

115TH CONGRESS
2D SESSION

S. 3138

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

IN THE SENATE OF THE UNITED STATES

JUNE 26, 2018

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

A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

- Sec. 3. Definitions.
- Sec. 4. Office of Marine Aquaculture.
- Sec. 5. Administration.
- Sec. 6. Offshore aquaculture permits.
- Sec. 7. Restrictions on offshore aquaculture activities.
- Sec. 8. Recordkeeping and access to information.
- Sec. 9. Programmatic environmental impact statements.
- Sec. 10. Environmental and management standards.
- Sec. 11. Research and development grant program.
- Sec. 12. Enforcement.
- Sec. 13. Authorization of appropriations.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) There is increasing interest within the
4 United States in developing commercial marine
5 aquaculture, in order to provide nutritious, sustain-
6 able seafood for domestic consumption and export to
7 global markets.

8 (2) There is a need for a Federal program in
9 the United States that specifically provides a com-
10 prehensive, nationwide permitting system for, or
11 management of, marine aquaculture facilities in the
12 exclusive economic zone.

13 (3) Regulatory certainty and security of tenure
14 are needed to make business investment decisions
15 about marine aquaculture.

16 (4) Potential economic, environmental, and so-
17 cial benefits can be derived from marine aquaculture
18 technologies. To balance those benefits against con-
19 cerns about environmental and socioeconomic im-
20 pacts, additional research and development is needed

1 to adequately assess the potential for adverse im-
2 pacts on the environment and coastal communities,
3 to develop tools and practices for proper siting and
4 operation of marine aquaculture facilities, and to en-
5 sure that those impacts, if any, can be mitigated
6 through improvements of marine aquaculture tech-
7 nologies.

8 (5) The United States is the leading global net
9 importer of fish and fishery products, with over 90
10 percent of the seafood consumed in the United
11 States, by value, imported from other countries,
12 about 50 percent of which is derived from aqua-
13 culture. The United States, as a result, runs a sub-
14 stantial trade deficit in seafood.

15 (6) Increasing the overall effectiveness and pro-
16 ductivity of Federal aquaculture research, technology
17 transfer, and assistance programs is coordinated by
18 the Interagency Working Group on Aquaculture (re-
19 ferred to in this section as “IWGA” and formerly
20 known as the Joint Subcommittee on Aquaculture),
21 which was created by Congress in the National
22 Aquaculture Act of 1980 (Public Law 96–362). The
23 IWGA is chaired by the Department of Agriculture,
24 with vice-chairs from the Department of Commerce
25 and the Department of the Interior, and reports to

1 the Committee on Science of the National Science
2 and Technology Council. The IWGA addresses issues
3 of national scope and importance and may form na-
4 tional task forces or special projects to facilitate a
5 coordinated, systematic approach to addressing crit-
6 ical issues and needs.

7 (7) As affirmed by Congress in the National
8 Aquaculture Act of 1980 (Public Law 96–362), ma-
9 rine aquaculture conducted in Federal waters is in
10 the public interest.

11 (b) PURPOSES.—The purposes of this Act are—

12 (1) to support the development of a sustainable
13 marine aquaculture industry in the United States;

14 (2) to safeguard the marine environment, wild
15 fish stocks, and our coastal communities;

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

18 (4) to provide new jobs and to support existing
19 jobs within the seafood industry of the United
20 States, including jobs for traditional fishing industry
21 partners; and

22 (5) to reduce the United States seafood trade
23 deficit by expanding the domestic supply of seafood
24 through the production of marine aquaculture.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

3 (1) COASTAL STATE.—Except as otherwise spe-
4 cifically provided, the term “coastal State” has the
5 meaning given the term “coastal state” in section
6 304(4) of the Coastal Zone Management Act of
7 1972 (16 U.S.C. 1453(4)).

8 (2) CULTURED SPECIES.—The term “cultured
9 species” means—

10 (A) any finfish, mollusk, crustacean,
11 aquatic plant, alga, echinoderm, zooplankton,
12 diadromous species, or other marine species
13 propagated and reared for marine aquaculture,
14 excluding marine mammals and birds; or

15 (B) a natural set of mussels or other spe-
16 cies described in subparagraph (A) that provide
17 seed for certain types of aquaculture practices,
18 such as rope culture for mussels.

19 (3) EXCLUSIVE ECONOMIC ZONE.—

20 (A) IN GENERAL.—Unless otherwise speci-
21 fied by the President in the public interest in
22 a writing published in the Federal Register, the
23 term “exclusive economic zone” means a zone,
24 the outer boundary of which is 200 nautical
25 miles from the baseline from which the breadth
26 of the territorial sea is measured (except as es-

1 tablished by a maritime boundary treaty in
2 force or being provisionally applied by the
3 United States or, in the absence of such a trea-
4 ty, where the distance between the United
5 States and another country is less than 400
6 nautical miles, a line equidistant between the
7 United States and the other country).

8 (B) INNER BOUNDARY.—Without affecting
9 any Presidential proclamation with regard to
10 the establishment of the United States terri-
11 torial sea or exclusive economic zone, the inner
12 boundary of the exclusive economic zone is—

13 (i) in the case of the coastal States, a
14 line coterminous with the seaward bound-
15 ary of each such State, as described in sec-
16 tion 4 of the Submerged Lands Act (43
17 U.S.C. 1312);

18 (ii) in the case of Puerto Rico, a line
19 3 marine leagues from the coastline of
20 Puerto Rico;

21 (iii) in the case of American Samoa,
22 the Virgin Islands, and Guam, a line 3 ge-
23 ographic miles from the coastlines of
24 American Samoa, the Virgin Islands, or
25 Guam, respectively;

1 (iv) in the case of the Commonwealth
2 of the Northern Mariana Islands—

3 (I) the coastline of the Common-
4 wealth of the Northern Mariana Is-
5 lands, until the Commonwealth of the
6 Northern Mariana Islands is granted
7 authority by the United States to reg-
8 ulate all fishing to a line seaward of
9 its coastline; and

10 (II) upon the United States
11 grant of such authority, the line es-
12 tablished by such grant of authority;
13 or

14 (v) for any possession of the United
15 States not under clause (ii), (iii), or (iv),
16 the coastline of such possession.

17 (C) CONSTRUCTION.—Nothing in this defi-
18 nition may be construed to diminish the author-
19 ity of the Department of Defense, the Depart-
20 ment of the Interior, or any other Federal de-
21 partment or agency.

22 (4) LESSEE.—The term “lessee” means any
23 party to a lease, right-of-use and easement, or right-
24 of-way, or an approved assignment thereof, issued

1 pursuant to the Outer Continental Shelf Lands Act
2 (43 U.S.C. 1331 et seq.).

3 (5) MARINE AQUACULTURE.—The term “ma-
4 rine aquaculture” means any activity involved in the
5 propagation, rearing, or attempted propagation or
6 rearing, of cultured species in saltwater or brackish
7 water conditions in the exclusive economic zone,
8 State waters, coastal waters, estuaries, or land-based
9 facilities, including recirculating saltwater facilities
10 directly supporting such activities.

11 (6) OFFSHORE AQUACULTURE.—The term “off-
12 shore aquaculture” means any activities involved in
13 the propagation, rearing, or attempted propagation
14 or rearing, of cultured species in the exclusive eco-
15 nomic zone.

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

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

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

22 (8) SECRETARY.—Except as otherwise specifi-
23 cally provided, the term “Secretary” means the Sec-
24 retary of Commerce, acting through the Under Sec-
25 retary of Commerce for Oceans and Atmosphere.

1 **SEC. 4. OFFICE OF MARINE AQUACULTURE.**

2 (a) OFFICE OF MARINE AQUACULTURE.—The Sec-
3 retary shall establish and provide resources to an Office
4 of Marine Aquaculture within the National Marine Fish-
5 eries Service at the National Oceanic and Atmospheric Ad-
6 ministration headquarters, including presence in each of
7 the regional fisheries offices of the National Oceanic and
8 Atmospheric Administration.

9 (b) DUTIES.—The Office of Marine Aquaculture
10 shall—

11 (1) coordinate regulatory, scientific, outreach,
12 and international issues related to aquaculture with-
13 in the National Oceanic and Atmospheric Adminis-
14 tration;

15 (2) coordinate the National Oceanic and Atmos-
16 pheric Administration's aquaculture activities, in col-
17 laboration with the Office of Oceanic and Atmos-
18 pheric Research and the National Ocean Service;

19 (3) support existing aquaculture outreach, edu-
20 cation, extension services, and training efforts, such
21 as those from the National Sea Grant College Pro-
22 gram and the National Oceanic and Atmospheric
23 Administration Regional Aquaculture Coordinators;

24 (4) provide opportunities for engagement with
25 owners and operators of offshore aquaculture facili-
26 ties, fishery management councils, conservation or-

1 organizations, fisheries associations, State govern-
2 ments, and other interested stakeholders;

3 (5) administer the research and development
4 grant program under section 11;

5 (6) organize through each regional fisheries of-
6 fice a network of regional experts and Federal agen-
7 cy contacts, in coordination with relevant organiza-
8 tions (including the National Sea Grant College Pro-
9 gram, the Department of Agriculture Regional
10 Aquaculture Centers, land-grant universities, and
11 the Cooperative Extension System of the Depart-
12 ment of Agriculture) to provide technical expertise
13 and extension services on marine aquaculture and
14 information on Federal permit requirements;

15 (7) maintain supporting aquaculture divisions
16 in each of the regional fisheries offices of the Na-
17 tional Oceanic and Atmospheric Administration; and

18 (8) administer at least 1 Administration Re-
19 gional Aquaculture Coordinator in each of the 6 Na-
20 tional Marine Fisheries regions, which shall be lo-
21 cated at a regional office in the respective region.

22 (c) AQUACULTURE SUBCOMMITTEE.—The Office of
23 Marine Aquaculture shall coordinate its activities with the
24 aquaculture advisory board of the Marine Fisheries Advi-
25 sory Committee. The Marine Fisheries Advisory Com-

1 mittee shall designate the “Aquaculture Subcommittee” as
2 a permanent, standing committee to serve as an external
3 board to advise the Secretary on aquaculture. The Aqua-
4 culture Subcommittee shall coordinate with the National
5 Sea Grant Advisory Board, as appropriate.

6 **SEC. 5. ADMINISTRATION.**

7 (a) NOAA AUTHORITY.—The National Oceanic and
8 Atmospheric Administration shall serve as the lead Fed-
9 eral agency for purposes of providing information on Fed-
10 eral permitting requirements for marine aquaculture in
11 State and Federal waters.

12 (b) DISCUSSION OF PROPOSED PROJECTS.—For off-
13 shore aquaculture, the National Oceanic and Atmospheric
14 Administration shall arrange opportunities for prospective
15 permit applicants to discuss proposed projects with other
16 Federal agencies with Federal permit and review respon-
17 sibilities prior to submittal of a permit application, and
18 coordinate the efficient application for permits and ap-
19 provals required by Federal agencies. Nothing in this sub-
20 section precludes an applicant from contacting other rel-
21 evant Federal agencies directly.

22 (c) REGULATIONS.—The Secretary shall—

23 (1) promulgate regulations, after consulting
24 with relevant Federal agencies, coastal States, re-
25 gional fishery management councils, and tribal gov-

1 ernments (within the meaning of such term in Exec-
2 utive Order 13175 (65 Fed. Reg. 67249)) to imple-
3 ment this Act, including—

4 (A) procedures to issue, modify, deny, re-
5 voke, or suspend an offshore aquaculture per-
6 mit;

7 (B) procedures to coordinate the offshore
8 aquaculture permitting process, with similar or
9 complementary activities administered by other
10 Federal agencies, tribal governments, and
11 coastal States;

12 (C) procedures to monitor and evaluate
13 permit compliance;

14 (D) procedures to transfer an offshore
15 aquaculture permit from an original permit
16 holder to a person that meets the requirements
17 under section 6(a);

18 (E) procedures to consider public-private
19 partnerships;

20 (F) procedures to minimize, as much as
21 practicable, conflicts with existing uses in the
22 exclusive economic zone; and

23 (G) development of an offshore aqua-
24 culture permit that can be issued in accordance
25 with the requirements of section 6; and

1 (2) promulgate such additional regulations as
2 are necessary and appropriate to carry out this Act.

3 (d) AGREEMENTS.—The Secretary may enter into
4 and perform such contracts, leases, or cooperative agree-
5 ments, and make and receive such grants or funds, as may
6 be necessary to carry out this Act.

7 (e) ASSURANCE OF ANIMAL HEALTH.—

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

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

15 (B) operate as the lead Federal agency for
16 providing animal health oversight for cultured
17 species in the exclusive economic zone.

18 (2) CRITERIA FOR PRACTICING VETERINARY
19 MEDICINE IN WATERS OUTSIDE STATE JURISDIC-
20 TION.—A veterinarian may practice veterinary medi-
21 cine in waters outside State jurisdiction if the veteri-
22 narian—

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

1 (B) holds a category II veterinary accredi-
2 tation from the Animal and Plant Health In-
3 spection Service that includes completion of
4 aquatic animal health modules of the Animal
5 and Plant Health Inspection Service; and

6 (C) has a valid veterinarian client-patient
7 relationship with the facility in which he or she
8 is practicing veterinary medicine.

9 **SEC. 6. OFFSHORE AQUACULTURE PERMITS.**

10 (a) IN GENERAL.—After the Secretary promulgates
11 final regulations under section 5(c)(1), the Secretary may
12 issue an offshore aquaculture permit if the Secretary de-
13 termines that—

14 (1) the applicant has demonstrated that the off-
15 shore aquaculture facility will be—

16 (A) maintained in good working order; and

17 (B) operated and sited in a manner that
18 minimizes adverse impacts on the marine envi-
19 ronment;

20 (2) the proposed offshore aquaculture facility is
21 consistent with national policy goals and objectives,
22 including sustainable and healthy fisheries, maritime
23 shipping, and environmental quality, consistent with
24 section 10; and

1 (3) issuance of the offshore aquaculture permit
2 is not prohibited under section 7(b).

3 (b) AUTHORIZED ACTIVITIES.—An offshore aqua-
4 culture permit holder—

5 (1) shall be authorized to conduct offshore
6 aquaculture consistent with this Act (including regu-
7 lations), other applicable provisions of law (including
8 regulations), and any terms or conditions prescribed
9 under subsection (d)(2); and

10 (2) may raise specified cultured species in a
11 specific offshore aquaculture facility within a speci-
12 fied area of the exclusive economic zone if the cul-
13 tured species is considered—

14 (A) native to the region where the aqua-
15 culture facility is located;

16 (B) sterile or otherwise not capable of pro-
17 ducing viable offspring; or

18 (C) by the best available science, to be not
19 likely to become invasive and cause undue harm
20 to wild species, habitats, or ecosystems, or sup-
21 plement existing invasive populations, in the
22 event of an escape.

23 (c) PERMIT PROCEDURE.—

1 (1) APPLICATION.—An applicant for a permit
2 shall submit an application to the Secretary. The ap-
3 plication shall specify—

4 (A) the proposed location of the offshore
5 aquaculture facility;

6 (B) the type of operation;

7 (C) the cultured species, or a specified
8 range of species, to be propagated or reared, or
9 both, at the offshore aquaculture facility;

10 (D) the ways in which the permit holder
11 will address potential environmental impacts,
12 including invasive species, pathogens, impacts
13 on benthic habitat and water quality;

14 (E) a plan to protect the health of the cul-
15 tured species described in subparagraph (C), in-
16 cluding a plan for responding to a disease out-
17 break;

18 (F) such other design, construction, and
19 operational information, as the Secretary may
20 require, including measures to withstand sig-
21 nificant weather events that could damage or
22 impact the offshore aquaculture facility and a
23 contingency plan for responding to an escape of
24 farmed fish of the proposed cultured species,
25 from the offshore aquaculture facility, including

1 a response to a technical failure of the facility
2 that presents a navigational hazard;

3 (G) a plan for conducting necessary envi-
4 ronmental monitoring; and

5 (H) a facility decommissioning plan.

6 (2) NOTICE.—The Secretary shall provide pub-
7 lic notice and an opportunity for public comment for
8 each offshore aquaculture permit application. To the
9 extent practicable, the public notice for each permit
10 application shall fulfill the public notice requirement
11 for all Federal agencies under all applicable provi-
12 sions of law, and the response to public comment
13 shall include all agency responses to all aspects of
14 each facility or group of facilities.

15 (3) DEADLINES FOR CONSIDERATION OF APPLI-
16 CATIONS FOR PERMITS.—Not later than 10 days
17 after the date on which the Secretary receives an
18 offshore aquaculture permit application, the Sec-
19 retary shall—

20 (A) notify the applicant that the applica-
21 tion is complete; or

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

1 (4) ISSUANCE OR DEFERRAL.—Not later than
2 30 days after the period for public comments on a
3 completed application has concluded, the Secretary
4 shall—

5 (A) issue the permit, if the requirements
6 under the National Environmental Policy Act of
7 1969 (42 U.S.C. 4321 et seq.) and other appli-
8 cable law have been completed within such
9 timeframe; or

10 (B) defer the decision on the permit and
11 provide to the applicant a notice—

12 (i) that specifies any steps that the
13 applicant could take for the permit to be
14 issued; and

15 (ii) a list of actions that need to be
16 taken by the agency to complete compli-
17 ance with applicable law together with
18 timelines and deadlines for completing
19 such actions.

20 (5) REQUIREMENTS FOR DEFERRED APPLICA-
21 TIONS.—

22 (A) IN GENERAL.—If the Secretary pro-
23 vides notice under paragraph (4)(B), the appli-
24 cant shall have a period of 2 years from the
25 date of receipt of the notice in which to com-

1 plete all requirements specified by the Sec-
2 retary, including providing information needed
3 for compliance with the National Environmental
4 Policy Act of 1969.

5 (B) ISSUANCE OF DECISION ON PERMIT.—

6 If the applicant completes the requirements
7 within the period specified in subparagraph (A),
8 the Secretary shall issue a decision on the per-
9 mit not later than 10 days after the date of
10 completion of the requirements described in
11 subparagraph (A), unless compliance with the
12 National Environmental Policy Act of 1969 and
13 other applicable law has not been completed
14 within such timeframe.

15 (C) DENIAL OF PERMIT.—If the applicant

16 does not complete the requirements within the
17 period specified in subparagraph (A) or if the
18 applicant does not comply with applicable law,
19 the Secretary shall deny the permit.

20 (d) ELIGIBLE APPLICANTS.—An offshore aqua-

21 culture permit holder shall be—

22 (1) a citizen or permanent resident of the
23 United States; or

24 (2) a corporation, partnership, or other entity
25 that—

1 (A) is organized and existing under the
2 laws of a State or the United States; and

3 (B) is not State-owned or majority-con-
4 trolled by a State-owned enterprise.

5 (e) DURATION.—

6 (1) IN GENERAL.—An offshore aquaculture per-
7 mit shall have an initial 25-year duration, and may
8 be renewed subject to the terms of this Act.

9 (2) EXCEPTIONS.—

10 (A) The Secretary shall develop the dura-
11 tion of an offshore aquaculture permit for a
12 project involving pilot-scale testing or farm-
13 scale research on aquaculture science and tech-
14 nologies.

15 (B) The Secretary shall develop the dura-
16 tion of an offshore aquaculture permit subject
17 to subsection (m)(1), in consultation with the
18 Secretary of the Interior, except that the permit
19 shall expire not later than the date that the les-
20 see or the lessee's operator submits, to the Sec-
21 retary of the Interior, a final application for the
22 decommissioning and removal of an existing fa-
23 cility upon which an offshore aquaculture facil-
24 ity is located.

1 (f) RENEWAL.—An offshore aquaculture permit hold-
2 er may renew a permit for an additional 25-year period
3 before the end of the original permit’s duration provided
4 that the permit or amended permit complies with existing
5 requirements.

6 (g) REVOCATION.—The Secretary may, pursuant to
7 regulations issued under this Act, revoke an offshore
8 aquaculture permit if—

9 (1) the permit holder fails to begin offshore
10 aquaculture operations within 2 years from the date
11 the required Federal permits are obtained;

12 (2) there is a prolonged interruption of offshore
13 aquaculture operations, unrelated to best manage-
14 ment practices such as fallowing, which the Sec-
15 retary may consider to be prolonged no sooner than
16 2 years after the initial interruption; or

17 (3) the permit holder repeatedly violates the
18 conditions of the aquaculture permit and the Sec-
19 retary determines that such violations are severe
20 enough to warrant discontinuation of operations.

21 (h) EXPIRATION.—Not later than 1 year after the ex-
22 piration or termination of an offshore aquaculture permit,
23 a permit holder shall—

24 (1) remove all structures, gear, and other prop-
25 erty from the site; and

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

3 (i) EMERGENCY DETERMINATION.—If the Secretary
4 determines that an emergency exists that poses a signifi-
5 cant risk to the safety of humans, to the marine environ-
6 ment, to cultured species, to a marine species, or to the
7 security of the United States and that requires suspen-
8 sion, modification, or revocation of an offshore aqua-
9 culture permit, the Secretary may suspend, modify, or re-
10 voke the permit for such time as the Secretary determines
11 is necessary to address the emergency. The Secretary shall
12 afford the permit holder a prompt post-suspension, post-
13 modification, or post-revocation opportunity to be heard
14 regarding the suspension, modification, or revocation.

15 (j) FEES.—

16 (1) ESTABLISHMENT.—The Secretary may es-
17 tablish, by regulation, application fees and annual
18 permit fees. The fees shall be deposited as offsetting
19 collections in the Operations, Research, and Facili-
20 ties account. Fees may be collected and made avail-
21 able to the extent provided in advance in appropria-
22 tion Acts. Such fees shall be set as an amount such
23 that the total revenue from such fees does not ex-
24 ceed the amount required to cover the costs of man-
25 agement, data collection, analysis, inspection, and

1 enforcement activities related to permits under this
2 section.

3 (2) WAIVERS.—The Secretary may waive, in
4 whole or in part, any fee under this section if an off-
5 shore aquaculture facility is used primarily for re-
6 search.

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

13 (A) any unpaid fees;

14 (B) the cost of removing an offshore aqua-
15 culture facility at the expiration or termination
16 of an offshore aquaculture permit; and

17 (C) the cost of site remediation for impacts
18 arising from authorized activities.

19 (k) MAGNUSON-STEVENSON FISHERY CONSERVATION
20 AND MANAGEMENT ACT.—Beginning on the effective date
21 of the final regulations promulgated under section 5(c)(1),
22 the conduct of offshore aquaculture that is in accordance
23 with an offshore aquaculture permit issued under this Act
24 shall not be considered fishing for purposes of the Magnu-

1 son-Stevens Fishery Conservation and Management Act
2 (16 U.S.C. 1801 et seq.).

3 (l) STATUTORY CONSTRUCTION.—An offshore aqua-
4 culture permit issued under this Act shall not supersede
5 or substitute for any other authorization required under
6 Federal or State laws (including regulations).

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

9 (1) NOTIFICATION OF SECRETARY OF THE IN-
10 TERIOR.—The Secretary shall notify the Secretary
11 of the Interior for each application for an offshore
12 aquaculture permit that is located on the outer con-
13 tinental shelf.

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

21 (3) COMPLIANCE REVIEW.—The Secretary of
22 the Interior shall review and approve each agree-
23 ment between a prospective offshore aquaculture op-
24 erator and a lessee. The Secretary of the Interior
25 shall ensure that the agreement is consistent with

1 the Federal lease terms, Department of the Interior
 2 regulations, and the Secretary of the Interior's role
 3 in the protection of the marine environment, prop-
 4 erty, and human life or health. An agreement under
 5 this subsection shall—

6 (A) be part of the information reviewed
 7 under the Coastal Zone Management Act review
 8 process under paragraph (4); and

9 (B) not be subject to a separate Coastal
 10 Zone Management Act review.

11 (4) COORDINATED COASTAL ZONE MANAGE-
 12 MENT ACT REVIEW.—

13 (A) STATE REVIEW UNDER SECTION
 14 307(c)(3)(A) OF THE COASTAL ZONE MANAGE-
 15 MENT ACT OF 1972.—

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

24 (I) the information related to the
 25 modification or change; and

1 (II) the offshore aquaculture per-
2 mit applicant's consistency certifi-
3 cation.

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

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

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

22 (aa) to the offshore aqua-
23 culture permit; and

24 (bb) to any related modifica-
25 tion or change to a lessee's plan

1 approved under the Outer Conti-
2 nental Shelf Lands Act (43
3 U.S.C. 1331 et seq.).

4 (B) STATE REVIEW UNDER SECTION
5 307(c)(3)(B) OF THE COASTAL ZONE MANAGE-
6 MENT ACT OF 1972.—To the extent that a
7 coastal State is not authorized by section
8 307(c)(3)(A) of the Coastal Zone Management
9 Act of 1972 (16 U.S.C. 1456(c)(3)(A)) to re-
10 view an offshore aquaculture permit application
11 submitted under this Act, then a modification
12 or change to a lessee’s approved plan shall be
13 subject to coastal State review under section
14 307(c)(3)(B) of such Act if a consistency cer-
15 tification for the modification or change is re-
16 quired under applicable Federal regulations.

17 (C) LESSEE’S APPROVED PLAN DE-
18 FINED.—In this paragraph, the term “lessee’s
19 approved plan” includes a document for which
20 a consistency certification is required under ap-
21 plicable Federal regulations, such as a change
22 to the approved plan for decommissioning a fa-
23 cility.

24 (5) ADDITIONAL AUTHORITY.—

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

3 (i) promulgate rules and regulations
4 as necessary and appropriate;

5 (ii) require and enforce any additional
6 terms or conditions that the Secretary of
7 the Interior considers necessary to ensure
8 the compatibility of aquaculture operations
9 with activities for which permits, author-
10 izations, leases, negotiated agreements,
11 right-of-way, or right-of-use and easement
12 were issued under the Outer Continental
13 Shelf Lands Act (43 U.S.C. 1331 et seq.);

14 (iii) issue an order to an offshore
15 aquaculture permit holder to take any ac-
16 tion the Secretary of the Interior considers
17 necessary to ensure safe operations on the
18 facility, and to protect the marine environ-
19 ment, property, or human life or health;
20 and

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

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

6 (n) PERMITTING HARMONIZATION.—

7 (1) IN GENERAL.—In promulgating the regula-
8 tions required to implement this Act, the Secretary
9 shall, to the maximum extent practicable, minimize
10 duplication and harmonize timelines and require-
11 ments with other required Federal permits. Efforts
12 under this subsection shall include coordinating
13 timelines for permit application and review processes
14 (including public notice and comment periods) and
15 aligning information requests and reporting require-
16 ments for permit applicants and permit holders.

17 (2) ENVIRONMENTAL ANALYSIS.—The National
18 Oceanic and Atmospheric Administration, through
19 the Office of Marine Aquaculture and associated di-
20 visions, shall be responsible for coordinating any en-
21 vironmental analysis or environmental impact state-
22 ment required under the National Environmental
23 Policy Act of 1969 (42 U.S.C. 4321 et seq.) by serv-
24 ing as the lead Federal agency for a single consoli-
25 dated environmental review for all applicable Federal

1 permits for an offshore aquaculture facility or group
2 of facilities, with input from other Federal agencies
3 as cooperating agencies under such Act.

4 (3) COORDINATION OF PERMITTING ACTIVITIES.—To the extent practicable under this Act and
5 all other applicable laws and regulations, Federal
6 agencies with permitting requirements applicable to
7 offshore aquaculture facilities shall coordinate all
8 permitting activities with the Office of Marine Aqua-
9 culture. Such coordination shall include the fol-
10 lowing:
11

12 (A) Coordinating permit requirements, per-
13 mit application and review procedures, and
14 monitoring and reporting requirements, and
15 eliminating duplicative requirements.

16 (B) Aligning permit application and review
17 timelines.

18 (C) Participating as a cooperating agency
19 in the preparation of any environmental anal-
20 ysis or environmental impact statement re-
21 quired under the National Environmental Pol-
22 icy Act of 1969 (42 U.S.C. 4321 et seq.) for an
23 offshore aquaculture facility or facilities.

24 (D) Contributing to the single request for
25 public comment and the consolidated response

1 to public comment prepared pursuant to sub-
2 section (c)(2).

3 (4) DELEGATION.—Unless otherwise prohibited,
4 a Federal agency with regulatory authority for off-
5 shore aquaculture may delegate its authority to an-
6 other Federal agency.

7 **SEC. 7. RESTRICTIONS ON OFFSHORE AQUACULTURE AC-**
8 **TIVITIES.**

9 (a) IN GENERAL.—Except as provided in subsection
10 (c), no person may engage in offshore aquaculture except
11 in accordance with an offshore aquaculture permit—

12 (1) issued under section 6; or

13 (2) issued, before the date of enactment of this
14 Act, under the Magnuson-Stevens Fishery Conserva-
15 tion and Management Act (16 U.S.C. 1801 et seq.).

16 (b) STATES WITH CERTAIN LAWS REGARDING
17 AQUACULTURE.—With respect to a coastal State that has
18 in effect a law that bans or prohibits certain types of aqua-
19 culture, cultured species shall be permitted in the exclusive
20 economic zone adjacent to such State consistent with the
21 law of such State.

22 (c) SAVINGS CLAUSE.—Nothing in this Act shall su-
23 persepe permit applications in process on the date of en-
24 actment of this Act or permits that are in place on the
25 date of enactment of this Act.

1 **SEC. 8. RECORDKEEPING AND ACCESS TO INFORMATION.**

2 (a) REGULATIONS.—The Secretary, after consulta-
3 tion with other interested Federal departments and agen-
4 cies, shall prescribe by regulation—

5 (1) the records that a permit holder is required
6 to establish and maintain;

7 (2) the reports that a permit holder is required
8 to make;

9 (3) the information that a permit holder is re-
10 quired to provide, which shall include—

11 (A) data regarding escape events;

12 (B) the prevalence of disease in the off-
13 shore aquaculture facility, including a descrip-
14 tion of veterinary services provided for treat-
15 ment; and

16 (C) other information, as the Secretary
17 may require; and

18 (4) any other recordkeeping that a permit hold-
19 er is required to satisfy, as necessary to carry out
20 this Act.

21 (b) GOVERNMENT ACCESS.—Any United States offi-
22 cial with an official responsibility for implementing and
23 enforcing United States laws applicable to maritime fish-
24 ing, shipping, or conservation, shall have reasonable ac-
25 cess, at all times, to an offshore aquaculture facility for
26 which a permit is issued under this Act (for the purpose

1 of enforcing laws under the official's jurisdiction or other-
2 wise carrying out the official's responsibilities). Such an
3 official may inspect, at reasonable times, records, files, pa-
4 pers, permits, processes, controls, and the offshore aqua-
5 culture facility and may test any feature of the offshore
6 aquaculture facility. Each inspection shall be conducted
7 with reasonable promptness. The permit holder shall re-
8 ceive timely notification, in writing, of the results of the
9 inspection.

10 (c) INSPECTION.—

11 (1) FREQUENCY.—The Secretary shall con-
12 duct—

13 (A) an annual inspection of offshore aqua-
14 culture facilities for which a permit is issued
15 under section 6 for the first 5 years after
16 issuance of the permit; and

17 (B) a biennial inspection of such facilities
18 thereafter.

19 (2) NOTICE.—The Secretary shall provide rea-
20 sonable notice prior to site inspections at offshore
21 aquaculture facilities pursuant to paragraph (1).

22 (3) FACILITIES LOCATED ON THE OUTER CON-
23 TINENTAL SHELF.—The Secretary of the Interior, or
24 a designee of such Secretary, is authorized with in-
25 spection authority under subsection (b)(1) for ma-

1 rine aquaculture facilities located on the outer conti-
2 nental shelf.

3 **SEC. 9. PROGRAMMATIC ENVIRONMENTAL IMPACT STATE-**
4 **MENTS.**

5 (a) IN GENERAL.—The Secretary shall initiate and
6 lead programmatic environmental impact statements (re-
7 ferred to in this section as “EISs”) for areas of the exclu-
8 sive economic zone determined by the Secretary to be
9 highly favorable for marine aquaculture and likely compat-
10 ible with other uses of such areas.

11 (b) DISTRIBUTION.—The programmatic EISs con-
12 ducted by the Secretary pursuant to subsection (a) need
13 not cover the entirety of the exclusive economic zone, but
14 the Secretary shall attempt to provide coverage in each
15 area of the exclusive economic zone, including the East
16 Coast, Gulf Coast, West Coast, and other areas of the At-
17 lantic and Pacific in the jurisdiction of the United States.

18 (c) REQUIREMENTS.—The following shall apply:

19 (1) Programmatic EISs shall not supersede the
20 requirements of the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4321 et seq.).

22 (2) Individual projects may require additional
23 review pursuant to the National Environmental Pol-
24 icy Act of 1969 (42 U.S.C. 4321 et seq.) to support
25 project-level decisionmaking and to analyze specific

1 issues of concern to other Federal agencies, States,
2 and other stakeholders at the project level.

3 (3) Programmatic and project-specific processes
4 pursuant to the National Environmental Policy Act
5 of 1969 (42 U.S.C. 4321 et seq.) described in this
6 section should consider all public input, including
7 local and regional concerns.

8 **SEC. 10. ENVIRONMENTAL AND MANAGEMENT STANDARDS.**

9 In issuing permits under section 6 and conducting the
10 programmatic environmental impact statements under
11 section 9, the Secretary shall—

12 (1) consult with appropriate Federal agencies,
13 coastal States, and regional fishery management
14 councils to identify the environmental and manage-
15 ment requirements and standards that apply to off-
16 shore aquaculture under existing Federal and State
17 laws (including regulations); and

18 (2) consider environmental and management
19 factors that apply to offshore aquaculture under ex-
20 isting Federal and State law that—

21 (A) are compatible with the use of the ex-
22 clusive economic zone for navigation, fishing,
23 resource protection, recreation, national defense
24 (including military readiness), mineral and en-
25 ergy exploration and development, transpor-

1 tation, and other activities within the exclusive
2 economic zone;

3 (B) are consistent with conservation and
4 management measures under the Magnuson-
5 Stevens Fishery Conservation and Management
6 Act (16 U.S.C. 1801 et seq.) and will not un-
7 reasonably interfere with fishing access;

8 (C) recognize the importance of fishery re-
9 sources to fishing communities as described in
10 section 301(a)(8) of the Magnuson-Stevens
11 Fishery Conservation and Management Act (16
12 U.S.C. 1851(a)(8));

13 (D) to the extent practicable, avoid, mini-
14 mize, or mitigate adverse impacts to the marine
15 environment;

16 (E) avoid, minimize, or mitigate to the ex-
17 tent practicable the risk to and impacts on wild
18 fish stocks and fisheries;

19 (F) use only cultured species in Federal
20 waters that are described in section 6(b)(2);

21 (G) prevent the transmission of disease or
22 parasites to wild stocks;

23 (H) prevent the escape of culture species
24 that may cause significant environmental harm;

1 (I) minimize the risks and impacts on bio-
2 logical, chemical, and physical features of water
3 quality; and

4 (J) avoid, minimize, or mitigate, to the ex-
5 tent practicable, the cumulative adverse effects
6 of the offshore aquaculture operation in consid-
7 eration of other existing offshore aquaculture
8 operations in the vicinity of the proposed site.

9 **SEC. 11. RESEARCH AND DEVELOPMENT GRANT PROGRAM.**

10 (a) IN GENERAL.—The Secretary shall establish, in
11 consultation with applicable Federal agencies, coastal
12 States, tribal governments, regional fishery management
13 councils, academic institutions, and interested stake-
14 holders, a research and development grant program to fur-
15 ther the purposes of this Act. In carrying out this sub-
16 section, the Secretary shall consider utilizing existing pro-
17 grams that leverage State and local partnerships and take
18 advantage of the extramural research community, includ-
19 ing the Saltonstall-Kennedy Grant Program, the National
20 Sea Grant College Program, the National Oceanographic
21 Partnership Program, and consortium of institutions.

22 (b) COMPONENTS.—The research and development
23 grant program shall award competitive, peer-reviewed
24 grants to fund research and extension services—

1 (1) to improve the understanding and applica-
2 tion of larviculture for improving larval survival and
3 breeding practices for cultured species and species of
4 future interest for marine aquaculture;

5 (2) to advance the understanding and applica-
6 tion of genetics research with respect to cultured
7 species and potential interactions with wild stocks;

8 (3) to advance research into cultured species
9 disease and management, mitigation, and prevention
10 of disease, including efforts to support the develop-
11 ment of comprehensive fish health management
12 tools, including access to safe and effective vaccines,
13 therapeutants, and therapies;

14 (4) to develop cost-effective alternative feeds to
15 optimize the use of wild fish, fish oil, plants, and al-
16 ternative sources of protein and lipids in marine
17 aquaculture feeds and maintain the human health
18 benefits of cultured seafood;

19 (5) to improve techniques for monitoring, as-
20 sessing, and addressing environmental and socio-
21 economic effects;

22 (6) to develop and evaluate methodologies to
23 prevent, minimize, and mitigate potential adverse
24 ecosystem and socioeconomic impacts of marine

1 aquaculture, including methods for avoiding inter-
2 actions with living marine resources;

3 (7) to conduct research to document and in-
4 crease the potential positive effects of marine aqua-
5 culture;

6 (8) to transition innovative aquaculture tech-
7 nologies, including technologies focused on the com-
8 mercialization of high-value marine species, from
9 laboratory studies to commercial and restoration
10 projects that create new, and support existing, jobs
11 in coastal communities, produce healthful locally
12 sourced seafood, revitalize working waterfronts, sup-
13 port traditional fishing communities, and restore de-
14 pleted species and habitat;

15 (9) to advance engineering solutions for marine
16 aquaculture, to develop new technologies, to design
17 engineering innovations to reduce the potential for
18 environmental impacts of marine aquaculture facili-
19 ties, and to refine existing aquaculture cultivation
20 practices;

21 (10) to monitor and assess the effects of envi-
22 ronmental changes on marine aquaculture, and de-
23 velop adaptation strategies;

24 (11) to enhance and develop seafood marketing
25 programs for aquaculture species as part of broader

1 Federal seafood marketing initiatives to promote
2 trade in both wild-caught and farmed seafood under
3 existing grant programs; and

4 (12) to investigate other priority issues identi-
5 fied by the Secretary.

6 (c) COORDINATION WITH OTHER FEDERAL PRO-
7 GRAMS.—The Secretary shall—

8 (1) coordinate aquaculture research and devel-
9 opment grants within the Department of Commerce
10 and with other Federal programs that provide grant
11 funding for purposes similar to those under sub-
12 section (b), such as grants administered by the Na-
13 tional Sea Grant College Program and the National
14 Institute of Standards and Technology; and

15 (2) coordinate the research and development
16 grant program established in this section with the
17 interagency aquaculture coordinating group estab-
18 lished under section 6 of the National Aquaculture
19 Act of 1980 (16 U.S.C. 2805) and with the research
20 and development conducted through the Cooperative
21 Extension System of the Department of Agriculture.

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

1 **SEC. 12. ENFORCEMENT.**

2 (a) PROHIBITED ACTS.—It is unlawful for any per-
3 son—

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

6 (2) to refuse to permit any officer authorized to
7 enforce the provisions of this Act (in accordance
8 with subsection (b)) access an offshore aquaculture
9 facility subject to such person's control, or any on-
10 shore facility, vessel, or other conveyance associated
11 with such facility, for purposes of conducting any
12 search or inspection in connection with the enforce-
13 ment of this Act or any regulation or permit referred
14 to in paragraph (1);

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

19 (4) to resist a lawful arrest for any act prohib-
20 ited by this subsection;

21 (5) to ship, transport, offer for sale, sell, pur-
22 chase, import, export, or have custody, control, or
23 possession of, any fish produced, taken, retained, or
24 possessed in violation of this Act or any regulation
25 or permit referred to in paragraph (1);

1 (6) to interfere with, delay, or prevent, by any
2 means, the apprehension or arrest of another person,
3 knowing that such other person has committed any
4 act prohibited by this subsection;

5 (7) to knowingly and willfully submit to the
6 Secretary or the Governor of a State false informa-
7 tion regarding any matter that the Secretary or Gov-
8 ernor is considering in the course of carrying out
9 this Act; or

10 (8) without authorization, to remove, damage,
11 or tamper with—

12 (A) an offshore aquaculture facility owned
13 by another person, which is located in the exclu-
14 sive economic zone, including any component
15 thereof; or

16 (B) cultured species contained in such fa-
17 cility or component thereof.

18 (b) AUTHORITIES AND RESPONSIBILITIES.—

19 (1) IN GENERAL.—The authorities and respon-
20 sibilities under subsections (a), (b), (c), and (e) of
21 section 311 and subsection (f) of section 308 of the
22 Magnuson-Stevens Fishery Conservation and Man-
23 agement Act (16 U.S.C. 1861, 1858) and para-
24 graphs (2), (3), and (7) of section 310(b) of the
25 Antarctic Marine Living Resources Convention Act

1 of 1984 (16 U.S.C. 2439(b)) shall apply with re-
2 spect to enforcement of this Act.

3 (2) INCLUDED FACILITIES AND CONVEY-
4 ANCES.—For purposes of enforcing this Act, any
5 reference in the subsections and paragraphs listed in
6 paragraph (1)—

7 (A) to a “vessel” or “fishing vessel” in-
8 cludes all offshore aquaculture facilities, and all
9 associated onshore facilities, vessels, and other
10 conveyances; and

11 (B) to “fish”, “marine resource”, or “ma-
12 rine resources” includes cultured species.

13 (3) APPLICATION OF OTHER PROVISIONS.—The
14 subsections and paragraphs listed in paragraph (1)
15 apply to violations of this Act and any regulations
16 promulgated under this Act.

17 (c) CIVIL ENFORCEMENT.—Any person who commits
18 any act that is unlawful under subsection (a) shall be lia-
19 ble to the United States for a civil penalty, and may be
20 subject to a permit sanction, under section 308(g) of the
21 Magnuson-Stevens Fishery Conservation and Manage-
22 ment Act (16 U.S.C. 1858(g)).

23 (d) FORFEITURE.—Any offshore aquaculture facility,
24 and any associated onshore facilities, vessel, or other con-
25 veyance (including its gear, furniture, appurtenances,

1 stores, and cargo) used, and any cultured species (or the
2 fair market value thereof) produced, taken, sold, pur-
3 chased, retained, imported, exported, or possessed in con-
4 nection with or as result of the commission of any act pro-
5 hibited by subsection (a) shall be subject to forfeiture
6 under section 310 of the Magnuson-Stevens Fishery Con-
7 servation and Management Act (16 U.S.C. 1860).

8 (e) **CRIMINAL ENFORCEMENT.**—Any person who
9 commits any act prohibited by paragraph (2), (3), (4), (6),
10 or (7) of subsection (a) is guilty of an offense under sec-
11 tion 309 of the Magnuson-Stevens Fishery Conservation
12 and Management Act (16 U.S.C. 1859).

13 (f) **SAVINGS CLAUSE.**—Notwithstanding any other
14 provision of law, no enforcement action under this Act
15 may take place without a warrant, if a warrant would be
16 required for the enforcement of a similar provision of law
17 under Federal or applicable State law.

18 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

19 (a) **IN GENERAL.**—There are authorized to be appro-
20 priated to the Secretary for the purpose of carrying out
21 this Act—

- 22 (1) \$60,000,000 for fiscal year 2018;
- 23 (2) \$65,000,000 for fiscal year 2019;
- 24 (3) \$70,000,000 for fiscal year 2020;
- 25 (4) \$75,000,000 for fiscal year 2021; and

1 (5) \$80,000,000 for fiscal year 2022.

2 (b) SENSE OF CONGRESS.—It is the sense of Con-
3 gress that, in expending amounts appropriated under sub-
4 section (a), the Secretary should prioritize the pro-
5 grammatic environmental impact statement program
6 under section 9.

○