

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Marine Aquaculture Act of 2017”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec.1.Short title; table of contents.

Sec.2.Findings and purposes.

Sec.3.Definitions.

Sec.4.Restrictions on offshore aquaculture activities.

Sec.5.Administration.

Sec.6.Office of Aquaculture.

Sec.7.Research and development grant program.

Sec.8.Offshore aquaculture permits.

Sec.9.Restrictions by coastal States.

Sec.10.Recordkeeping and access to information.

Sec.11.Permitting harmonization.

Sec.12.Programmatic environmental impact statement.

Sec.13.Reporting and recordkeeping for certain products.

Sec.14.Authorization of appropriations.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds the following:

(1) There is increasing interest within the United States in developing commercial offshore aquaculture facilities in Federal waters and supporting marine aquaculture in State waters, in order to provide nutritious sustainable seafood for domestic consumption and export to global markets.

(2) There is no Federal program in the United States that provides a comprehensive, nationwide permitting system for, or management of, marine aquaculture facilities in the exclusive economic zone.

(3) Regulatory certainty and security of tenure are needed to make business investment decisions about offshore aquaculture.

(4) Potential economic, environmental, and social benefits can be derived from marine

aquaculture technologies, but to balance those against concerns about environmental and socioeconomic impacts, additional research and development is needed to adequately assess the potential for adverse impacts on the environment and toward ensuring that those impacts, if any, can be mitigated through improvements of marine aquaculture technologies.

(5) The United States is the leading global net importer of fish and fishery products, with over 90 percent of the seafood consumed in the United States, by value, imported from other countries, about 50 percent of which is derived from aquaculture. The United States, as a result, runs a substantial trade deficit in seafood.

(6) As affirmed by Congress in the National Aquaculture Act of 1980 (Public Law 96–362), marine aquaculture conducted in Federal waters is in the public interest.

(b) Purposes.—The purposes of this Act are—

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

(2) to safeguard the marine environment and our coastal communities;

(3) to support research and technology development to further these goals;

(4) to provide new jobs and to support existing jobs within the seafood industry of the United States; and

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

SEC. 3. DEFINITIONS.

In this Act:

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

(2) **CULTURED SPECIES.**—The term “cultured species” means finfish, mollusks, crustaceans, algae, and other marine species propagated and reared for marine aquaculture, excluding marine mammals, and birds.

(3) **EXCLUSIVE ECONOMIC ZONE.**—

(A) **IN GENERAL.**—Unless otherwise specified by the President in the public interest in a writing published in the Federal Register, the term “exclusive economic zone” means a zone, the outer boundary of which is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured (except as established by a maritime boundary treaty in force or being provisionally applied by the United States or, in the absence of such a treaty, where the distance between the United States and another country is less than 400 nautical miles, a line equidistant between the United States and the other country).

(B) **INNER BOUNDARY.**—Without affecting any Presidential Proclamation with regard to the establishment of the United States territorial sea or exclusive economic zone, the inner boundary of the exclusive economic zone is—

(i) in the case of the coastal States, a line coterminous with the seaward boundary of each such State, as described in section 4 of the Submerged Lands Act (43 U.S.C. 1312);

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

(iii) in the case of American Samoa, the Virgin Islands, and Guam, a line 3 geographic miles from the coastlines of American Samoa, the Virgin Islands, or Guam, respectively;

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

(I) the coastline of the Commonwealth of the Northern Mariana Islands, until the Commonwealth of the Northern Mariana Islands is granted authority by the United States to regulate all fishing to a line seaward of its coastline; and

(II) upon the United States grant of such authority, the line established by such grant of authority; or

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

(C) CONSTRUCTION.—Nothing in this definition may be construed to diminish the authority of the Department of Defense, the Department of the Interior, or any other Federal department or agency.

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

(5) OFFICE.—Except as otherwise specifically provided, the term “Office” means the Office of Aquaculture within the National Marine Fisheries Service at the National Oceanic and Atmospheric Administration established under section 6(a).

(6) OFFSHORE AQUACULTURE.—The term “offshore aquaculture” means any activities involved in the propagation, rearing, or attempted propagation or rearing, of cultured species in the exclusive economic zone.

(7) MARINE AQUACULTURE.—The term “marine aquaculture” means any activities involved in the propagation, rearing, or attempted propagation or rearing, of cultured species saltwater conditions either in the exclusive economic zone or in State waters.

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

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

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

(9) SECRETARY.—Except as otherwise specifically provided, the term “Secretary” means the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 4. RESTRICTIONS ON OFFSHORE AQUACULTURE ACTIVITIES.

(a) In General.—Except as provided in subsection (b), no person may engage in offshore aquaculture except—

- (1) in accordance with an offshore aquaculture permit issued under section 8; or
- (2) under section 8(k)(2)(B).

(b) Savings Clause.—Nothing in this Act shall supersede permit applications in process on the date of enactment of this Act or permits that are in place on the date of enactment of this Act.

SEC. 5. ADMINISTRATION.

(a) Regulations.—The Secretary—

(1) shall initiate a rulemaking process, after consulting with relevant Federal agencies, coastal States, Tribal governments, and regional fishery management councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852), to implement this Act, including—

- (A) procedures to issue, modify, deny, revoke, or suspend an offshore aquaculture permit;
- (B) procedures to coordinate the offshore aquaculture permitting process, with similar activities administered by other Federal agencies, Tribal governments, and coastal States;
- (C) procedures to monitor and evaluate permit compliance;
- (D) procedures to transfer an offshore aquaculture permit from an original permit holder to a person that meets the requirements under section 8; and
- (E) development of an offshore aquaculture permit that can be issued in accordance with the qualifications described in section 8; and

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

(b) Agreements.—The Secretary may enter into and perform such contracts, leases, or cooperative agreements, and make and receive such grants, as may be necessary to carry out this Act.

(c) Application of Laws to Offshore Aquaculture Facilities in the Exclusive Economic Zone.—The Constitution, laws, and treaties of the United States shall apply to an offshore aquaculture facility located in the exclusive economic zone for which an offshore aquaculture permit was issued and to activities in the exclusive economic zone connected, associated, or potentially interfering with the use or operation of the offshore aquaculture facility in the same manner as if the offshore aquaculture facility were an area of exclusive Federal jurisdiction located within a State.

(d) Assurance of Animal Health.—

- (1) IN GENERAL.—The Veterinary Services of the Animal and Plant Health Inspection

Service of the Department of Agriculture shall provide aquatic animal health oversight for commercially cultured aquatic animals in waters outside State jurisdiction.

(2) CRITERIA FOR PRACTICING VETERINARY MEDICINE IN WATERS OUTSIDE STATE JURISDICTION.—A veterinarian may practice veterinary medicine in waters outside State jurisdiction if the veterinarian—

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

(B) holds a category II veterinary accreditation from the Animal and Plant Health Inspection Service that includes completion of aquatic animal health modules of the Animal and Plant Health Inspection Service; and

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

SEC. 6. OFFICE OF AQUACULTURE.

(a) Office of Aquaculture.—The Secretary shall establish and provide resources to an Office of Aquaculture within the National Marine Fisheries Service at the National Oceanic and Atmospheric Administration headquarters and aquaculture divisions in each of the National Oceanic and Atmospheric Administration's regional fisheries offices.

(b) Duties.—The Office of Aquaculture shall—

(1) be responsible for implementing this Act;

(2) coordinate regulatory, scientific, outreach, and international issues related to aquaculture within the National Oceanic and Atmospheric Administration;

(3) serve as the lead Federal agency for purposes of providing information on Federal permitting requirements for offshore aquaculture, arranging opportunities for prospective permit applicants to discuss proposed projects with other Federal agencies with Federal permit and review responsibilities prior to submittal of a permit application, and coordinating the efficient application for permits and approvals required by Federal agencies;

(4) issue aquaculture permits in the exclusive economic zone;

(5) coordinate the National Oceanic and Atmospheric Administration's aquaculture research portfolio to provide ecological, technological, economic, and social data and analysis in continuing to support and improve the effective and sustainable development, management, and regulation of private and public sector marine aquaculture and species restoration;

(6) support existing aquaculture outreach, education, extension services, and training efforts, such as those from the National Sea Grant College Program and divisions of the National Oceanic and Atmospheric Administration Regional Aquaculture Coordinators;

(7) provide opportunities for consultation among owners and operators of offshore aquaculture facilities, fisheries management councils, non-profit conservation organizations, for-profit fisheries associations, State governments, and other interested stakeholders;

(8) administer the research and development grant program under section 7;

(9) organize through each regional fisheries office a network of regional experts, in coordination with relevant organizations (including the National Sea Grant College Program and the USDA Regional Aquaculture Centers) to provide technical expertise and extension services on aquaculture;

(10) administer at least one Administration Regional Aquaculture Coordinator in each of the six National Marine Fisheries regions, which must be located at a regional office in the respective region; and

(11) perform such other functions as are necessary to carry out this Act.

(c) Advisory Board.—The Office shall coordinate its activities with the aquaculture advisory board of the Marine Fisheries Advisory Committee. The Marine Fisheries Advisory Committee shall designate the “Aquaculture Advisory Board” as a permanent, standing committee to serve as an external board to advise the Secretary on aquaculture.

SEC. 7. RESEARCH AND DEVELOPMENT GRANT PROGRAM.

(a) In General.—The Secretary shall establish, in consultation with applicable Federal agencies, coastal States, Tribal governments, regional fishery management councils, academic institutions, and interested stakeholders, a research and development grant program to further the purposes of this Act.

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

(1) to improve the understanding and application of larviculture for improving larval survival and breeding practices for cultured species and species of future interest for marine aquaculture;

(2) to advance the understanding and application of genetics research with respect to cultured species and potential interactions with wild stocks;

(3) to advance research into cultured species disease and management, mitigation, and prevention of disease, including efforts to support the development of comprehensive fish health management tools, including access to safe and effective vaccines, therapeutants, and therapies;

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

(5) to improve techniques for monitoring, assessing, and addressing environmental and socioeconomic effects and to develop and evaluate methodologies to prevent, minimize, and mitigate potential adverse ecosystem and socioeconomic impacts of marine aquaculture, including methods for avoiding interactions with living marine resources;

(6) to transition innovative aquaculture technologies from laboratory studies to commercial and restoration projects that create new, and support existing, jobs in coastal communities, produce healthful locally-sourced seafood, revitalize working waterfronts, support traditional fishing communities, and restore depleted species and habitat;

(7) to advance engineering solutions for offshore aquaculture, to develop new technologies, to design engineering innovations to reduce the potential for environmental impacts of marine aquaculture facilities, and to refine existing aquaculture cultivation practices;

(8) to monitor and assess the effects of environmental changes on marine aquaculture, and develop adaptation strategies;

(9) to enhance and develop seafood marketing programs for aquaculture species in order to promote trade and

(10) to investigate other priority issues identified by the Secretary.

(c) **Coordination With Other Federal Programs.**—The Secretary shall coordinate aquaculture research and development grants within the Department of Commerce and with other Federal programs that provide grant funding for purposes similar to those under subsection (b), such as grants administered by the National Sea Grant College Program and the National Institute of Standards and Technology.

SEC. 8. OFFSHORE AQUACULTURE PERMITS.

(a) **In General.**—After the Secretary promulgates final regulations under section 5(a)(1), the Secretary may issue an offshore aquaculture permit if the Secretary determines that—

(1) the applicant is able to demonstrate that the offshore aquaculture facility—

(A) will be constructed using the best practicable technology;

(B) will be maintained in good working order; and

(C) will be operated in a manner that prevents or minimizes adverse impacts on the marine environment;

(2) the construction and operation of the offshore aquaculture facility will not conflict with the national interest and is consistent with national policy goals and objectives, including sustainable and healthy fisheries, maritime shipping, and environmental quality; and

(3) issuance of the offshore aquaculture permit is not prohibited under section 9.

(b) **Authorized Activities.**—An offshore aquaculture permit holder—

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

(2) may raise specified cultured species in a specific offshore aquaculture facility within a specified area of the exclusive economic zone if the cultured species is considered endemic to the region where the aquaculture facility is located or is a continuation of species historically reared by aquaculture in the waters of a similar geographic region in the United States.

(c) **Permit Procedure.**—

(1) **APPLICATION.**—An applicant for a permit shall submit an application to the Secretary. The application shall specify—

- (A) the proposed location of the offshore aquaculture facility;
- (B) the type of operation;
- (C) the cultured species, or a range of species, to be propagated or reared, or both, at the offshore aquaculture facility;
- (D) the ways in which the permit holder will address potential environmental impacts, including invasive species, pathogens, impacts on benthic habitat and water quality; and
- (E) such other design, construction, and operational information, as the Secretary may require.

(2) NOTICE.—The Secretary shall provide public notice and an opportunity for public comment for each offshore aquaculture permit application. To the extent practicable, the public notice for each offshore aquaculture facility, or group of facilities, shall meet the public notice requirement for all Federal agencies under all applicable provisions of law, and the response to public comment shall include all agency responses to all aspects of each facility or group of facilities.

(3) DETERMINATION.—The Secretary shall determine an application is complete within 30 days of receiving the required documents. Not later than 120 days after the Secretary determines that an application is complete and that the applicant has satisfied applicable statutory and regulatory requirements, the Secretary shall issue the permit.

(d) Permit Requirements.—

(1) IN GENERAL.—An offshore aquaculture permit holder shall be—

- (A) a citizen or permanent resident of the United States; or
- (B) a corporation, partnership, or other entity organized and existing under the laws of a State or the United States.

(2) TERMS AND CONDITIONS.—Subject to subsection (m), the Secretary shall—

- (A) prescribe the terms and conditions that apply to each offshore aquaculture permit; and
- (B) specify in each permit the duration, size, and location of the offshore aquaculture facility.

(e) Duration.—

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

(2) EXCEPTIONS.—

(A) The Secretary shall develop the duration of an offshore aquaculture permit for a project involving pilot-scale testing or farm-scale research on aquaculture science and technologies, provided the project be less than a 5 year duration.

(B) The Secretary shall develop the duration of an offshore aquaculture permit under subsection (m)(1), in consultation with the Secretary of the Interior, except that the permit shall expire not later than the date that the lessee or the lessee's operator

submits, to the Secretary of the Interior, a final application for the decommissioning and removal of an existing facility upon which an offshore aquaculture facility is located.

(f) **Renewal.**—An offshore aquaculture permit holder may renew a permit before the end of the duration as long as the permit or amended permit complies with existing requirements.

(g) **Revocation.**—The Secretary may, pursuant to regulations issued under this Act, revoke an offshore aquaculture permit if—

(1) a permit holder fails to begin offshore aquaculture operations by 3 years after the required Federal permits are obtained; or

(2) there is a prolonged interruption of offshore aquaculture operations, which the Secretary may consider to be prolonged no sooner than 3 years after the initial interruption.

(h) **Expiration.**—Not later than 3 years after the expiration or termination of an offshore aquaculture permit, a permit holder shall—

(1) remove all structures, gear, and other property from the site; and

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

(i) **National Interest Determination.**—

(1) **DETERMINATIONS.**—Subject to paragraph (2), if the Secretary, after consultation with appropriate Federal agencies and after affording the permit holder notice and an opportunity to be heard, determines that suspension, modification, or revocation of an offshore aquaculture permit is in the national interest, the Secretary may suspend, modify, or revoke the permit.

(2) **EMERGENCIES.**—If the Secretary determines that an emergency exists that poses a significant risk to the safety of humans, to the marine environment, to cultured species, or to the security of the United States and that requires suspension, modification, or revocation of an offshore aquaculture permit, the Secretary may suspend, modify, or revoke the permit for such time as the Secretary determines is necessary to address the emergency. The Secretary shall afford the permit holder a prompt post-suspension, post-modification, or post-revocation opportunity to be heard regarding the suspension, modification, or revocation.

(j) **Fees.**—

(1) **ESTABLISHMENT.**—The Secretary may establish, by regulation, application fees and annual permit fees. The fees shall be deposited as offsetting collections in the Operations, Research, and Facilities account. Fees may be collected and made available to the extent provided in advance in appropriation Acts.

(2) **WAIVERS.**—The Secretary may waive, in whole or in part, any fee under this section if an offshore aquaculture facility is used primarily for research.

(3) **GUARANTEES.**—The Secretary shall require a permit holder to post a bond or other form of financial guarantee in an amount determined by the Secretary, in consultation with the other authorities, to be reasonable and commensurate with the aquaculture operation and as sufficient to cover, without duplication—

- (A) any unpaid fees;
 - (B) the cost of removing an offshore aquaculture facility at the expiration or termination of an offshore aquaculture permit; and
 - (C) the cost of site remediation for impacts arising from unauthorized activities.
- (k) Compatibility With Other Uses.—
- (1) IN GENERAL.—Before issuing an offshore aquaculture permit under this section, the Secretary shall consult with applicable Federal agencies, coastal States, and regional fishery management councils to ensure that the proposed offshore aquaculture is compatible with the use of the exclusive economic zone for navigation, fishing, resource protection, recreation, national defense (including military readiness), mineral and energy exploration and development, and transportation.
- (2) MAGNUSON-STEVEN'S FISHERY CONSERVATION AND MANAGEMENT ACT.—
- (A) IN GENERAL.—After the effective date of the final regulations promulgated under section 5(a)(1), the conduct of offshore aquaculture that is in accordance with an offshore aquaculture permit issued under this Act shall not be considered fishing for purposes of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). The Secretary shall ensure, to the extent practicable, that offshore aquaculture does not interfere with conservation and management measures under that Act.
- (B) PERMITS.—A person authorized, on the date of enactment of this Act, to operate an offshore aquaculture facility under a permit approved under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), may continue to operate the offshore aquaculture facility in accordance with such permit, and the Secretary may enforce requirements related to such permit, until the permit expires or the Secretary issues a final decision on an application for an offshore aquaculture permit under subsection (c)(3), whichever is earlier. The Secretary may issue or renew a permit under [the Magnuson-Stevens Fishery Conservation and Management Act] until the effective date of final regulations under section 5(a)(1) of this Act.
- (3) REGULATIONS.—
- (A) IN GENERAL.—The Secretary may promulgate regulations that the Secretary determines are reasonable and necessary to protect an offshore aquaculture facility. When appropriate, the Secretary shall request the Secretary of the department in which the Coast Guard is operating to establish a navigational safety zone around an offshore aquaculture facility.
- (B) NAVIGATIONAL SAFETY ZONE.—The Secretary of the department in which the Coast Guard is operating—
- (i) shall consult with the Secretary of the Interior before designating a navigational safety zone around a facility under subsection (m)(1);
 - (ii) after consultation with the Secretary, the Secretary of State, and the Secretary of Defense, may designate a zone of appropriate size around (and including) an offshore aquaculture facility for the purpose of navigational safety;

and

(iii) may define, by regulation, permissible activities within a navigational safety zone.

(C) LIMITATIONS.—No installation, structure, or use will be allowed in a navigational safety zone that is incompatible with the operation of the offshore aquaculture facility.

(l) Statutory Construction.—An offshore aquaculture permit issued under this Act shall not supersede or substitute for any other authorization required under Federal or State laws (including regulations).

(m) Actions Affecting the Outer Continental Shelf.—

(1) CONCURRENCE OF SECRETARY OF INTERIOR REQUIRED.—The Secretary shall obtain the concurrence of the Secretary of the Interior for each offshore aquaculture permit that is located—

(A) on a lease, right-of-use and easement, or right-of-way authorized or permitted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); or

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

(2) PRIOR CONSENT REQUIRED.—Offshore aquaculture may not be located on a facility described under paragraph (1)(A) without the prior consent of the lessee, the facility's designated operator, and the owner of the facility.

(3) COMPLIANCE REVIEW.—The Secretary of the Interior shall review and approve each agreement between a prospective offshore aquaculture operator and a lessee, designated operator, and owner of a facility under paragraph (1)(A). The Secretary of the Interior shall ensure that the agreement is consistent with the Federal lease terms, Department of the Interior regulations, and the Secretary of the Interior's role in the protection of the marine environment, property, and human life or health. An agreement under this subsection shall—

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

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

(4) COORDINATED COASTAL ZONE MANAGEMENT ACT REVIEW.—

(A) STATE REVIEW UNDER SECTION 307(C)(3)(A) OF THE COASTAL ZONE MANAGEMENT ACT OF 1972.—

(i) IN GENERAL.—A coastal State's review under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), shall include any modification or change to a lessee's approved plan that results from or is necessary for the issuance of an offshore aquaculture permit if the State simultaneously receives—

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

(II) the offshore aquaculture permit applicant's consistency certification.

(ii) **SIMULTANEOUS RECEIPT.**—If the coastal State simultaneously receives the information related to a modification or change to a lessee’s approved plan and the offshore aquaculture permit applicant’s consistency certification, then—

(I) a lessee shall not be required to submit a separate consistency certification for the modification or change under section 307(c)(3)(B) of the Coastal Zone Management Act of 1972; and

(II) the coastal State’s concurrence (or presumed concurrence) or objection to the consistency certification for the offshore aquaculture permit under section 307(c)(3)(A) of such Act shall apply both—

(aa) to the offshore aquaculture permit; and

(bb) to any related modification or change to a lessee’s plan approved under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(B) **STATE REVIEW UNDER SECTION 307(C)(3)(B) OF THE COASTAL ZONE MANAGEMENT ACT OF 1972.**—To the extent that a coastal State is not authorized by section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 to review an offshore aquaculture permit application submitted under this Act, then a modification or change to a lessee’s approved plan shall be subject to coastal State review under section 307(c)(3)(B) of such Act if a consistency certification for the modification or change is required under applicable Federal regulations.

(C) **LESSEE’S APPROVED PLAN DEFINED.**—In this paragraph, the term “lessee’s approved plan” includes a document for which a consistency certification is required under applicable Federal regulations, such as a change to the approved plan for decommissioning a facility.

(5) **JOINT AND SEVERAL LIABILITY.**—For offshore aquaculture located on a facility described under paragraph (1)(A), a permit holder and each party that is or was a lessee of the lease on which the facility is located during the term of the offshore aquaculture permit shall be jointly and severally liable for the removal of any construction or modification related to the offshore aquaculture operations if a bond or other form of financial guarantee under subsection (j) for aquaculture operations is insufficient to cover those obligations. This paragraph shall not affect any obligation to decommission the facility under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(6) **ADDITIONAL AUTHORITY.**—

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

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

(ii) require and enforce any additional terms or conditions that the Secretary of the Interior considers necessary—

(I) to protect the marine environment, property, or human life or health; and

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

(iii) issue an order to an offshore aquaculture permit holder to take any action the Secretary of the Interior considers necessary to ensure safe operations on the facility, and to protect the marine environment, property, or human life or health; and

(iv) enforce all requirements contained in the regulations, lease terms and conditions, and orders under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

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

SEC. 9. RESTRICTIONS BY COASTAL STATES.

(a) State Lists.—

(1) IN GENERAL.—Subject to paragraph (2), the governor of a coastal State may submit a list of locations or species that the State opposes for offshore aquaculture to the Secretary. The governor of a coastal State may revoke or revise the list in writing and such revocation or revision shall apply thereafter to new marine aquaculture operations. In the case of any disputes between the States, the State located closest to the proposed aquaculture facility location, as determined by the Secretary, shall be considered the relevant State.

(2) LIMITATION.—A State may include locations and / or species on a list submitted under paragraph (1) only if—

(A) such locations are in the exclusive economic zone;

(B)(i) there is evidence of a significant adverse impact to—

(I) water quality or marine species in State waters from operations of aquaculture operations; or

(II) tribal or indigenous communities subsistence hunting and fishing activities in State waters; and

(ii) the benefits of issuing such permit are not greater than such impact; and

(C) the State located closest to the proposed facility location has in effect a law that prohibits listed species or groups of species or types of aquaculture gear or facilities in State waters.

(b) Use of List.—The Secretary may not issue a permit for offshore aquaculture under section 8 if the proposed offshore aquaculture facility will use a location or species on the list submitted under subsection (a) by the coastal State nearest the proposed site, and such permit application is submitted after the State submitted the list to the Secretary, unless the Secretary, in its discretion, finds that the benefits of issuing such permit are greater than the adverse impacts described in subsection (a)(2)(B), including any such impacts addressed by the coastal State nearest the proposed site.

(c) Notice.—Before issuing an offshore aquaculture permit under section 8, the Secretary shall notify the coastal State nearest the proposed site of the permit application.

(d) Exception.—This section shall not apply to a permit application received by the Secretary before the date that the Secretary receives the applicable list from a State under subsection (a).

SEC. 10. RECORDKEEPING AND ACCESS TO INFORMATION.

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

- (1) the records that a permit holder must establish and maintain;
- (2) the reports that a permit holder must make;
- (3) the information that a permit holder must provide; and
- (4) any other recordkeeping that a permit holder must satisfy, as necessary to carry out this Act.

(b) Government Access.—A United States official, with an official responsibility for implementing and enforcing United States laws applicable to maritime fishing, shipping, or conservation, shall have reasonable access, at all times, to an offshore aquaculture facility for which a permit is issued under this Act (for the purpose of enforcing laws under the official's jurisdiction or otherwise carrying out the official's responsibilities). The official may inspect, at reasonable times, records, files, papers, permits, processes, controls, and the offshore aquaculture facility and may test any feature of the offshore aquaculture facility. Each inspection shall be conducted with reasonable promptness. The permit holder shall receive timely notification, in writing, of the results of the inspection.

SEC. 11. PERMITTING HARMONIZATION.

(a) In General.—In promulgating the regulations required to implement this Act, the Secretary shall, to the maximum extent practicable, minimize duplication and harmonize timelines and requirements with other required Federal permits. Efforts under this subsection shall include coordinating timelines for permit application and review processes (including public notice and comment periods) and aligning information requests and reporting requirements for permit applicants and permit holders.

(b) Environmental Analysis.—National Oceanic and Atmospheric Administration, through its Office of Aquaculture and associated divisions, shall serve as the lead Federal agency for preparing any environmental analysis or environmental impact statement required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for all applicable Federal permits for an offshore aquaculture facility or group of facilities, with input from other Federal agencies as cooperating agencies under such Act.

(c) Coordination of Permitting Activities.—To the extent practicable under this Act and all other applicable laws and regulations, Federal agencies with permitting requirements applicable to marine aquaculture facilities in the exclusive economic zone shall coordinate all permitting activities with the Office of Aquaculture established under section 6. Such coordination shall include the following:

- (1) Coordinating permit requirements, permit application and review procedures, and monitoring and reporting requirements, and eliminating duplicative requirements.

(2) Aligning permit application and review timelines.

(3) Participating as a cooperating agency in the preparation of any environmental analysis or environmental impact statement required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for an offshore aquaculture facility or facilities.

(4) Contributing to the single request for public comment and the consolidated response to public comment prepared pursuant to section 8(c)(2).

(d) Delegation.—Unless otherwise prohibited, a Federal agency with regulatory authority for offshore aquaculture may delegate its authority to another Federal agency.

SEC. 12. PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.

(a) In General.—The Secretary shall initiate and lead programmatic environmental impact statements (referred to in this section as “EIS”) for areas of the exclusive economic zone determined by the Secretary to be highly favorable for marine aquaculture and likely compatible with other uses of such areas. The EIS should be compliant with the limitations listed under Section 9 (2) of this Act.

(b) Distribution.—The programmatic EIS conducted by the Secretary need not be exhaustive, but the Secretary shall attempt to ensure favorable and fair distribution among the exclusive economic zone of the United States, including areas of the East Coast, Gulf Coast, West Coast, and other areas of the Atlantic and Pacific in the jurisdiction of the United States.

(c) Funding Considerations.—The Secretary shall conduct the programmatic EIS in accordance with the availability of funding.

SEC. 13. REPORTING AND RECORDKEEPING FOR CERTAIN PRODUCTS.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary shall promulgate regulations that require domestic aquaculture producers of the species described in section 300.324(a)(3) of title 50, Code of Federal Regulations that introduce such species into interstate commerce in the United States to report and keep records of the same information as required for imports of those species under the seafood import monitoring program, in the same manner as required under such program.

(b) Information Collected.—The Secretary shall treat information collected pursuant to subsection (a) as confidential information and shall not disclose such information, other than information that is identical to the information collected in accordance with section 401(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881(b)(1)).

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to the Secretary for the purpose of carrying out this Act—

(1) \$60,000,000 for fiscal year 2018;

(2) \$65,000,000 for fiscal year 2019;

- (3) \$70,000,000 for fiscal year 2020;
- (4) \$75,000,000 for fiscal year 2021; and
- (5) \$80,000,000 for fiscal year 2022.

(b) Sense of Congress.—It is the sense of Congress that, in expending amounts appropriated under subsection (a), the Secretary should—

- (1) prioritize the programmatic environmental impact statement program under section 12; and
- (2) designate not less than 40 percent of the amounts appropriated for each fiscal year to the research and development grants under section

DRAFT