

111TH CONGRESS  
1ST SESSION

# H. R. 4363

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

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

Mrs. CAPPS introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To establish a regulatory system and research program 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 “National Sustainable Offshore Aquaculture Act of  
6 2009”.

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. NOAA Office; Advisory Board.
- Sec. 4. Regional programmatic environmental impact statements.
- Sec. 5. Offshore aquaculture permitting.
- Sec. 6. Fees.
- Sec. 7. Sustainable offshore aquaculture research program.
- Sec. 8. Compatibility with other uses; State input.
- Sec. 9. Relationship to other laws.
- Sec. 10. Unlawful activities.
- Sec. 11. Enforcement.
- Sec. 12. Natural resources damages assessment and liability.
- Sec. 13. Encouraging worldwide adherence to the aquaculture provisions of the Code of Conduct for Responsible Fisheries.
- Sec. 14. Definitions.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are the following:

3 (1) To establish a regulatory system for sus-  
4 tainable offshore aquaculture in the United States  
5 exclusive economic zone.

6 (2) To authorize the Secretary of Commerce to  
7 determine appropriate locations for, permit, regu-  
8 late, monitor, and enforce offshore aquaculture in  
9 the exclusive economic zone.

10 (3) To require the Secretary of Commerce to  
11 issue regulations for permitting of offshore aqua-  
12 culture in the exclusive economic zone that prevent  
13 impacts on the marine ecosystem and fisheries or  
14 minimize such impacts to the extent they cannot be  
15 avoided.

16 (4) To establish a research program to guide  
17 the precautionary development of offshore aqua-  
18 culture in the exclusive economic zone that ensures

1 ecological sustainability and compatibility with  
2 healthy, functional ecosystems.

3 **SEC. 3. NOAA OFFICE; ADVISORY BOARD.**

4 (a) NOAA OFFICE.—

5 (1) IN GENERAL.—The Secretary shall establish  
6 an Office of Sustainable Offshore Aquaculture with-  
7 in the National Marine Fisheries Service at National  
8 Oceanic and Atmospheric Administration head-  
9 quarters, and satellite offices of such office in each  
10 of the National Oceanic and Atmospheric Adminis-  
11 tration’s regional fisheries offices.

12 (2) DUTIES.—The Office shall be responsible  
13 for implementing this Act, and shall—

14 (A) conduct the regional programmatic en-  
15 vironmental impact studies under section 4;

16 (B) implement the permitting and regu-  
17 latory program under section 5;

18 (C) administer the research program estab-  
19 lished under section 7;

20 (D) coordinate aquaculture and related  
21 issues within the National Oceanic and Atmos-  
22 pheric Administration;

23 (E) perform outreach, education, and  
24 training;

1           (F) provide opportunities for consultation  
2 among owners and operators of offshore aqua-  
3 culture facilities, Regional Fishery Management  
4 Councils, nonprofit conservation organizations,  
5 and other interested stakeholders;

6           (G) organize through each regional office a  
7 network of regional experts, in coordination  
8 with relevant organizations such as the Na-  
9 tional Sea Grant College program and other  
10 academic institutions, to provide technical ex-  
11 pertise on aquaculture;

12           (H) maintain the database required by  
13 paragraph (3); and

14           (I) perform such other functions as are  
15 necessary to carry out this Act.

16           (3) DATABASE.—The Secretary shall establish  
17 and maintain within the Office an aquaculture data-  
18 base, which shall include information on research,  
19 technologies, monitoring techniques, best manage-  
20 ment practices, and recommendations of the Sus-  
21 tainable Offshore Aquaculture Advisory Board estab-  
22 lished under subsection (b). The Secretary shall  
23 make the database available to the general public in  
24 a manner that protects proprietary information of

1 owners and operators of offshore aquaculture facili-  
2 ties.

3 (b) ADVISORY BOARD.—

4 (1) IN GENERAL.—The Office shall establish a  
5 Sustainable Offshore Aquaculture Advisory Board,  
6 the members of which shall be appointed by the Sec-  
7 retary.

8 (2) STRUCTURE.—The membership of the Advi-  
9 sory Board shall include, at a minimum, representa-  
10 tives from the National Marine Fisheries Service,  
11 the commercial and recreational fishing industries,  
12 State or local governments, the Coast Guard, non-  
13 profit conservation organizations, members of aca-  
14 demia with scientific or technical expertise in ocean  
15 and coastal matters, and representatives of the  
16 aquaculture industry.

17 (3) APPOINTMENT AND TERMS.—

18 (A) IN GENERAL.—Members of the Advi-  
19 sory Board shall be appointed by the Secretary  
20 for a term of 2 years.

21 (B) VACANCIES.—Whenever a vacancy oc-  
22 curs, the Secretary shall appoint an individual  
23 representing the same interests or affiliation  
24 represented by the individual's predecessor to

1 fill that vacancy for the remainder of the appli-  
2 cable term.

3 (4) CHAIRPERSON.—The Advisory Board shall  
4 have a chairperson, who shall be elected by the Advi-  
5 sory Board from among its members. The chair-  
6 person shall serve for a 2-year term.

7 (5) DUTIES.—The Advisory Board shall—

8 (A) meet at least once every six months;  
9 and

10 (B) provide advice to the Secretary on all  
11 aspects of offshore aquaculture, including devel-  
12 oping technologies, emerging risks, issues  
13 unique to each region, and priorities for re-  
14 search authorized under section 7.

15 (6) CONTINUING EXISTENCE.—Section 14(a)(2)  
16 of the Federal Advisory Committee Act (5 U.S.C.  
17 App.) shall not apply to the Advisory Board.

18 **SEC. 4. REGIONAL PROGRAMMATIC ENVIRONMENTAL IM-**  
19 **PACT STATEMENTS.**

20 (a) IN GENERAL.—The Secretary shall issue for each  
21 region described in subsection (b) a regional programmatic  
22 environmental impact statement under section 102 of the  
23 National Environmental Policy Act of 1969 (42 U.S.C.  
24 4332) regarding permitting of offshore aquaculture under  
25 this Act.

1           (b) REGIONS DESCRIBED.—The regions referred to  
2 in subsection (a) are each of the geographic regions for  
3 which a Regional Fishery Management Council is estab-  
4 lished under section 302(a) of the Magnuson-Stevens  
5 Fishery Conservation and Management Act (16 U.S.C.  
6 1852(a)).

7           (c) IDENTIFICATION OF AREAS.—The Secretary shall  
8 include in the statement under subsection (a) for a region  
9 identification of—

10           (1) areas of the region that are not appropriate  
11 locations for the conduct of offshore aquaculture;  
12 and

13           (2) areas of the region that may be appropriate  
14 locations for the conduct of offshore aquaculture.

15           (d) MATTERS TO BE CONSIDERED.—Each regional  
16 programmatic environmental impact statement shall in-  
17 clude consideration of the following:

18           (1) Appropriate areas for siting offshore aqua-  
19 culture facilities and operations to avoid adverse im-  
20 pacts, and to minimize any unavoidable impacts on  
21 user groups, public trust values, and the marine en-  
22 vironment, including effects on commercial and rec-  
23 reational fishing and other important ocean uses.

1           (2) Impacts on marine ecosystems, sensitive  
2 ocean and coastal habitats, and other plant and ani-  
3 mal species, including—

4           (A) the impacts of escaped fish on wild  
5 fish populations;

6           (B) the impacts of interactions with ma-  
7 rine mammals, marine wildlife, and birds;

8           (C) the impacts of the use of chemical and  
9 biological products, pollutants, and nutrient  
10 wastes on the marine environment; and

11          (D) effects of removal of forage fish for  
12 feed, fishmeal, and fish oil on marine eco-  
13 systems.

14          (3) Cumulative effects of a number of offshore  
15 aquaculture facilities on the ability of the marine en-  
16 vironment to maintain preexisting flora and fauna.

17          (4) Design of offshore aquaculture facilities and  
18 operations to avoid adverse environmental impacts,  
19 and to minimize any unavoidable impacts.

20          (e) REVIEW AND REVISION.—The Administrator  
21 shall review, revise, and publish in the Federal Register  
22 each regional programmatic environmental impact state-  
23 ment under this section every 10 years, including by—

24           (1) reviewing and revising, as appropriate, iden-  
25 tifications of areas under subsection (c); and



1           (2) reassessing the analysis of each such identi-  
2           fication, taking into account changes in environ-  
3           mental conditions and information that has become  
4           available since the date of such identification.

5           (f) PROGRAMMATIC EIS REQUIRED.—No permit may  
6           be issued under section 5 for an offshore aquaculture facil-  
7           ity before the date of the issuance of all programmatic  
8           environmental impact statements under this section.

9           (g) ENVIRONMENTAL REVIEW.—In addition to the  
10          requirement to issue regional programmatic environmental  
11          impact statements under this section, a separate environ-  
12          mental review under section 102 of the National Environ-  
13          mental Policy Act of 1969 (42 U.S.C. 4332) shall be con-  
14          ducted for issuing permits under this Act.

15       **SEC. 5. OFFSHORE AQUACULTURE PERMITTING.**

16          (a) PERMITTING REQUIREMENT.—

17               (1) IN GENERAL.—No person may engage in  
18               offshore aquaculture except as authorized by a per-  
19               mit issued under this Act.

20               (2) PERMITTING AUTHORITY.—The Secretary  
21               may issue permits in accordance with this Act au-  
22               thorizing a person to engage in offshore aquaculture.

23               (3) EXISTING AUTHORIZATIONS NOT EFFEC-  
24               TIVE.—No permit or other authorization issued  
25               under any other Federal law before the date of the

1 enactment of this Act shall be construed as author-  
2 izing activity for which a permit is required by this  
3 Act.

4 (b) REGULATIONS.—

5 (1) IN GENERAL.—The Secretary shall issue  
6 regulations that govern the issuance of permits  
7 under this Act and the conduct of activities under  
8 such permits by not later than 180 days after the  
9 regional programmatic environmental impact state-  
10 ments required under section 4 are completed.

11 (2) PRIORITY OF METHOD.—The regulations  
12 shall—

13 (A) to the extent feasible, establish numer-  
14 ical standards for environmental performance  
15 under such permits;

16 (B) to the extent such numerical standards  
17 are not feasible, establish narrative standards  
18 for such performance; and

19 (C) to the extent such numerical standards  
20 and narrative standards are not feasible, re-  
21 quire management practices, including imple-  
22 mentation of best management practices for  
23 such performance.

1           (3) BEST SCIENTIFIC INFORMATION AVAIL-  
2           ABLE.—The regulations shall be based on the best  
3           scientific information available.

4           (4) REVIEW OF REGULATIONS.—The Secretary  
5           shall review and revise the regulations under this  
6           section at the same time the Secretary conducts re-  
7           views of regional programmatic environmental im-  
8           pact statements under section 4(e).

9           (c) APPLICATION.—The applicant for a permit under  
10          this section shall submit to the Secretary an application—

11           (1) specifying—

12           (A) the proposed location to be developed  
13           under the permit, including—

14           (i) size;

15           (ii) depth;

16           (iii) water conditions, including cur-  
17           rents;

18           (iv) substrate;

19           (v) preliminary habitat and ecological  
20           community assessment data;

21           (vi) distribution and composition of  
22           species;

23           (vii) proximity to other offshore aqua-  
24           culture facilities; and

25           (viii) proximity to other uses;

1 (B) the proposed operation to be developed  
2 under the permit;

3 (C) the marine species to be propagated or  
4 reared, or both; and

5 (D) design, construction, and operational  
6 information as may be specified in the regula-  
7 tions under this section;

8 (2) demonstrating that the location is sufficient  
9 to avoid or minimize adverse effects on resources  
10 and other resource users; and

11 (3) containing such other information as may  
12 be required by the Secretary.

13 (d) ELIGIBILITY.—A person shall not be eligible to  
14 apply for a permit under this section unless the person  
15 is an individual who is a resident of the United States  
16 or a corporation, partnership, or other entity organized  
17 and existing under the laws of a State or the United  
18 States.

19 (e) PUBLIC NOTICE AND COMMENT.—The Secretary  
20 shall—

21 (1) promptly publish public notice of each appli-  
22 cation received by the Secretary for a permit under  
23 this section;

24 (2) determine whether a permit application is  
25 complete within 30 days of receipt; and

1           (3) provide a period of at least 90 days after  
2 determining that the application is complete for the  
3 submission of public comment on the application.

4 (f) CONSIDERATION BY SECRETARY.—

5           (1) IN GENERAL.—Within 180 days after deter-  
6 mining that a permit application under this section  
7 is complete and the applicant has satisfied all appli-  
8 cable statutory and regulatory requirements, the  
9 Secretary shall issue or deny the permit. If the Sec-  
10 retary is unable to issue or deny a permit within this  
11 time period, the Secretary shall provide written no-  
12 tice to the applicant indicating the reasons for the  
13 delay and establishing a reasonable timeline for  
14 issuing or denying the permit.

15           (2) CONSULTATION NOT AFFECTED.—Para-  
16 graph (1) shall not be construed to affect the appli-  
17 cation of any requirement under section 7 of the En-  
18 dangered Species Act of 1973 (16 U.S.C. 1536) or  
19 any other Federal law.

20 (g) PERMIT TERMS.—

21           (1) EFFECTIVE PERIOD; RENEWAL.—A permit  
22 under this section—

23                   (A) shall be effective for an initial period  
24                   of 10 years; and

1 (B) may be renewed by the Secretary for  
2 subsequent 10-year periods.

3 (2) PERMITTEE'S RIGHT OF FIRST REFUSAL.—

4 The Secretary may not issue a permit under this  
5 section to a person for an area that is subject to an-  
6 other permit under this section held by another per-  
7 son, unless—

8 (A) the other person elects not to renew  
9 the other permit; or

10 (B) the other permit expires or is termi-  
11 nated by its terms.

12 (3) TRANSFERABILITY.—A permit under this  
13 section shall be transferable to any person who is  
14 otherwise eligible for the permit.

15 (h) PRIORITIZATION OF PERMITS.—The Secretary—

16 (1) shall give priority to issuance of permits for  
17 activities to be conducted in an area that has been  
18 identified in a statement under section 4(c)(2) as an  
19 area that may be an appropriate location for the  
20 conduct of offshore aquaculture;

21 (2) shall give priority to issuance of permits for  
22 activities to be conducted using technologies and  
23 practices that will substantially exceed compliance  
24 with the permit terms and conditions required under  
25 subsection (j); and

1           (3) may waive some or all of the requirements  
2           to pay a fee under section 6 with respect to a permit  
3           required to be given priority under paragraph (1) or  
4           (2).

5           (i) ANNUAL REVIEW AND REPORTING.—

6           (1) IN GENERAL.—The Secretary shall con-  
7           duct—

8                   (A) an annual review of compliance with  
9                   permits under this Act by each permittee; and

10                   (B) announced and unannounced site in-  
11                   spections at locations of offshore aquaculture  
12                   facilities operated under such permits.

13           (2) REPORTING REQUIREMENTS.—With respect  
14           to activities under a permit under this section, the  
15           permittee shall report annually to the Secretary—

16                   (A) comprehensive data regarding escape  
17                   events, including estimates of stocked and har-  
18                   vested fish and mortalities;

19                   (B) nutrient-loading data and community  
20                   structure data to assess the impact of offshore  
21                   aquaculture on the water column and the  
22                   benthos;

23                   (C) prevalence and extent of disease and  
24                   parasites;

1 (D) the use and amounts of antibiotics,  
2 pesticides, prescription drugs and nonprescrip-  
3 tion drugs, and other chemical treatments;

4 (E) sources of fish feed, including invoices,  
5 receipts, or bills of lading showing source of  
6 wild fish stock; and

7 (F) other information, as required by the  
8 Secretary.

9 (3) AVAILABILITY OF INFORMATION.—The Sec-  
10 retary shall make all data reported by permittees  
11 publically available, subject to reasonable restrictions  
12 to protect proprietary information of owners and op-  
13 erators of offshore aquaculture facilities.

14 (4) ASSESSMENT OF REPORTED DATA.—The  
15 Secretary shall conduct an independent assessment  
16 of all data reported by permittees to ensure permit  
17 compliance and identify potential cumulative impacts  
18 of offshore aquaculture.

19 (j) PERMIT TERMS AND CONDITIONS.—The Sec-  
20 retary shall include in the terms and conditions of each  
21 permit under this Act the following:

22 (1) BROODSTOCK MANAGEMENT AND FISH ES-  
23 CAPES.—

24 (A) Offshore aquaculture under such per-  
25 mit shall be limited to species of a genotype na-



1           tive to the geographic region of the offshore  
2           aquaculture facility or operations authorized by  
3           the permit.

4           (B) Species of special concern or those of  
5           protected status under the Endangered Species  
6           Act of 1973 (16 U.S.C. 1531 et seq.) shall not  
7           be cultured for growout and harvest.

8           (C) Genetically modified species shall not  
9           be cultured.

10          (D) Native species shall be cultured in a  
11          manner that ensures fish escapes will not harm  
12          the genetics of local wild fish. Stocked fish shall  
13          be no further than two generations from the  
14          relevant wild stock, and shall not have been ex-  
15          posed to intentional selective breeding.

16          (E) All cultured fish shall be marked,  
17          tagged, or otherwise identified as belonging to  
18          the permittee in a manner determined appro-  
19          priate by the Secretary, unless the Secretary  
20          determines that identifying cultured fish is un-  
21          necessary for protecting wild fish stocks, the  
22          marine environment, or other ocean uses.

23          (F) All facilities and operations shall be  
24          designed, operated, and shown to be effective at  
25          preventing the escape of cultured fish into the

1 marine environment and withstanding severe  
2 weather conditions and marine accidents. The  
3 permittee shall maintain records on all escapes.  
4 In the event of escapement, the number of es-  
5 caped fish and the circumstances surrounding  
6 the incident shall be reported immediately to  
7 the Secretary.

8 (G) Wild-caught fish shall not be contained  
9 in any research project under section 7 or off-  
10 shore aquaculture facility permitted under this  
11 Act for the purposes of growing such fish to  
12 market size or mass, or with the intention of  
13 selling such fish.

14 (2) DISEASE AND PATHOGEN PREVENTION.—

15 The Secretary shall—

16 (A) require offshore aquaculture facilities  
17 to be designed, located, and operated to prevent  
18 the incubation and spread of disease and patho-  
19 gens and ecosystem impacts from disease and  
20 pathogen introduction;

21 (B) prohibit the use, including the prophylactic  
22 use, of antibiotics, pesticides, prescription  
23 and nonprescription drugs, or other chemical  
24 treatments; except that—

1 (i) such use may be allowed as nec-  
2 essary to treat a diagnosed disease; and

3 (ii) the use of vaccines may be al-  
4 lowed;

5 (C) require that if use of antibiotics, pes-  
6 ticides, prescription or nonprescription drugs,  
7 or other chemical treatments is necessary to  
8 treat a diagnosed disease and multiple options  
9 for treatment of such disease exist—

10 (i) the option with the least environ-  
11 mental impact shall be used; and

12 (ii) such use shall be minimized to the  
13 maximum extent practicable;

14 (D) require that the use of antifouling  
15 paints on all offshore aquaculture facilities, ves-  
16 sels, and in-water structures be minimized to  
17 the maximum extent practicable; and

18 (E) prohibit the use of any antibiotic, pes-  
19 ticide, prescription or nonprescription drug, or  
20 other chemical treatment for marine aqua-  
21 culture except after consultation with the Com-  
22 missioner of the Food and Drug Administra-  
23 tion.

24 (3) HABITAT AND ECOSYSTEM IMPACTS.—The  
25 Secretary—

1 (A) shall establish appropriate numerical  
2 limitations of nutrient inputs into the marine  
3 environment from offshore aquaculture facili-  
4 ties—

5 (i) in consultation with the Adminis-  
6 trator of the Environmental Protection  
7 Agency;

8 (ii) at a local or regional level as nec-  
9 essary to protect the environment; and

10 (iii) taking into account cumulative  
11 and secondary impacts of such inputs at  
12 the local and regional level from the expan-  
13 sion of offshore aquaculture; and

14 (B) shall require each permittee under this  
15 Act to prevent discharges of pollutants into  
16 ocean waters to the maximum extent prac-  
17 ticable.

18 (4) INTERACTIONS WITH AND IMPACTS ON MA-  
19 RINE WILDLIFE.—The Secretary shall—

20 (A) require each permittee under this Act  
21 to develop a comprehensive, integrated predator  
22 management plan that—

23 (i) employs nonlethal deterrents as a  
24 primary course of action; and

1           (ii) contains measures to prevent en-  
2           tanglement, migration disruption, and  
3           change in predator behavior, so as to not  
4           unreasonably disrupt wildlife or their use  
5           of critical marine habitat; and

6           (B) prohibit permittees under this Act—

7                 (i) from using underwater acoustic de-  
8                 terrent devices of any kind; and

9                 (ii) from intentionally killing or seri-  
10                ously injuring marine mammals and other  
11                predators of cultured fish, except if human  
12                safety is immediately threatened.

13           (5) USE OF MARINE RESOURCES FOR FEEDS.—

14           The Secretary shall—

15                 (A) prohibit the use under permits under  
16                 this Act of wild fish as feed ingredients for off-  
17                 shore aquaculture unless—

18                         (i) they are sourced from populations  
19                         with ecosystem-based management meas-  
20                         ures in place; and

21                         (ii) they are sourced from populations  
22                         whose biomass is at or above maximum  
23                         sustainable yield;

1 (B) require that use under such permits of  
2 fishmeal and fish oil derived from forage fish-  
3 eries be minimized;

4 (C) require that alternatives to fishmeal  
5 and fish oil, or fishmeal and fish oil made from  
6 fish byproducts be utilized under such permits  
7 to the maximum extent practicable; and

8 (D) issue guidance that incorporates the  
9 results of the joint NOAA–USDA Alternative  
10 Feeds Initiative and other research efforts in-  
11 vestigating alternative feed ingredients.

12 (6) INTERACTIONS WITH FISHERIES.—The Sec-  
13 retary shall minimize displacement of commercial  
14 and recreational fisherman and economic harm to  
15 fishing communities resulting from activities under  
16 permits under this Act.

17 (7) SITING.—The Secretary shall prohibit siting  
18 of an offshore aquaculture facility under a permit  
19 under this Act—

20 (A) in sensitive habitat, including any ma-  
21 rine protected area, marine reserve, Habitat  
22 Area of Particular Concern, Special Manage-  
23 ment Zone, or National Marine Sanctuary;

24 (B) in an area that is identified in a re-  
25 gional programmatic environmental impact

1 statement under section 4(c)(1) as an area that  
2 is not an appropriate location for the conduct  
3 of offshore aquaculture; or

4 (C) on or attached to any portion of an oil  
5 or gas platform, including one that is no longer  
6 in service.

7 (k) LIMITED RIGHT.—The Secretary shall not issue  
8 any permit under this Act that constitutes a property right  
9 for which compensation could be required under the Fifth  
10 Amendment to the Constitution.

11 (l) LIMITATION IN THE PUBLIC INTEREST.—The  
12 Secretary shall not issue a permit under this Act for an  
13 offshore aquaculture project if the Secretary determines  
14 that denial of a permit for the project is in the public in-  
15 terest.

16 **SEC. 6. FEES.**

17 (a) PERMIT FEES.—

18 (1) IN GENERAL.—The Secretary shall estab-  
19 lish, assess, and collect application fees and annual  
20 fees with respect to permits under this Act that are  
21 sufficient to pay the costs of issuance, monitoring,  
22 and enforcement of such permits.

23 (2) DEPOSIT AND USE.—Such fees shall be de-  
24 posited as offsetting collections in the Operations,

1 Research, and Facilities account of the Department  
2 of Commerce.

3 (b) RESOURCE RENTAL FEES.—

4 (1) IN GENERAL.—The Secretary shall estab-  
5 lish, assess, and collect resource rental fees to re-  
6 cover from permittees under this Act a reasonable  
7 portion of the value of the use under the permits of  
8 ocean resources held in public trust.

9 (2) DEPOSIT AND USE.—Amounts received by  
10 the United States as fees under this subsection—

11 (A) shall be deposited into a separate ac-  
12 count in the Treasury, which shall be known as  
13 the Offshore Aquaculture Development and Re-  
14 source Trust Fund; and

15 (B) shall be available to the Secretary,  
16 subject to the availability of appropriations and  
17 review by the Offshore Aquaculture Advisory  
18 Board established under section 3(b), to en-  
19 hance the research program under section 7.

20 (c) FINANCIAL GUARANTEE.—The Secretary shall re-  
21 quire each permittee under this Act to post a bond or  
22 other form of financial guarantee, in an amount to be de-  
23 termined by the Secretary to be sufficient to cover any  
24 unpaid fees, the cost of removing an offshore aquaculture  
25 facility at the expiration or termination of offshore aqua-



1 culture operations, and other financial risks as identified  
2 by the Secretary.

3 **SEC. 7. SUSTAINABLE OFFSHORE AQUACULTURE RE-**  
4 **SEARCH PROGRAM.**

5 (a) PURPOSE.—The purpose of this section is to es-  
6 tablish a research program to—

7 (1) inform how offshore aquaculture permitting  
8 and regulation can adopt a precautionary approach  
9 to industry expansion to ensure ecological sustain-  
10 ability and compatibility with healthy, functional  
11 ecosystems and fisheries; and

12 (2) develop cost-effective solutions to environ-  
13 mental and socioeconomic impacts of offshore aqua-  
14 culture.

15 (b) ESTABLISHMENT OF PROGRAM.—The Secretary,  
16 in consultation with other Federal agencies, coastal  
17 States, Regional Fishery Management Councils, academic  
18 institutions, and other interested stakeholders, shall estab-  
19 lish and conduct a research program to guide the sustain-  
20 able development of offshore aquaculture.

21 (c) TOPICS OF PROGRAM.—The Secretary, through  
22 the research program, shall—

23 (1) identify environmental factors, aquaculture  
24 technologies, and practices that address the permit  
25 terms and conditions required under section 5(j);

1           (2) assess and mitigate the cumulative impacts  
2 of multiple offshore aquaculture facilities;

3           (3) analyze potential socioeconomic impacts of  
4 offshore aquaculture on fisheries and communities  
5 that are dependent on such fisheries;

6           (4) evaluate financial, public policy, and market  
7 incentives for sustainable development of offshore  
8 aquaculture; and

9           (5) conduct or support research on other topics  
10 as considered appropriate by the Secretary to  
11 achieve the purpose of this section.

12 (d) GRANT PROGRAM.—

13           (1) IN GENERAL.—The Secretary, subject to  
14 the availability of appropriations, shall establish a  
15 competitive, peer-reviewed grant program to support  
16 research related to the topics of the program under  
17 subsection (c).

18           (2) ELIGIBILITY.—The Secretary, in consulta-  
19 tion with the Offshore Aquaculture Advisory Board  
20 established under section 3, shall establish criteria  
21 for determining persons who are eligible for grants  
22 under this section.

23           (e) TRANSPARENCY; USE OF RESULTS.—The Sec-  
24 retary, in consultation with the Advisory Board, shall—

1           (1) issue rules for the grant program under  
2           subsection (d) that enable the public to understand  
3           the administration of the grant program, including  
4           the process for application, submission of materials,  
5           and awarding of grants;

6           (2) utilize and regularly incorporate the infor-  
7           mation gathered from the research program to guide  
8           Federal permitting and rulemaking decisions relat-  
9           ing to offshore aquaculture, with an adaptive man-  
10          agement approach; and

11          (3) make the findings of the research and devel-  
12          opment program available to the public.

13          (f) COORDINATION WITH OTHER FEDERAL PRO-  
14          GRAMS.—The Secretary shall coordinate the research pro-  
15          gram with other Federal programs that provide grant  
16          funding for purposes similar to that described in this sec-  
17          tion, such as grants administered by the National Insti-  
18          tute of Science and Technology and its Advanced Tech-  
19          nology Program.

20          (g) PERMIT MODIFICATION.—The Secretary shall re-  
21          vise permits to accommodate research conducted on or  
22          near offshore aquaculture facilities permitted under sec-  
23          tion 5.

1 **SEC. 8. COMPATIBILITY WITH OTHER USES; STATE INPUT.**

2 (a) CONSULTATION.—The Secretary shall consult, as  
3 appropriate, with other Federal agencies and coastal  
4 States to ensure that offshore aquaculture for which per-  
5 mits are issued under this Act is compatible with the use  
6 of the exclusive economic zone for navigation, resource  
7 protection, recreation, fisheries, national defense (includ-  
8 ing military readiness), mineral exploration and develop-  
9 ment, and other activities.

10 (b) PERMITS FOR REGULATED SPECIES AND  
11 AREAS.—

12 (1) IN GENERAL.—The Secretary may not issue  
13 a permit under this Act authorizing a person to  
14 propagate or rear a species of a fishery for which  
15 there is in effect a fishery management plan under  
16 the Magnuson-Stevens Fishery Conservation and  
17 Management Act (16 U.S.C. 1801 et seq.), or to  
18 propagate or rear any species in an area that is  
19 within the jurisdiction of a Regional Fishery Man-  
20 agement Council, unless all Regional Fishery Man-  
21 agement Councils that have authority under such  
22 Act to issue such a plan for that fishery or that have  
23 jurisdiction over that area, respectively, have rec-  
24 ommended approval of issuance of the permit.

25 (2) ENSURING FISHING ACCESS.—The Sec-  
26 retary, in consultation with Regional Fishery Man-

1       agement Councils, shall ensure that offshore aqua-  
2       culture permits under this Act do not interfere with  
3       access to commercial and recreational fish stocks.

4       (c) STATE INPUT.—

5           (1) NOTICE TO STATE.—The Secretary—

6               (A) shall promptly provide to a coastal  
7       State notice of the receipt by the Secretary of  
8       any application for a permit under this Act for  
9       any new offshore aquaculture facility to be lo-  
10      cated within 12 miles of the coastline of that  
11      coastal State; and

12            (B) shall not issue such permit before the  
13      end of the 90-day period beginning on the date  
14      the Secretary provides such notice.

15          (2) STATE OPT-OUT.—

16            (A) SUBMISSION OF LIST.—A coastal State  
17      may submit to the Secretary a list of locations,  
18      species, or categories of species (such as finfish  
19      or shellfish) for which the coastal State opposes  
20      the conduct of offshore aquaculture, by no later  
21      than 180 days after the regional programmatic  
22      environmental impact statements under section  
23      4 are published.

24            (B) SUBSEQUENT SUBMISSION OR REVI-  
25      SION.—A coastal State may submit a list under

1           subparagraph (A), or revise or revoke such a  
2           list previously submitted, within 90 days after  
3           the review of a regional environmental impact  
4           statement under section 4(e) is published.

5           (C) PROHIBITION ON PERMITS.—The Sec-  
6           retary may not issue or renew any permit under  
7           this Act authorizing offshore aquaculture in any  
8           location, or of any species, or category of spe-  
9           cies, that is included in a list submitted under  
10          subparagraph (A) by the nearest coastal State  
11          with respect to that facility.

12          (d) INTEGRATION WITH OTHER FEDERAL PLAN-  
13          NING.—The Secretary shall integrate the permitting of  
14          offshore aquaculture under this Act with other Federal re-  
15          gional marine spatial planning that has as its purpose eco-  
16          system-based management of United States marine wa-  
17          ters.

18          **SEC. 9. RELATIONSHIP TO OTHER LAWS.**

19          (a) MAGNUSON-STEVENSON FISHERY CONSERVATION  
20          AND MANAGEMENT ACT.—Notwithstanding the definition  
21          of “fishing” in section 3(16) of the Magnuson-Stevens  
22          Fishery Conservation and Management Act (16 U.S.C.  
23          1802(16)), the conduct of offshore aquaculture in accord-  
24          ance with permits issued under this Act shall not be con-  
25          sidered fishing for purposes of that Act, and no Regional

1 Fishery Management Council may issue any permit au-  
2 thorizing offshore aquaculture. The Secretary shall ensure  
3 that offshore aquaculture does not interfere with conserva-  
4 tion and management measures promulgated under the  
5 Magnuson-Stevens Fishery Conservation and Manage-  
6 ment Act (16 U.S.C. 1801 et seq.).

7 (b) ACTIONS AFFECTING THE OUTER CONTINENTAL  
8 SHELF.—

9 (1) CONCURRENCE OF SECRETARY OF THE IN-  
10 TERIOR REQUIRED.—The Secretary must obtain the  
11 concurrence of the Secretary of the Interior before  
12 issuing any permit under this Act for offshore aqua-  
13 culture facilities located—

14 (A) on any lease, right-of-use and ease-  
15 ments, or right-of-way authorized or permitted  
16 under the Outer Continental Shelf Lands Act  
17 (43 U.S.C. 1331 et seq.); or

18 (B) within 1 mile of any other facility for  
19 which a permit has been issued, or for which a  
20 plan has been approved, under that Act.

21 (2) PRIOR CONSENT REQUIRED.—The Sec-  
22 retary may not issue any permit under this Act au-  
23 thorizing offshore aquaculture on any lease, right-of-  
24 use and easements, or right-of-way referred to in  
25 paragraph (1)(A) without the prior consent of the

1 lessee, its designated operator, and the owner of the  
2 facility concerned.

3 (3) REVIEW OF LEASE, ETC., COMPLIANCE.—

4 The Secretary of the Interior shall review and ap-  
5 prove any agreement between a lessee, designated  
6 operator, and owner of a facility described in para-  
7 graph (1) and a prospective offshore aquaculture fa-  
8 cility operator to ensure that it is consistent with the  
9 Federal lease terms, Department of the Interior reg-  
10 ulations, and the Secretary of the Interior's role in  
11 the protection of the marine environment, property,  
12 or human life or health. An agreement under this  
13 subsection shall be part of the information reviewed  
14 pursuant to the Coastal Zone Management Act of  
15 1972 review process described in paragraph (4) and  
16 shall not be subject to a separate review under the  
17 Coastal Zone Management Act of 1972 (16 U.S.C.  
18 1451 et seq.).

19 (4) COORDINATED COASTAL ZONE MANAGE-  
20 MENT ACT OF 1972 REVIEW.—

21 (A) REVIEW IF CONSISTENCY DETERMINA-  
22 TION REQUIRED FOR PERMIT APPLICATIONS.—

23 If the applicant for a permit under this Act for  
24 an offshore aquaculture facility that will utilize  
25 a facility described in paragraph (1) is required



1 to submit for its offshore aquaculture permit  
2 application under this Act a consistency certifi-  
3 cation under section 307(c)(3)(A) of the Coast-  
4 al Zone Management Act of 1972 (16 U.S.C.  
5 1456(c)(3)(A)) to a coastal State, the coastal  
6 State's review under such Act and cor-  
7 responding Federal regulations shall also in-  
8 clude any modification to a lessee's approved  
9 plan or other document for which a consistency  
10 certification would otherwise be required under  
11 applicable Federal regulations, including  
12 changes to its plan for decommissioning any fa-  
13 cilities, resulting from or necessary for the  
14 issuance of the permit under this Act, if infor-  
15 mation related to such modifications or changes  
16 is received by the coastal State at the time the  
17 coastal State receives the offshore aquaculture  
18 permit applicant's consistency certification. If  
19 the information related to such modifications or  
20 changes is received by the coastal State at the  
21 time the coastal State receives the offshore  
22 aquaculture permit applicant's consistency cer-  
23 tification, a lessee is not required to submit a  
24 separate consistency certification for any such  
25 modification or change under section

1           307(c)(3)(B) of the Coastal Zone Management  
2           Act of 1972 (16 U.S.C. 1456(c)(3)(B)) and the  
3           coastal State’s concurrence or objection, or pre-  
4           sumed concurrence, under section 307(c)(3)(A)  
5           of the Coastal Zone Management Act of 1972  
6           (16 U.S.C. 1456(c)(3)(A)) in a consistency de-  
7           termination for the offshore aquaculture permit,  
8           shall apply to both the offshore aquaculture  
9           permit and to any related modifications or  
10          changes to a lessee’s plan approved under the  
11          Outer Continental Shelf Lands Act.

12                   (B) REVIEW IF STATE IS NOT AUTHORIZED  
13           TO REVIEW PERMIT APPLICATION.—If a coastal  
14           State is not authorized by section 307(c)(3)(A)  
15           of the Coastal Zone Management Act (16  
16           U.S.C. 1456(c)(3)(A)) and corresponding Fed-  
17           eral regulations to review an offshore aqua-  
18           culture permit application submitted under this  
19           Act, then any modifications or changes to a les-  
20           see’s approved plan or other document requir-  
21           ing approval from the Department of the Inte-  
22           rior, shall be subject to coastal State review  
23           pursuant to the requirements of section  
24           307(c)(3)(B) of the Coastal Zone Management  
25           Act of 1972 (16 U.S.C. 1456(c)(3)(B)), if a

1 consistency certification for those modifications  
2 or changes is required under applicable Federal  
3 regulations.

4 (c) COASTAL ZONE MANAGEMENT ACT OF 1972.—

5 (1) IN GENERAL.—This Act shall not affect the  
6 application of the Coastal Zone Management Act of  
7 1972 (16 U.S.C. 1451 et seq.), and regulations pro-  
8 mulgated thereunder, with respect to offshore aqua-  
9 culture.

10 (2) ASSISTANCE TO STATES.—The Secretary  
11 shall provide technical and, subject to the availability  
12 of appropriations, financial assistance to States to  
13 review and, if necessary, revise their management  
14 plans under that Act to address offshore aquaculture  
15 in State and Federal marine waters.

16 (d) RESERVATION OF AUTHORITIES, ETC.—Nothing  
17 in this Act shall be construed to displace, supersede, or  
18 limit the jurisdiction, responsibilities, or authorities of any  
19 Federal or State agency, or Indian tribe or Alaska Native  
20 organization, under any Federal law or treaty.

21 **SEC. 10. UNLAWFUL ACTIVITIES.**

22 It is unlawful for any person—

23 (1) to engage in offshore aquaculture, except in  
24 accordance with this Act and valid permits issued  
25 under this Act;

1           (2) to falsify any information required to be re-  
2           ported, communicated, or recorded pursuant to this  
3           Act or any regulation or permit issued under this  
4           Act, or to fail to submit in a timely fashion any re-  
5           quired information, or to fail to report to the Sec-  
6           retary immediately any change in circumstances that  
7           has the effect of rendering any such information  
8           false, incomplete, or misleading;

9           (3) to refuse to permit an authorized officer to  
10          conduct any lawful boarding, lawful search, or lawful  
11          inspection in connection with the enforcement of this  
12          Act or any regulation or permit issued under this  
13          Act;

14          (4) to forcibly assault, resist, oppose, impede,  
15          intimidate, or interfere with an authorized officer in  
16          the conduct of any boarding, search, or inspection in  
17          connection with the enforcement of this Act or any  
18          regulation or permit issued under this Act;

19          (5) to resist a lawful arrest or detention for any  
20          act prohibited by this section;

21          (6) to interfere with, delay, or prevent, by any  
22          means, the apprehension, arrest, or detection of an-  
23          other person, knowing that such person has com-  
24          mitted any act prohibited by this section;

1           (7) upon the expiration or termination of any  
2 offshore aquaculture permit under this Act for any  
3 reason, to fail to remove all structures, gear, and  
4 other property from the site, or take other measures,  
5 as prescribed by the Secretary, to restore the site;

6           (8) to violate any provision of this Act, any reg-  
7 ulation promulgated under this Act, or any term or  
8 condition of any permit issued under this Act; or

9           (9) to attempt to commit any act described in  
10 paragraph (1), (2), (7), or (8).

11 **SEC. 11. ENFORCEMENT.**

12           (a) DUTIES OF SECRETARIES.—This Act shall be en-  
13 forced by the Secretary and the Secretary of the depart-  
14 ment in which the Coast Guard is operating.

15           (b) POWERS OF ENFORCEMENT.—

16           (1) IN GENERAL.—Any officer who is author-  
17 ized pursuant to subsection (a) by the Secretary or  
18 the Secretary of the department in which the Coast  
19 Guard is operating to enforce the provisions of this  
20 Act may—

21                   (A) with or without a warrant or other  
22 process—

23                           (i) arrest any person, if the officer has  
24 reasonable cause to believe that such per-

1 son has committed or is committing an act  
2 prohibited by section 10;

3 (ii) board, search, or inspect any off-  
4 shore aquaculture facility and any related  
5 land-based facility;

6 (iii) seize any offshore aquaculture fa-  
7 cility (together with its equipment, records,  
8 furniture, appurtenances, stores, and  
9 cargo), and any vessel or vehicle, used or  
10 employed in aid of, or with respect to  
11 which it reasonably appears that such off-  
12 shore aquaculture facility was used or em-  
13 ployed in aid of, the violation of any provi-  
14 sion of this Act or any regulation or permit  
15 issued under this Act;

16 (iv) seize any marine species (wher-  
17 ever found) retained, in any manner, in  
18 connection with or as a result of the com-  
19 mission of any act prohibited by section  
20 10; and

21 (v) seize any evidence related to any  
22 violation of any provision of this Act or  
23 any regulation or permit issued under this  
24 Act;

1 (B) execute any warrant or other process  
2 issued by any court of competent jurisdiction;  
3 and

4 (C) exercise any other lawful authority.

5 (2) ARRESTS, SUBPOENAS, AND WARRANTS.—

6 (A) ARREST WITHOUT WARRANT.—Any of-  
7 ficer who is authorized pursuant to subsection  
8 (a) of this section by the Secretary or the Sec-  
9 retary of the department in which the Coast  
10 Guard is operating to enforce the provisions of  
11 this Act may make an arrest without a warrant  
12 for—

13 (i) an offense against the United  
14 States committed in his or her presence; or

15 (ii) a felony cognizable under the laws  
16 of the United States, if he has reasonable  
17 grounds to believe that the person to be ar-  
18 rested has committed or is committing a  
19 felony.

20 (B) SUBPOENAS AND WARRANTS.—Any  
21 such authorized officer may execute and serve  
22 a subpoena, arrest warrant, or search warrant  
23 issued in accordance with rule 41 of the Fed-  
24 eral Rules of Criminal Procedure, or other war-  
25 rant of civil or criminal process issued by any

1           officer or court of competent jurisdiction for en-  
2           forcement of the Act, or any regulation or per-  
3           mit issued under this Act.

4           (c) ISSUANCE OF CITATIONS.—If any officer referred  
5 to in subsection (b)(2)(A) finds that a person who is the  
6 holder of a permit under this Act is engaging in or has  
7 engaged in offshore aquaculture in violation of any provi-  
8 sion of this Act, such officer may issue a citation to that  
9 person for purposes of subsection (d)(1).

10          (d) PERMIT SUSPENSION, MODIFICATION, OR REV-  
11 OCATION.—

12           (1) REPEATED CITATION.—If the Secretary  
13 finds that a person is repeatedly cited under sub-  
14 section (c) with respect to offshore aquaculture  
15 under a permit, the Secretary shall immediately sus-  
16 pend or revoke the permit for which the citations  
17 were issued.

18           (2) EMERGENCY.—If the Secretary determines  
19 that an emergency exists with respect to offshore  
20 aquaculture under a permit under this Act that  
21 poses a risk to the safety of humans, to the marine  
22 environment or marine species, or to the security of  
23 the United States, the Secretary shall immediately  
24 suspend, modify, or revoke the permit for such time



1 as the Secretary may determine necessary to address  
2 the emergency.

3 (3) NEW INFORMATION.—The Secretary may  
4 suspend, modify, or revoke a permit under this Act  
5 at any time if the Secretary determines, based on in-  
6 formation obtained after the issuance of the permit  
7 (including information obtained under the research  
8 program under section 7), that the permit terms and  
9 conditions are no longer consistent with the terms of  
10 this Act.

11 (4) OPPORTUNITY TO BE HEARD.—The Sec-  
12 retary shall afford the permit holder a prompt  
13 postsuspension, postmodification, or postrevocation  
14 opportunity to be heard regarding the suspension,  
15 modification, or revocation.

16 (e) ENFORCEMENT UNDER MAGNUSON-STEVENSON  
17 FISHERY CONSERVATION AND MANAGEMENT ACT.—For  
18 purposes of sections 308, 309, and 310 of the Magnuson-  
19 Stevens Fishery Conservation and Management Act (16  
20 U.S.C. 1858, 1859, 1860), a violation of this Act shall  
21 be treated as a violation of section 307(1) of that Act (16  
22 U.S.C. 1857(1)).

23 (f) CITIZEN SUITS.—

24 (1) IN GENERAL.—

1           (A) ACTIONS AUTHORIZED.—Except as  
2 provided in paragraph (2), any person may  
3 commence a civil suit on his or her own be-  
4 half—

5           (i) to enjoin any person, including the  
6 United States and any other governmental  
7 instrumentality or agency (to the extent  
8 permitted by the Eleventh Amendment to  
9 the Constitution), who is alleged to be in  
10 violation of any provision of this Act, per-  
11 mit, or regulation issued under the author-  
12 ity thereof; or

13           (ii) against the Secretary where there  
14 is alleged a failure of the Secretary to per-  
15 form any act or duty under this Act that  
16 is not discretionary with the Secretary.

17           (B) JURISDICTION.—The district courts  
18 shall have jurisdiction, without regard to the  
19 amount in controversy or the citizenship of the  
20 parties, to enforce any such provision or regula-  
21 tion or to order the Secretary to perform such  
22 act or duty, as the case may be.

23           (2) LIMITATIONS.—

24           (A) ACTION TO ENJOIN.—No action may  
25 be commenced under paragraph (1)(A)(i)—

1 (i) prior to 60 days after written no-  
2 tice of the violation has been given to the  
3 Secretary, and to any alleged violator of  
4 any such provision, permit, or regulation;

5 (ii) if the Secretary has commenced  
6 action to impose a penalty pursuant to the  
7 other provisions of this Act; or

8 (iii) if the United States has com-  
9 menced and is diligently prosecuting a  
10 criminal action in a court of the United  
11 States or a State to redress a violation of  
12 any such provision, permit, or regulation.

13 (B) ACTION AGAINST SECRETARY.—No ac-  
14 tion may be commenced under paragraph  
15 (1)(A)(ii) prior to 60 days after written notice  
16 has been given to the Secretary.

17 (3) VENUE.—Any suit under this subsection  
18 may be brought in the judicial district in which the  
19 violation occurs.

20 (4) INTERVENTION BY ATTORNEY GENERAL.—  
21 In any such suit under this subsection in which the  
22 United States is not a party, the Attorney General,  
23 at the request of the Secretary, may intervene on be-  
24 half of the United States as a matter of right.

1           (5) AWARD OF COSTS.—The court, in issuing  
2 any final order in any suit brought pursuant to  
3 paragraph (1), may award costs of litigation (includ-  
4 ing reasonable attorney and expert witness fees) to  
5 any party, whenever the court determines such  
6 award is appropriate.

7           (6) OTHER RIGHTS NOT AFFECTED.—The in-  
8 junctive relief provided by this subsection shall not  
9 restrict any right that any person (or class of per-  
10 sons) may have under any statute or common law to  
11 seek enforcement of any standard or limitation or to  
12 seek any other relief (including relief against the  
13 Secretary or a State agency).

14 **SEC. 12. NATURAL RESOURCES DAMAGES ASSESSMENT**  
15 **AND LIABILITY.**

16           (a) NATURAL RESOURCES DAMAGES ASSESSMENT.—  
17 The Secretary shall—

18           (1) assess natural resource damages resulting  
19 from the conduct of offshore aquaculture other than  
20 as authorized under Federal or State law; and

21           (2) carry out remediation of destruction or loss  
22 of, or injury to, natural resources resulting from  
23 such conduct and determined in such an assessment.

24           (b) LIABILITY FOR DAMAGES.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), any person who conducts offshore aqua-  
3           culture other than as authorized under Federal or  
4           State law shall be strictly liable to the United States  
5           for natural resources damages resulting from such  
6           offshore aquaculture that are assessed by the Sec-  
7           retary under subsection (a).

8           (2) LIMITATION.—A person is not liable under  
9           this section for natural resources damages if that  
10          person establishes that—

11                   (A) the destruction or loss of, or injury to,  
12                   natural resources from which such damages  
13                   arose was caused solely by an act of God, an  
14                   act of war, or an act of omission of a third  
15                   party, and the person acted with due care;

16                   (B) such destruction, loss, or injury was  
17                   caused by an activity authorized by Federal or  
18                   State law; or

19                   (C) such destruction, loss, or injury was  
20                   negligible.

21 **SEC. 13. ENCOURAGING WORLDWIDE ADHERENCE TO THE**  
22 **AQUACULTURE PROVISIONS OF THE CODE**  
23 **OF CONDUCT FOR RESPONSIBLE FISHERIES.**

24          The Secretary shall—

1           (1) urge United Nations Food and Agriculture  
2           Organization to adopt a protocol to the Code of Con-  
3           duct for Responsible Fisheries elaborating the need  
4           for, and ways to achieve, net seafood production  
5           from aquaculture;

6           (2) work to ensure that international fisheries  
7           agreements recognize the importance of—

8                   (A) forage fish in marine ecosystem dy-  
9                   namics; and

10                   (B) fishery management that maintains  
11           the structure and function of marine food webs;

12           (3) use bilateral economic and scientific rela-  
13           tionships to encourage countries to manage their do-  
14           mestic stocks of forage fish on an ecosystem basis;  
15           and

16           (4) lead an international effort for the develop-  
17           ment of a traceability system for distinguishing,  
18           identifying, and sourcing fishmeal and fish oil so  
19           that ecologically sustainable feeds are available and  
20           distinguishable to aquaculture.

21 **SEC. 14. DEFINITIONS.**

22           In this Act:

23           (1) **ADVISORY BOARD.**—The term “advisory  
24           board” means the Sustainable Offshore Aquaculture  
25           Advisory Board established under section 3(b).

1           (2)   ANTIFOULING    PAINT.—The    term  
2   “antifouling paint” has the meaning that term has  
3   in section 3 of the Organotin Antifouling Paint Con-  
4   trol Act of 1988 (33 U.S.C. 2402).

5           (3)   COASTAL    STATE.—The    term   “coastal  
6   State” means—

7                   (A) a State of the United States in, or bor-  
8                   dering on, the Atlantic, Pacific, or Arctic  
9                   Ocean, the Gulf of Mexico, or Long Island  
10                   Sound; and

11                   (B) Puerto Rico, the Virgin Islands,  
12                   Guam, the Commonwealth of the Northern  
13                   Mariana Islands, the Trust Territories of the  
14                   Pacific Islands, and American Samoa.

15           (4)   COASTLINE.—The    term   “coastline” means  
16   the line of ordinary low water along that portion of  
17   the coast that is in direct contact with the open sea  
18   and the line marking the seaward limit of inland wa-  
19   ters.

20           (5)   DAMAGES.—The    term   “damages” in-  
21   cludes—

22                   (A) compensation for—

23                           (i) the cost of replacing, restoring, or  
24                           acquiring natural resources that are equiv-

1           alent to natural resources that are de-  
2           stroyed, lost, or injured; or

3                   (ii) the value of natural resources that  
4           are destroyed, lost, or injured, if the nat-  
5           ural resources cannot be restored or re-  
6           placed or if the equivalent of such natural  
7           resources cannot be acquired;

8           (B) the cost of a natural resource damage  
9           assessment under subsection 12(a);

10           (C) the reasonable cost of monitoring ap-  
11           propriate to injured, restored, or replaced nat-  
12           ural resources; and

13           (D) the cost of enforcement actions under-  
14           taken by the Secretary in response to the de-  
15           struction or loss of, or injury to natural re-  
16           sources, including storage, care, and mainte-  
17           nance of any marine species or other seized  
18           property.

19           (6) EXCLUSIVE ECONOMIC ZONE.—The term  
20           “exclusive economic zone” has the meaning that  
21           term has in the Magnuson-Stevens Fishery Con-  
22           servation and Management Act (16 U.S.C. 1801 et  
23           seq.).

24           (7) FISH BYPRODUCTS.—The term “fish by-  
25           products”—



1 (A) except as provided in subparagraph  
2 (B), means fish parts, including skin, head,  
3 viscera, and bone that result from the proc-  
4 essing of either fish produced by aquaculture or  
5 wild-caught fish; and

6 (B) does not include bycatch.

7 (8) GENETICALLY MODIFIED SPECIES.—The  
8 term “genetically modified species” means an orga-  
9 nism with genetic material that has been deliberately  
10 altered using genetic engineering technologies.

11 (9) HABITAT AREAS OF PARTICULAR CON-  
12 CERN.—The term “habitat area of particular con-  
13 cern” means a habitat area that is ecologically vul-  
14 nerable based on one or more of the following con-  
15 siderations:

16 (A) The importance of the ecological func-  
17 tion provided by the habitat.

18 (B) The extent to which the habitat is sen-  
19 sitive to human-induced environmental degrada-  
20 tion.

21 (C) Whether, and to what extent, develop-  
22 ment activities are, or will be, stressing the  
23 habitat type.

24 (D) The rarity of the habitat type.

1           (10) MARINE PROTECTED AREA.—The term  
2           “marine protected area” means any area of the ma-  
3           rine environment that has been reserved by Federal,  
4           State, territorial, tribal, or local laws or regulations  
5           to provide lasting protection for part or all of the  
6           natural and cultural resources therein.

7           (11) MARINE RESERVE.—The term “marine re-  
8           serve” means a type of marine protected area where  
9           extractive uses are prohibited.

10          (12) MARINE SPECIES.—The term “marine spe-  
11          cies” means finfish, mollusks, crustaceans, marine  
12          algae, and all other forms of marine life, excluding  
13          marine mammals and birds.

14          (13) NATIONAL MARINE SANCTUARY.—The  
15          term “national marine sanctuary” means any area  
16          designated as a national marine sanctuary for pur-  
17          poses of the National Marine Sanctuaries Act (16  
18          U.S.C. 1431 et seq.).

19          (14) NATURAL RESOURCE.—The term “natural  
20          resource” means land, fish, wildlife, biota, air,  
21          water, and other such resources belonging to, man-  
22          aged by, held in trust by, appertaining to, or other-  
23          wise controlled by the United States, any State or  
24          local government, or any Indian tribe.

1           (15) OFFICE.—The term “Office” means the  
2 Office of Sustainable Offshore Aquaculture estab-  
3 lished under section 3(a).

4           (16) OFFSHORE AQUACULTURE.—The term  
5 “offshore aquaculture” means all activities related  
6 to—

7                   (A) the placement of any installation, facil-  
8 ity, or structure in the exclusive economic zone  
9 for the purposes of propagation and rearing, or  
10 attempted propagation and rearing, of marine  
11 species; and

12                   (B) the operation of any installation, facil-  
13 ity, or structure in the exclusive economic zone  
14 for the purposes of propagation and rearing, or  
15 attempted propagation and rearing, of marine  
16 species.

17           (17) OFFSHORE AQUACULTURE FACILITY.—The  
18 term “offshore aquaculture facility” means—

19                   (A) a structure, installation, or other com-  
20 plex placed, in whole or in part, for the pur-  
21 poses of propagation and rearing, or attempted  
22 propagation and rearing of marine species in  
23 the exclusive economic zone; and

24                   (B) an area of the seabed or the subsoil  
25 used for such placement.

1           (18) OVERFISHING AND OVERFISHED.—Each of  
2           the terms “overfishing” and “overfished” has the  
3           meaning that term has in the Magnuson-Stevens  
4           Fishery Conservation and Management Act (16  
5           U.S.C. 1801 et seq.).

6           (19) SECRETARY.—The term “Secretary”  
7           means the Secretary of Commerce.

8           (20) SPECIAL MANAGEMENT ZONE.—The term  
9           “special management zone” means an area managed  
10          by a State under a special area management plan,  
11          as that term is defined in section 304 of the Coastal  
12          Zone Management Act of 1972 (16 U.S.C. 1453).

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