

111TH CONGRESS
1ST SESSION

H. R. 4363

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 2009

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

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).

○