed facility in an area that would
24 require consent from the lessee as de-
25 scribed in paragraph (2).

1 (5) JOINT AND SEVERAL LIABILITY.—For off-
2 shore aquaculture located on a facility described
3 under this subsection, a permit holder and each
4 party that is or was a lessee of the lease on which
5 the facility is located during the term of the offshore
6 aquaculture permit shall be jointly and severally lia-
7 ble for the removal of any construction or modifica-
8 tion related to the offshore aquaculture operations if
9 a bond or other form of financial guarantee under
10 subsection (j)(3) for aquaculture operations is insuf-
11 ficient to cover those obligations. This paragraph
12 shall not affect any obligation to decommission the
13 facility under the Outer Continental Shelf Lands Act
14 (43 U.S.C. 1331 et seq.).

15 (6) ADDITIONAL AUTHORITY.—

16 (A) IN GENERAL.—The Secretary of the
17 Interior may, to carry out this subsection—

18 (i) promulgate rules and regulations
19 as necessary and appropriate;

20 (ii) require and enforce any additional
21 terms or conditions that the Secretary of
22 the Interior considers necessary to ensure
23 the compatibility of aquaculture operations
24 with activities for which permits, author-
25 izations, leases, negotiated agreements,

1 right-of-way, or right-of-use and easement
2 were issued under the Outer Continental
3 Shelf Lands Act (43 U.S.C. 1331 et seq.);

4 (iii) issue an order to an offshore
5 aquaculture permit holder to take any ac-
6 tion the Secretary of the Interior considers
7 necessary to ensure safe operations on the
8 facility, and to protect the marine environ-
9 ment, property, or human life or health;

10 (iv) require and enforce any additional
11 terms or conditions that the Secretary of
12 the Interior considers necessary—

13 (I) to protect the marine environ-
14 ment, property, or human life or
15 health; and

16 (II) to ensure the compatibility of
17 aquaculture operations with activities
18 for which permits were issued under
19 the Outer Continental Shelf Lands
20 Act (43 U.S.C. 1331 et seq.); and

21 (v) enforce all requirements contained
22 in the regulations, lease terms and condi-
23 tions, and orders under the Outer Conti-
24 nental Shelf Lands Act (43 U.S.C. 1331 et
25 seq.).

1 (B) INTERPRETATION.—Failure to comply
2 with any order issued under subparagraph
3 (A)(iii) shall constitute a violation of the Outer
4 Continental Shelf Lands Act (43 U.S.C. 1331
5 et seq.).

6 (p) ASSURANCE OF ANIMAL HEALTH.—

7 (1) IN GENERAL.—Nothing in this section shall
8 affect the authority of the Secretary of Agriculture
9 to—

10 (A) carry out the Animal Health Protec-
11 tion Act (7 U.S.C. 8301 et seq.) with respect to
12 cultured species in the exclusive economic zone;
13 or

14 (B) operate as the lead Federal agency for
15 providing animal health oversight for cultured
16 species in the exclusive economic zone, including
17 animal health and disease risk assessments.

18 (2) CONTINGENCY PLANS.—As part of an appli-
19 cation for a permit for offshore aquaculture or as
20 part of an aquaculture management plan established
21 in section 201, the Secretary of Agriculture may ap-
22 prove contingency plans, along with standards for
23 such plans, for events relating to situations affecting
24 the health of cultured species.

1 (3) CRITERIA FOR PRACTICING VETERINARY
2 MEDICINE IN WATERS OUTSIDE STATE JURISDIC-
3 TION.—A veterinarian may practice veterinary medi-
4 cine in waters outside State jurisdiction if the veteri-
5 narian—

6 (A) is licensed and in good standing to
7 practice veterinary medicine in any State;

8 (B) holds a category II veterinary accredi-
9 tation from the Animal and Plant Health In-
10 spection Service; and

11 (C) has a valid veterinarian client-patient
12 relationship with the facility in which the indi-
13 vidual is practicing veterinary medicine.

14 (q) SAVINGS CLAUSE.—Nothing in this Act shall su-
15 persepe permit applications in process on the date of en-
16 actment of this Act or permits that are in place on the
17 date of enactment of this Act.

18 **SEC. 203. RESEARCH AND DEVELOPMENT GRANT PRO-**
19 **GRAM.**

20 (a) IN GENERAL.—The Secretary shall establish, in
21 consultation with applicable Federal agencies, coastal
22 States, federally recognized Indian Tribes, Regional Fish-
23 ery Management Councils, academic institutions, and in-
24 terested aquaculture stakeholders, a research and develop-
25 ment grant program to further the purposes of this Act.

1 In carrying out this subsection, the Secretary shall con-
2 sider using existing programs that leverage State and local
3 partnerships and take advantage of the extramural re-
4 search community, including the National Sea Grant Col-
5 lege Program under the National Sea Grant College Pro-
6 gram Act (33 U.S.C. 1121 et seq.).

7 (b) COMPONENTS.—The research and development
8 grant program described in subsection (a) shall include re-
9 search conducted internally by the National Oceanic and
10 Atmospheric Administration, and through the award of
11 competitive, peer-reviewed grants to fund research and ex-
12 tension services—

13 (1) to create innovative design and engineering
14 solutions to common obstacles within the offshore
15 aquaculture industry;

16 (2) to enable the transition of innovative aqua-
17 culture technologies, including technologies focused
18 on the commercialization of high-value marine spe-
19 cies, from controlled studies to commercial use;

20 (3) to evaluate the role of genetics in relation
21 to the development of improved lines of brood stock,
22 disease resistance, and interactions between cultured
23 species and wild stocks;

1 (4) to advance research into the management,
2 mitigation, and prevention of cultured species dis-
3 eases;

4 (5) to develop cost-effective feeds to optimize
5 the sustainable use of protein and lipid sources origi-
6 nating from wild fish, plants, and other sources,
7 maximize growth and production performance of cul-
8 tured species, prevent the spread of pathogens and
9 parasites, and maintain the human health benefits of
10 cultured seafood;

11 (6) to improve techniques for monitoring, as-
12 sessed, and addressing environmental impacts of
13 offshore aquaculture and develop and evaluate meth-
14 odologies to prevent, minimize, and mitigate poten-
15 tial adverse environmental impacts;

16 (7) to evaluate the potential for offshore aqua-
17 culture to serve as a tool for environmental manage-
18 ment, including connections to water quality, water-
19 shed management, and fishery conservation and
20 management;

21 (8) to evaluate the potential impact of offshore
22 aquaculture on the economies of coastal commu-
23 nities, particularly those dependent on traditional
24 fishery resources;

1 (9) to identify barriers to entry in the offshore
2 aquaculture industry and propose solutions to over-
3 come them;

4 (10) to study the traditional aquaculture meth-
5 ods and practices of Native Americans, Alaska Na-
6 tives, and Native Hawaiians to evaluate economic,
7 environmental, and sociological impacts;

8 (11) to investigate other priority issues identi-
9 fied by the Secretary; and

10 (12) to evaluate economic aspects of offshore
11 aquaculture, including production costs and market
12 development.

13 (c) COORDINATION WITH OTHER FEDERAL PRO-
14 GRAMS.—The Secretary shall—

15 (1) coordinate aquaculture research and devel-
16 opment intramural programs and grants within the
17 Department of Commerce and with other Federal in-
18 tramural and extramural programs that provide
19 grant funding for purposes similar to those under
20 subsection (b), such as grants administered by the
21 National Sea Grant College Program and the Na-
22 tional Institute of Standards and Technology; and

23 (2) coordinate the research and development
24 grant program established in this section with the
25 interagency aquaculture coordinating group estab-

1 lished under section 6 of the National Aquaculture
2 Act of 1980 (16 U.S.C. 2805) and with the research
3 and development conducted through the Cooperative
4 Extension System of the Department of Agriculture.

5 (d) COOPERATIVE RESEARCH AGREEMENT.—To
6 carry out this section, the Secretary may enter into a coop-
7 erative agreement with a State, institution of higher edu-
8 cation, or other private institution or research center.

9 **SEC. 204. ECONOMIC SOUNDNESS.**

10 (a) IN GENERAL.—Section 53708 of title 46, United
11 States Code, is amended by adding at the end the fol-
12 lowing:

13 “(f) AQUACULTURE.—In making the findings under
14 subsections (a) and (b), the Administrator and the Sec-
15 retary may take into account factors such as—

16 “(1) the transferability of an aquaculture per-
17 mit;

18 “(2) an assessment of the shore-side seafood
19 economy where the borrower will be operating; and

20 “(3) the existence of a formal technical assist-
21 ance program administered by a governmental agen-
22 cy.”.

TITLE III—REFINEMENTS**SEC. 301. RECORDKEEPING, INSPECTIONS, AND ACCESS TO INFORMATION.**

(a) REGULATIONS.—The Secretary, after consultation with other interested Federal departments and agencies, shall prescribe by regulation—

(1) the records that an offshore aquaculture permit holder is required to establish and maintain;

(2) the reports that an offshore aquaculture permit holder is required to make;

(3) the information that an offshore aquaculture permit holder is required to provide, which shall at a minimum include—

(A) data regarding escape events;

(B) the prevalence of disease in the offshore aquaculture facility, including a description of veterinary services provided for treatment;

(C) a copy of any required incident or annual report required under a permit necessary for aquaculture operations under other Federal law; and

(D) other information, as the Secretary may require; and

1 (4) any other recordkeeping that an offshore
2 aquaculture permit holder is required to satisfy, as
3 necessary to carry out this Act.

4 (b) REGULATORY CONSISTENCY.—The regulations
5 under subsection (a) may not amend, contradict, or dupli-
6 cate regulations under any other Federal law.

7 (c) RECORDKEEPING.—An offshore aquaculture per-
8 mit holder shall—

9 (1) comply with the recordkeeping regulations
10 under subsection (a); and

11 (2) submit such reports, and make such records
12 and information available as the Secretary may re-
13 quest.

14 (d) INSPECTIONS.—

15 (1) FREQUENCY.—The Secretary shall conduct
16 an annual inspection of offshore aquaculture facili-
17 ties.

18 (2) NOTICE.—The Secretary shall provide rea-
19 sonable notice prior to site inspections at offshore
20 aquaculture facilities pursuant to paragraph (1).
21 The Secretary shall take into consideration biosecu-
22 rity concerns and work with the permit holder to en-
23 sure best inspection practices to ensure safety and
24 protect cultured species.

1 (3) FACILITIES LOCATED ON THE OUTER CON-
2 TINENTAL SHELF.—The Secretary of the Interior, or
3 a designee of such Secretary, is authorized with in-
4 spection authority under this section for offshore
5 aquaculture facilities located on the outer conti-
6 nental shelf.

7 (e) GOVERNMENT ACCESS.—Any Federal Govern-
8 ment official representing an agency with authority for im-
9 plementing and enforcing Federal law applicable to off-
10 shore aquaculture shall have reasonable access to an off-
11 shore aquaculture facility for which a permit is issued
12 under this Act for the purpose of enforcing the Federal
13 law under the official’s jurisdiction or otherwise carrying
14 out the official’s responsibilities. Such an official, relative
15 to their jurisdictional authority, may inspect, at reason-
16 able times, appropriate records, files, papers, permits,
17 processes, controls, and the offshore aquaculture facility
18 and may test any feature of the offshore aquaculture facil-
19 ity, provided testing does not risk incurring damage or po-
20 tentially compromise the structural integrity of the facility
21 or the health of cultured species. Each inspection shall be
22 conducted with reasonable promptness. The permit holder
23 shall receive timely notification, in writing, of the results
24 of the inspection.

1 (f) PUBLIC ACCESS.—The Secretary shall make re-
2 ports and other information received under this Act avail-
3 able to the public unless the Secretary determines it is
4 necessary to withhold disclosure to protect confidential
5 business information or sensitive personal information.
6 The Secretary shall establish procedures to protect con-
7 fidential business information and sensitive personal infor-
8 mation from being disclosed.

9 **SEC. 302. MARINE FEED STANDARDS.**

10 (a) RELATION TO CURRENT LAW.—Nothing in this
11 Act shall be construed in derogation of applicable law re-
12 garding the production of animal feed, and offshore aqua-
13 culture operations shall comply with all applicable law (in-
14 cluding regulations).

15 (b) REQUIREMENTS FOR FISHERIES-DERIVED MA-
16 RINE FEED INGREDIENTS.—The Secretary shall require
17 that fish meal, or any fisheries-derived marine feed ingre-
18 dients (both first-use and trimmings), used at offshore
19 aquaculture facilities in the exclusive economic zone—

20 (1) are sourced from a sustainably managed
21 fishery for aquaculture feed;

22 (2) employ traceability sufficient to credibly
23 demonstrate the ingredients were sourced from a
24 sustainably managed fishery for aquaculture feed;

1 (3) are harvested and produced without convict,
2 forced, or indentured labor; and

3 (4) are delivered to the cultured species as part
4 of a formulated feed.

5 (c) STUDY ON BEST PRACTICES FOR MARINE
6 FEED.—Not later than 2 years after the date of enact-
7 ment of the Advancing the Quality and Understanding of
8 American Aquaculture Act, the Secretaries of Commerce
9 and Agriculture, through the coordinating group, shall
10 conduct a study of the best management practices related
11 to sustainable, economic feed for the United States marine
12 aquaculture industry. The study shall—

13 (1) recommend best practices for sourcing fish
14 meal from sustainably managed fisheries for aqua-
15 culture feed;

16 (2) recommend best practices to provide
17 traceability on the source of fish meal ingredients;

18 (3) recommend best practices for sourcing for-
19 mulated feed ingredients from domestic sources; and

20 (4) recommend best practices for harvesting
21 and producing fish meal so that it can be known
22 that it is harvested and produced without convict,
23 forced, or indentured labor.

24 (d) REPORT.—Upon completion of the study under
25 subsection (c), the Secretaries of Commerce and Agri-

1 culture shall prepare and submit a report containing the
 2 recommendations described in subsection (c) to the Com-
 3 mittee on Commerce, Science, and Transportation of the
 4 Senate and the Committee on Natural Resources of the
 5 House of Representatives.

6 **SEC. 303. MARINE USE RIGHTS.**

7 The permit established under section 202 shall be
 8 considered a marine use right, offering security of tenure
 9 for purpose of obtaining investment, transferring permit
 10 to other authorized users, and allowing for operations.

11 **TITLE IV—ADMINISTRATIVE**
 12 **PROVISIONS**

13 **SEC. 401. OFFICE OF AQUACULTURE.**

14 (a) OFFICE OF AQUACULTURE.—The Secretary shall
 15 establish and provide resources for—

16 (1) an Office of Aquaculture within the Na-
 17 tional Marine Fisheries Service at the National Oce-
 18 anic and Atmospheric Administration headquarters
 19 to implement this title; and

20 (2) an Office of Aquaculture presence in each
 21 of the regional fisheries offices of the National Oce-
 22 anic and Atmospheric Administration, which pres-
 23 ence shall, at a minimum, be sufficient to fulfill the
 24 duties under subsection (b), but may be increased to

1 the extent warranted by the activity and interest of
2 aquaculture stakeholders in the region.

3 (b) OFFICE OF AQUACULTURE DUTIES.—The Office
4 of Aquaculture shall—

5 (1) ensure the implementation of this Act;

6 (2) coordinate regulatory, scientific, outreach,
7 and international issues related to aquaculture with-
8 in the National Oceanic and Atmospheric Adminis-
9 tration;

10 (3) collaborate with and leverage existing ef-
11 forts by the National Sea Grant College program
12 to—

13 (A) conduct aquaculture outreach, edu-
14 cation, extension services, and training efforts;
15 and

16 (B) engage with aquaculture stakeholders
17 and, from time to time, convene conferences for
18 aquaculture stakeholders to exchange informa-
19 tion and ideas; and

20 (4) maintain aquaculture capacity in each of
21 the regional fisheries offices of the National Oceanic
22 and Atmospheric Administration, including at least
23 one Regional Aquaculture Coordinator in each such
24 office.

1 (c) AQUACULTURE RESEARCH PROGRAM AND DU-
2 TIES.—In addition to the resources required under sub-
3 section (a), the Secretary shall establish and provide addi-
4 tional resources for an aquaculture research program that
5 draws upon the scientific capacity of National Oceanic and
6 Atmospheric Administration programs such as the Fish-
7 eries Science Centers, Sea Grant, and the National Cen-
8 ters for Coastal and Ocean Science to support the Office
9 of Aquaculture’s efforts to implement this title. Specifi-
10 cally, the program shall—

11 (1) ensure that offshore aquaculture operations
12 permitted under this title are scientifically monitored
13 to support the implementation of this Act, evaluate
14 data, and conduct additional research to support the
15 development of sustainable offshore aquaculture in
16 accordance with this title; and

17 (2) administer the research and development
18 grant program under section 203.

19 (d) AQUACULTURE SUBCOMMITTEE.—The Marine
20 Fisheries Advisory Committee shall designate the Aqua-
21 culture Subcommittee as a permanent, standing sub-
22 committee to serve as an external board to advise the Sec-
23 retary on offshore aquaculture. The Aquaculture Sub-
24 committee shall coordinate with the National Sea Grant
25 Advisory Board, as appropriate.

1 (e) BUDGET PRESENTATION.—The National Oceanic
2 and Atmospheric Administration shall transmit its budget
3 request for the Office of Aquaculture as a separate line
4 with the National Marine Fisheries Service.

5 **SEC. 402. SUPPORT FOR INDUSTRY.**

6 (a) IN GENERAL.—The Secretary shall support the
7 development of sustainable marine aquaculture, consistent
8 with this Act and other applicable Federal law.

9 (b) MARKETING AND PROMOTION GRANTS.—The
10 Secretary shall, in consultation with industry, establish
11 and administer a grant program to support the sale and
12 public perception of cultured species domestically and
13 internationally.

14 (c) WORKFORCE DEVELOPMENT.—The Secretary
15 shall, in consultation with industry, academic institutions,
16 and the National Sea Grant College Program, develop and
17 manage a grant program to support the education and
18 training of individuals with the skills needed to manage
19 and operate aquaculture facilities.

20 (d) REGIONAL NETWORKS.—The Secretary shall or-
21 ganize through each regional fisheries office of the Na-
22 tional Oceanic and Atmospheric Administration a network
23 of—

24 (1) regional experts and Federal agency con-
25 tacts, in coordination with relevant organizations

1 (including the National Sea Grant College Program
2 under the National Sea Grant College Program Act
3 (33 U.S.C. 1121 et seq.), the Department of Agri-
4 culture Regional Aquaculture Centers, institutions of
5 higher education, and the Cooperative Extension
6 System of the Department of Agriculture) to provide
7 technical expertise and extension services on offshore
8 aquaculture and information on Federal permit re-
9 quirements; and

10 (2) individuals and businesses interested in
11 aquaculture operations and products to facilitate
12 professional development, marketing, mentoring op-
13 portunities, and agency outreach and education on
14 aquaculture.

15 (e) AQUACULTURE DATABASE.—The Secretary shall
16 establish and maintain within the Office of Aquaculture
17 an aquaculture database. The aquaculture database shall
18 include information on research, technologies, monitoring
19 techniques, best practices, and advisory board rec-
20 ommendations. The Secretary shall make the aquaculture
21 database available in a manner that safeguards confiden-
22 tial business information. The inclusion of information in
23 the database under this subsection shall not be considered
24 to be publication for purposes of subsection (a) or (b) of
25 section 102 of title 35, United States Code.

1 (f) TECHNICAL ASSISTANCE FOR OPERATORS.—The
2 Secretary shall organize through the Office of Aquaculture
3 and the Regional Aquaculture Coordinators, a program to
4 provide technical assistance to operators in each regional
5 fisheries office of the National Oceanic and Atmospheric
6 Administration. The programs shall be tailored to meet
7 the unique needs of each region, but shall conduct indi-
8 vidual consultations with each operator in the region on
9 a regular basis to assess the status of the operator’s busi-
10 ness, and if appropriate, identify available resources to
11 support the operator, such as regional experts, university
12 extension agents, and grant opportunities.

13 (g) CAPITAL MARKETS.—

14 (1) OUTREACH TO FINANCIAL INSTITUTIONS.—

15 In order to enhance access to capital markets, the
16 Secretary shall provide financial institutions and in-
17 vestment firms with objective, science-based informa-
18 tion on offshore aquaculture and the Federal regu-
19 latory regime that governs it.

20 (2) ECONOMIC ANALYSIS.—In addition, the Sec-

21 retary shall provide economic analysis to answer
22 queries regarding the value of offshore aquaculture
23 assets to secure financing, such as equipment, gov-
24 ernmental permits, inventory, and intellectual prop-
25 erty.

1 (3) COLLABORATION.—In order to achieve the
2 goals of this subsection, the Secretary is encouraged
3 to collaborate with the Secretary of Agriculture, the
4 Secretary of the Treasury, and the regional networks
5 established under subsection (d).

6 **SEC. 403. OUTREACH AND EDUCATION.**

7 The Secretary shall conduct outreach on sustainable
8 offshore aquaculture to promote understanding, science-
9 based decision making, and commercial adoption. The Sec-
10 retary shall use appropriate means to engage—

- 11 (1) the general public;
- 12 (2) community leaders;
- 13 (3) governmental officials;
- 14 (4) the business community;
- 15 (5) the academic community; and
- 16 (6) the nonprofit sector.

17 **SEC. 404. ADMINISTRATION.**

18 (a) REGULATIONS.—The Secretary—

- 19 (1) shall initiate a rulemaking process, not later
20 than 1 year after the date of enactment of this Act,
21 after consulting with relevant Federal agencies,
22 coastal States, federally recognized Indian Tribes
23 within the meaning of such term in Executive Order
24 13175 (65 Fed. Reg. 67249), the Commonwealth of
25 Puerto Rico, American Samoa, the United States

1 Virgin Islands, Guam, the Commonwealth of the
2 Northern Mariana Islands, Regional Fishery Man-
3 agement Councils as established under section 302
4 of the Magnuson-Stevens Fishery Conservation and
5 Management Act (16 U.S.C. 1852), and interstate
6 fisheries commissions to implement this Act, includ-
7 ing—

8 (A) procedures to issue, modify, deny, re-
9 voke, or suspend an offshore aquaculture per-
10 mit in accordance with this Act;

11 (B) procedures to coordinate the offshore
12 aquaculture permitting process, with similar or
13 complementary activities administered by other
14 Federal agencies, federally recognized Indian
15 Tribes, and coastal States;

16 (C) procedures to monitor and evaluate
17 permit compliance to verify and confirm compli-
18 ance with the requirements of this Act;

19 (D) procedures to transfer an offshore
20 aquaculture permit from an original permit
21 holder to a person that meets the requirements
22 under section 202;

23 (E) procedures to minimize conflicts with
24 existing uses in the exclusive economic zone;

1 (F) procedures to consider public-private
2 partnerships; and

3 (G) standards for determining what types
4 of feed may be employed in an offshore aqua-
5 culture facility in accordance with the require-
6 ments of section 302;

7 (2) shall promulgate such additional regulations
8 as are necessary and appropriate to carry out this
9 Act; and

10 (3) may amend a regulation at any time.

11 (b) AGREEMENTS.—The Secretary may enter into
12 and perform such contracts, leases, or cooperative agree-
13 ments, and make and receive such grants or funds, as may
14 be necessary to carry out this Act.

15 (c) USE OF CONTRIBUTED GOVERNMENTAL RE-
16 SOURCES.—For enforcement under this Act, the Secretary
17 may use, with consent and with or without reimbursement,
18 and consistent with applicable law, the land, services,
19 equipment, personnel, and facilities of—

20 (1) any department, agency, or instrumentality
21 of the United States;

22 (2) any State, local government, Tribal govern-
23 ment, territory, or possession (or any political sub-
24 division thereof);

25 (3) any foreign government; or

1 (4) an international organization.

2 (d) AUTHORITY TO USE GRANT FUNDS.—

3 (1) IN GENERAL.—Except as provided under
4 paragraph (2), the Secretary may apply for, accept,
5 and obligate research grant funding from any Fed-
6 eral source operating a competitive grant program if
7 the funding furthers the purposes of this Act.

8 (2) EXCEPTION.—The Secretary may not apply
9 for, accept, or obligate any research grant funding
10 under paragraph (1) if the granting agency lacks au-
11 thority to grant funds to Federal agencies or for any
12 purpose, or subject to any condition, that is prohib-
13 ited by law or regulation.

14 (3) MATCHING GRANT FUNDS.—Appropriated
15 funds may be used to satisfy a requirement to match
16 grant funds with recipient agency funds, except that
17 no grant may be accepted that requires a commit-
18 ment in advance of appropriations.

19 (4) ACCOUNTS.—Funds received from a grant
20 shall be deposited in the National Oceanic and At-
21 mospheric Administration account that serves to ac-
22 complish the purpose for which the grant was
23 awarded.

24 (e) RESERVATION OF AUTHORITY.—Nothing in this
25 Act shall be construed to displace, supersede, or limit the

1 jurisdiction, responsibilities, or rights of any Federal or
2 State agency, or Indian Tribe or Alaska Native organiza-
3 tion, under any Federal law or treaty.

4 **SEC. 405. REPORT AND PERMIT TERMS.**

5 (a) REPORT.—Not later than 5 years after the date
6 of enactment of this Act, the Secretary shall issue a report
7 to the Chairman and Ranking Member of the Committee
8 on Commerce, Science, and Transportation of the Senate
9 and the Committee on Natural Resources of the House
10 of Representatives regarding implementation of this Act.

11 The report shall include—

12 (1) the number of offshore aquaculture permits
13 applied for, granted, denied, and retired, together
14 with a brief description of the circumstances of each;

15 (2) any and all enforcement actions undertaken,
16 and the disposition of each;

17 (3) the number of aquaculture opportunity
18 areas established under section 102, together with a
19 brief description of the circumstances of each;

20 (4) results from any grants awarded under this
21 Act;

22 (5) the Secretary's assessment of the state of
23 offshore aquaculture in the United States;

1 (6) the Secretary’s assessment of United States
2 offshore aquaculture in comparison to offshore aqua-
3 culture in other nations; and

4 (7) the Secretary’s recommendations to improve
5 United States offshore aquaculture.

6 (b) DETERMINATION REGARDING PERMITS.—In ad-
7 dition to the requirements of subsection (a), the Secretary
8 may make the following determinations regarding permit
9 terms for offshore aquaculture:

10 (1) The effect of shortening or lengthening per-
11 mit terms on the risk of harm to the environment.

12 (2) The effect of shortening or lengthening per-
13 mit terms on industry’s access to capital markets.

14 (3) Whether a change to the permit terms es-
15 tablished in this Act is warranted.

16 **SEC. 406. FEDERAL COORDINATION.**

17 (a) RELATION TO CURRENT LAW.—Nothing in this
18 section shall be construed in derogation of law in effect
19 on the date of enactment of this Act that is applicable
20 to offshore aquaculture operations, and the unified permit-
21 ting and review process established under this section shall
22 not affect the timelines or standards established under
23 other laws.

24 (b) COORDINATION.—Subject to subsection (a), the
25 Secretary of Commerce shall coordinate with the Depart-

1 ment of the Interior, the Department of Agriculture, the
2 Environmental Protection Agency, the Army Corps of En-
3 gineers, the Food and Drug Administration, and the de-
4 partment in which the U.S. Coast Guard is operating to
5 simplify the Federal permitting process for offshore aqua-
6 culture. The Secretaries of the Interior, Agriculture,
7 Health and Human Services, and the department in which
8 the U.S. Coast Guard is operating, the Administrator of
9 the Environmental Protection Agency, and the Chief of
10 Engineers shall cooperate with the Secretary of Commerce
11 to implement this section.

12 (c) UNIFIED PERMITTING AND REVIEW PROCESS.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, the Secretaries of
15 Commerce, Interior, Agriculture, Health and Human
16 Services, and the department in which the U.S.
17 Coast Guard is operating, the Administrator of the
18 Environmental Protection Agency, and the Chief of
19 Engineers shall, through the Secretary of Commerce,
20 initiate, subject to the requirements of subsection
21 (a), a rulemaking for all permits administered by
22 such agency heads relating to offshore aquaculture
23 for a unified process, public notice, and public com-
24 ment for—

25 (A) initial issuance of permits;

1 (B) renewal of permits; and

2 (C) transfer of permits.

3 (2) OUTREACH.—The Secretary of Commerce,
4 through the National Oceanic and Atmospheric Ad-
5 ministration, shall serve as the lead Federal agency
6 for purposes of providing information on Federal
7 permitting requirements for aquaculture in Federal
8 waters.

9 (3) INFORMAL REVIEW AND COMPATIBILITY
10 ANALYSIS.—The Secretary of Commerce, acting
11 through the National Oceanic and Atmospheric Ad-
12 ministration, shall convene representatives of the
13 Department of the Interior, the Department of Agri-
14 culture, the Environmental Protection Agency, the
15 Army Corps of Engineers, and the Department in
16 which the U.S. Coast Guard is operating to provide
17 prospective permit applicants an opportunity for in-
18 formal consultation with Federal agencies. The Sec-
19 retary of Commerce may invite representatives from
20 other Federal agencies as necessary or advisable.
21 Nothing in this subsection shall preclude an appli-
22 cant or a prospective applicant from contacting Fed-
23 eral agencies directly.

24 (4) ENVIRONMENTAL ANALYSIS.—To the extent
25 allowable under the National Environmental Policy

1 Act of 1969 (42 U.S.C. 4321 et seq.), any environ-
2 mental analysis or environmental impact statement
3 required under such Act for offshore aquaculture ac-
4 tivities shall be conducted through a single, consoli-
5 dated environmental review and the National Oce-
6 anic and Atmospheric Administration, through the
7 Office of Aquaculture and associated divisions, shall
8 serve as the lead Federal agency.

9 (5) COORDINATION OF PERMIT REVIEWS.—To
10 the extent practicable under this Act and all other
11 applicable laws and regulations, Federal agencies
12 with permitting requirements applicable to offshore
13 aquaculture facilities shall coordinate their review
14 processes in order to provide a timely response to
15 applicants.

16 **SEC. 407. PROHIBITED ACTS.**

17 It is unlawful for any person—

18 (1) to violate any provision of this Act or any
19 regulation or permit issued pursuant to this Act;

20 (2) to refuse to permit any officer authorized to
21 enforce the provisions of this Act (in accordance
22 with section 408) to access an offshore aquaculture
23 facility, associated onshore facility, vessel, or other
24 conveyance, subject to such person's control, for pur-

1 poses of conducting any search or inspection in con-
2 nection with the enforcement of this Act;

3 (3) to assault, resist, oppose, impede, intimi-
4 date, or interfere with any such authorized officer in
5 the conduct of any search or inspection described in
6 paragraph (2);

7 (4) to resist a lawful arrest for any act prohib-
8 ited by this section;

9 (5) to ship, transport, offer for sale, sell, pur-
10 chase, import, export, or have custody, control, or
11 possession of, any cultured species produced, taken,
12 retained, or possessed in violation of this Act;

13 (6) to interfere with, delay, or prevent, by any
14 means, the apprehension or arrest of another person,
15 knowing that such other person has committed any
16 act prohibited by this section;

17 (7) to make or submit to the Secretary or the
18 Governor of a State false information regarding any
19 matter that the Secretary or Governor is considering
20 in the course of carrying out this Act;

21 (8) to make any false statement or provide any
22 false information on, or in connection with, an appli-
23 cation, declaration, record, or report; or

1 (9) without authorization, to remove, damage,
2 or tamper with or attempt to remove, damage, or
3 tamper with—

4 (A) an offshore aquaculture facility owned
5 by another person, which is located in the exclu-
6 sive economic zone, including any component
7 thereof; or

8 (B) cultured species contained in such fa-
9 cility or component thereof.

10 **SEC. 408. ENFORCEMENT.**

11 (a) **RESPONSIBILITY.**—The provisions of this Act
12 shall be enforced by the Secretary and the Secretary of
13 the department in which the Coast Guard is operating.
14 In enforcing this Act, such Secretaries may by agreement
15 utilize, on a reimbursable or non-reimbursable basis, the
16 personnel, services, equipment (including aircraft and ves-
17 sels), and facilities of any other Federal agency, including
18 all elements of the Department of Defense, or of any State
19 agency. Such Secretaries shall, and the head of any Fed-
20 eral or State agency that has entered into an agreement
21 with either such Secretary under this section may (if the
22 agreement so provides), authorize officers to enforce the
23 provisions of this Act or any regulation promulgated under
24 this Act.

1 (b) POWERS OF AUTHORIZED OFFICERS.—Any offi-
2 cer who is authorized under subsection (a) to enforce the
3 provisions of this Act may, with or without a warrant or
4 other process, as authorized by law—

5 (1) arrest any person, if the officer has reason-
6 able cause to believe that such person has committed
7 an act prohibited by section 407;

8 (2) board, search or inspect, any offshore aqua-
9 culture facility, associated onshore facility, vessel, or
10 other conveyance (including its gear, furniture, ap-
11 purtenances, stores, records, and cargo) which is
12 subject to the provisions of this Act;

13 (3) seize any vessel, or other conveyance (to-
14 gether with its gear, furniture, appurtenances,
15 stores, records, and cargo) used or employed in, or
16 with respect to which it reasonably appears that
17 such vessel was used or employed in, the violation of
18 any provision of this Act;

19 (4) seize any cultured species or seafood prod-
20 uct (wherever found) taken, produced, imported, ex-
21 ported, transported, sold, received, acquired, or pur-
22 chased in any manner, in connection with or as a re-
23 sult of the violation of any provision of this Act;

24 (5) seize any evidence related to any violation
25 of any provision of this Act;

1 (6) detain any cultured species or seafood prod-
2 uct to determine compliance with this Act;

3 (7) search and seize, in accordance with any
4 guidelines which may be issued by the Attorney Gen-
5 eral;

6 (8) access, directly or indirectly, for enforce-
7 ment purposes any data or information required to
8 be provided or reported under this Act or regulations
9 promulgated under this Act, including data from
10 vessel or facility monitoring systems, automatic iden-
11 tification systems, long-range identification and
12 tracking systems, or any similar system;

13 (9) execute and serve any subpoena, arrest war-
14 rant, search warrant issued in accordance with Rule
15 41 of the Federal Rules of Criminal Procedure, or
16 other warrant or civil or criminal process issued by
17 any officer or court of competent jurisdiction; and

18 (10) exercise any other lawful authority.

19 (c) ISSUANCE OF CITATIONS.—If any authorized offi-
20 cer finds that a person, offshore aquaculture facility, asso-
21 ciated onshore facility, vessel, or other conveyance is en-
22 gaging or has been engaged in the violation of any provi-
23 sion of this Act, such officer may issue a citation to the
24 owner or operator of such vessel in lieu of proceeding
25 under subsection (f), (g), or (h). If a permit has been

1 issued pursuant to this Act for such facility or conveyance,
2 such officer shall note the issuance of any citation under
3 this subsection, including the date thereof and the reason
4 therefor, on the permit. The Secretary shall maintain a
5 record of all citations issued pursuant to this subsection.

6 (d) SUBPOENAS.—For the purposes of conducting
7 any investigation or hearing under this Act, or any other
8 marine resource law enforced by the Secretary, the Sec-
9 retary may issue subpoenas for the attendance and testi-
10 mony of witnesses and the production of relevant papers,
11 photographs, records, books, and documents in any form,
12 including those in electronic, optical or magnetic form, and
13 may administer oaths. Witnesses summoned shall be paid
14 the same fees and mileage that are paid to witnesses in
15 the courts of the United States. In case of contempt or
16 refusal to obey a subpoena served upon any person pursu-
17 ant to this subsection, the district court of the United
18 States for any district in which such person is found, re-
19 sides, or transacts business, upon application by the
20 United States and after notice to such person, shall have
21 jurisdiction to issue an order requiring such person to ap-
22 pear and give testimony before the Secretary or to appear
23 and produce documents before the Secretary, or both, and
24 any failure to obey such order of the court may be pun-
25 ished by such court as a contempt thereof.

1 (e) DISTRICT COURT JURISDICTION.—The several
2 district courts of the United States shall have jurisdiction
3 over any actions arising under this Act. For purposes of
4 this section, for Hawaii or any possession of the United
5 States in the Pacific Ocean, the appropriate court is the
6 United States District Court for the District of Hawaii,
7 except that in the case of Guam and Wake Island, the
8 appropriate court is the United States District Court for
9 the District of Guam, and in the case of the Northern
10 Mariana Islands, the appropriate court is the United
11 States District Court for the District of the Northern
12 Mariana Islands. Each violation shall be a separate of-
13 fense and the offense shall be deemed to have been com-
14 mitted not only in the district where the violation first oc-
15 curred, but also in any other district as authorized by law.
16 Any offenses not committed in any district are subject to
17 the venue provisions of section 3238 of title 18, United
18 States Code.

19 (f) CIVIL ENFORCEMENT.—

20 (1) CIVIL ADMINISTRATIVE PENALTIES.—

21 (A) IN GENERAL.—Any person who is
22 found by the Secretary, after notice and oppor-
23 tunity for a hearing in accordance with section
24 554 of title 5, United States Code, to have com-
25 mitted an act prohibited by section 407 shall be

1 liable to the United States for a civil penalty.
2 The amount of the civil penalty shall not exceed
3 \$37,500 for each violation. Each day of a con-
4 tinuing violation shall constitute a separate of-
5 fense. The amount of such civil penalty shall be
6 assessed by the Secretary, by written notice. In
7 determining the amount of such penalty, the
8 Secretary shall take into account the nature,
9 circumstances, extent, and gravity of the pro-
10 hibited acts committed and, with respect to the
11 violator, the degree of culpability, any history of
12 prior offenses, and such other matters as jus-
13 tice may require. In assessing such penalty the
14 Secretary may also consider any information
15 provided by the violator relating to the ability
16 of the violator to pay, provided that the infor-
17 mation is served on the Secretary at least 30
18 days prior to an administrative hearing.

19 (B) COMPROMISE OR OTHER ACTION BY
20 SECRETARY.—The Secretary may compromise,
21 modify, or remit, with or without conditions,
22 any civil administrative penalty which is or may
23 be imposed under this subsection and that has
24 not been referred to the Attorney General for
25 further enforcement action.

1 (2) IN REM JURISDICTION.—An offshore aqua-
2 culture facility, associated onshore facility, vessel, or
3 other conveyance (including its gear, furniture, ap-
4 purtenances, stores, records, and cargo) used in the
5 commission of an act prohibited by section 407 shall
6 be liable in rem for any civil penalty assessed for
7 such violation under this section and may be pro-
8 ceeded against in any district court of the United
9 States having jurisdiction thereof.

10 (3) COLLECTION OF ADMINISTRATIVE PEN-
11 ALTIES.—If any person fails to pay an assessment
12 of a civil penalty under paragraph (1) after it has
13 become a final and unappealable order, the Sec-
14 retary shall refer the matter to the Attorney Gen-
15 eral, who shall recover the amount assessed (plus in-
16 terest at current prevailing rates from the date of
17 the final order) in any appropriate district court of
18 the United States. In such action, the validity and
19 appropriateness of the final order imposing the civil
20 penalty shall not be subject to review. Any person
21 who fails to pay, on a timely basis, the amount of
22 an assessment of a civil penalty shall be required to
23 pay, in addition to such amount and interest, attor-
24 ney’s fees and costs for collection proceedings and a
25 quarterly nonpayment penalty for each quarter dur-

1 ing which such failure to pay persists. Such non-
2 payment penalty shall be in an amount equal to 20
3 percent of the aggregate amount of such person's
4 penalties and nonpayment penalties that are unpaid
5 as of the beginning of such quarter.

6 (4) PERMIT SANCTIONS.—

7 (A) IN GENERAL.—With respect to any
8 case in which an offshore aquaculture facility,
9 associated onshore facility, vessel, or other con-
10 veyance was used in the commission of an act
11 prohibited under section 407, the owner or op-
12 erator of an offshore aquaculture facility, asso-
13 ciated onshore facility, vessel, or other convey-
14 ance (or any other person who has been issued
15 or has applied for a permit under this Act) has
16 acted in violation of section 407, or any civil
17 penalty, criminal fine, or amount in settlement
18 of a civil forfeiture imposed under this Act on
19 a person, offshore aquaculture facility, associ-
20 ated onshore facility, vessel, or other convey-
21 ance that has been issued or has applied for a
22 permit under this Act has not been paid and is
23 overdue, the Secretary may—

24 (i) revoke any permit issued with re-
25 spect to such person, offshore aquaculture

1 facility, associated onshore facility, vessel,
2 other conveyance, with or without preju-
3 dice to the issuance of subsequent permits;

4 (ii) suspend such permit for a period
5 of time considered by the Secretary to be
6 appropriate;

7 (iii) deny such permit; or

8 (iv) impose additional conditions and
9 restrictions on such permit.

10 (B) CONSIDERATIONS.—In imposing a
11 sanction under this paragraph, the Secretary
12 shall take into account the nature, cir-
13 cumstances, extent, and gravity of the prohib-
14 ited acts for which the sanction is imposed and,
15 with respect to the violator, the degree of culpa-
16 bility, any history of prior offenses, and such
17 other matters as justice may require.

18 (C) EFFECT OF TRANSFER OF OWNER-
19 SHIP.—Transfer of ownership of an offshore
20 aquaculture facility, associated onshore facility,
21 vessel, or other conveyance, by sale or other-
22 wise, shall not extinguish any permit sanction
23 that is in effect or is pending at the time of
24 transfer of ownership. Before executing the
25 transfer of ownership of a facility or convey-

1 ance, by sale or otherwise, the owner shall dis-
2 close in writing to the prospective transferee the
3 existence of any permit sanction that will be in
4 effect or pending with respect to the facility or
5 conveyance at the time of the transfer.

6 (D) PAYMENT OF PENALTY OR FINE.—In
7 the case of any permit that is suspended under
8 this paragraph for nonpayment of a civil pen-
9 alty or criminal fine, the Secretary shall rein-
10 state the permit upon payment of the penalty
11 or fine and interest thereon at the prevailing
12 rate.

13 (E) HEARING.—No sanction shall be im-
14 posed under this paragraph unless there has
15 been a prior opportunity for a hearing on the
16 facts underlying the violation for which the
17 sanction is imposed, either in conjunction with
18 a civil penalty proceeding under this section or
19 otherwise.

20 (5) REVIEW OF CIVIL PENALTY.—Any person
21 against whom a civil penalty is assessed under this
22 subsection or against whom a permit sanction is im-
23 posed under this subsection (other than a permit
24 suspension for nonpayment of penalty or fine) may
25 obtain review thereof in the United States district

1 court for the appropriate district by filing a com-
2 plaint against the Secretary in such court within 30
3 days from the date of such order that constitutes a
4 final agency action. The Secretary shall promptly
5 file in such court a certified copy of the record upon
6 which such violation was found or such penalty im-
7 posed, as provided in section 2112 of title 28,
8 United States Code. The findings and order of the
9 Secretary shall be set aside by such court if they are
10 not found to be supported by substantial evidence,
11 as provided in section 706(2) of title 5, United
12 States Code.

13 (6) INJUNCTIVE RELIEF.—Upon the request of
14 the Secretary, the Attorney General of the United
15 States may commence a civil action for appropriate
16 relief, including a permanent or temporary injunc-
17 tion, for any violation of this Act (including regula-
18 tions).

19 (g) FORFEITURE.—

20 (1) CRIMINAL FORFEITURE.—

21 (A) IN GENERAL.—A person who is con-
22 victed of an offense in violation of this Act shall
23 forfeit to the United States—

24 (i) any property, real or personal, con-
25 stituting or traceable to the gross proceeds

1 taken, obtained, or retained, in connection
2 with or as a result of the offense, includ-
3 ing, without limitation, any cultured spe-
4 cies (or the fair market value thereof); and

5 (ii) any property, real or personal,
6 used or intended to be used, in any man-
7 ner, to commit or facilitate the commission
8 of the offense, including, without limita-
9 tion, any vessel (including the vessel's
10 equipment, stores, catch and cargo), vehi-
11 cle, aircraft, or other means of transpor-
12 tation.

13 (B) APPLICABILITY OF CONTROLLED SUB-
14 STANCES ACT.—Pursuant to section 2461(e) of
15 title 28, United States Code, the provisions of
16 section 413 of the Controlled Substances Act
17 (21 U.S.C. 853) other than subsection (d)
18 thereof shall apply to criminal forfeitures under
19 this section.

20 (2) CIVIL FORFEITURE.—

21 (A) IN GENERAL.—The property set forth
22 below shall be subject to administrative or judi-
23 cial forfeiture to the United States in accord-
24 ance with the provisions of chapter 46 of title

1 18, United States Code, and no property right
2 shall exist in it:

3 (i) Any property, real or personal,
4 constituting or traceable to the gross pro-
5 ceeds taken, obtained, or retained, in con-
6 nection with or as a result of a violation of
7 this Act, including, without limitation, any
8 fish (or the fair market value thereof).

9 (ii) Any property, real or personal,
10 used or intended to be used, in any man-
11 ner, to commit or facilitate the commission
12 of a violation of this Act, including, with-
13 out limitation, any vessel (including the
14 vessel's equipment, stores, catch and
15 cargo), vehicle, aircraft, or other means of
16 transportation.

17 (B) APPLICATION OF THE CUSTOMS
18 LAWS.—All provisions of law relating to seizure,
19 summary judgment, and forfeiture and con-
20 demnation for violation of the customs laws, the
21 disposition of the property forfeited or con-
22 demned or the proceeds from the sale thereof,
23 the remission or mitigation of such forfeitures,
24 and the compromise of claims shall apply to sei-
25 zures and forfeitures incurred, or alleged to

1 have been incurred, under the provisions of this
2 Act, insofar as applicable and not inconsistent
3 with the provisions hereof. For seizures and for-
4 feitures of property under this section by the
5 Secretary, such duties as are imposed upon the
6 customs officer or any other person with respect
7 to the seizure and forfeiture of property under
8 the customs law may be performed by such offi-
9 cers as are designated by the Secretary or,
10 upon request of the Secretary, by any other
11 agency that has authority to manage and dis-
12 pose of seized property.

13 (C) PRESUMPTION.—For the purposes of
14 this section there is a rebuttable presumption
15 that all cultured species, or components thereof,
16 found in an offshore aquaculture facility or on
17 board a vessel or other conveyance that is used
18 or seized in connection with a violation of this
19 Act were produced, taken, obtained, trans-
20 ported, or retained in violation of this Act.

21 (h) CRIMINAL ENFORCEMENT.—

22 (1) IMPRISONMENT.—Any person (other than a
23 foreign government agency, or entity wholly owned
24 and controlled by a foreign government) who know-
25 ingly commits any act prohibited under section 407

1 shall be imprisoned for not more than 5 years or
2 fined not more than \$500,000 for individuals or
3 \$1,000,000 for an organization, or both, except that,
4 if in the commission of any such offense the indi-
5 vidual uses a dangerous weapon, engages in conduct
6 that causes bodily injury to any officer authorized to
7 enforce the provisions of this Act, or places any such
8 officer in fear of imminent bodily injury, the max-
9 imum term of imprisonment is not more than 10
10 years.

11 (2) FINE AND IMPRISONMENT.—Any person
12 (other than a foreign government agency, or entity
13 wholly owned and controlled by a foreign govern-
14 ment) who violates a provision under section 407
15 and who, in the exercise of due care should know
16 that such person’s conduct violates such provision,
17 shall be fined under title 18, United States Code, or
18 imprisoned not more than one year, or both.

19 (i) JOINT ENFORCEMENT AGREEMENTS.—

20 (1) IN GENERAL.—The Governor of an eligible
21 State may apply to the Secretary for execution of a
22 joint enforcement agreement with the Secretary that
23 will authorize the deputization and funding of State
24 law enforcement officers with marine law enforce-
25 ment responsibilities to perform duties of the Sec-

1 retary relating to law enforcement provisions under
2 this title or any other marine resource law enforced
3 by the Secretary. Upon receiving an application
4 meeting the requirements of this subsection, the Sec-
5 retary may enter into a joint enforcement agreement
6 with the requesting State.

7 (2) ELIGIBLE STATE.—A State is eligible to
8 participate in the cooperative enforcement agree-
9 ments under this section if it is in, or bordering on,
10 the Atlantic Ocean (including the Caribbean Sea),
11 the Pacific Ocean, the Arctic Ocean, the Gulf of
12 Mexico, Long Island Sound, or one or more of the
13 Great Lakes.

14 (3) REQUIREMENTS.—Joint enforcement agree-
15 ments executed under paragraph (1)—

16 (A) shall be consistent with the purposes
17 and intent of this section to the extent applica-
18 ble to the regulated activities;

19 (B) may include specifications for joint
20 management responsibilities as provided by the
21 first section of Public Law 91–412 (15 U.S.C.
22 1525); and

23 (C) shall provide for confidentiality of data
24 and information submitted to the State under
25 this Act.

1 (4) ALLOCATION OF FUNDS.—The Secretary
2 shall include in each joint enforcement agreement an
3 allocation of funds to assist in management of the
4 agreement. The allocation shall be fairly distributed
5 among all eligible States participating in cooperative
6 enforcement agreements under this subsection, based
7 upon consideration of Federal marine enforcement
8 needs, the specific marine conservation enforcement
9 needs of each participating eligible State, and the
10 capacity of the State to undertake the marine en-
11 forcement mission and assist with enforcement
12 needs. The agreement may provide for amounts to
13 be withheld by the Secretary for the cost of any
14 technical or other assistance provided to the State
15 by the Secretary under the agreement.

16 **SEC. 409. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated to the Sec-
18 retary for the purpose of carrying out this Act—

- 19 (1) \$60,000,000 for fiscal year 2021;
20 (2) \$65,000,000 for fiscal year 2022;
21 (3) \$70,000,000 for fiscal year 2023;
22 (4) \$75,000,000 for fiscal year 2024; and
23 (5) \$80,000,000 for fiscal year 2025.

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