SECTION-BY-SECTION ANALYSIS

National Offshore Aquaculture Act of 2007

BACKGROUND

An earlier version of this bill, the National Offshore Aquaculture Act of 2005, was transmitted to the 109th Congress as part of the Administration's U.S. Ocean Action Plan. The bill was introduced by Senators Ted Stevens and Daniel K. Inouye in June 2005 as S. 1195, and the Ocean Policy Study Subcommittee of the Senate Committee on Commerce, Science and Transportation held two hearings on the bill in 2006. Although the 109th Congress did not complete action on S. 1195, national offshore aquaculture legislation remains a high priority for the Administration.

The National Offshore Aquaculture Act of 2007, a revised version of S. 1195:

- Strengthens the environmental provisions
- Clarifies the role for fishery management councils and coastal States
- Substitutes a single offshore aquaculture permit for separate site and operating permits
- Extends the duration of offshore aquaculture permits to 20 years rather than 10 years.

SUMMARY

The overall purpose of this Act is to provide the necessary authorities to the Secretary of Commerce to establish and implement a regulatory system for offshore aquaculture in the U.S. Exclusive Economic Zone (EEZ). Specifically, the Act:

- Authorizes the Secretary of Commerce to issue offshore aquaculture permits
- Requires the Secretary to establish environmental requirements
- Excludes permitted offshore aquaculture from the definition of "fishing" under the Magnuson-Stevens Fishery Conservation and Management Act
- Authorizes the establishment of a research and development program in support of marine aquaculture
- Requires the Secretary of Commerce to work with other federal agencies to develop and implement a coordinated permitting process for aquaculture in the EEZ
- Authorizes appropriations of $4,052,000 in fiscal year 2008 and thereafter for "such sums as may be necessary" to carry out this Act
- Provides for enforcement of the Act.

While the Act provides the Secretary of Commerce with the authority to permit and oversee offshore aquaculture, it also preserves the existing authorities of other federal agencies, States, Indian tribes and Alaska Native organizations, and requires concurrence from the Secretary of the Interior for aquaculture located on leases, right-of-use or easements, or rights of way authorized or permitted under the Outer Continental Shelf Lands Act (OCSLA), or within 1 mile of any facility permitted or for which a plan has been approved under OCSLA.

Implementation of this Act will provide the foundation for the development of an offshore aquaculture industry in the United States:

- It provides for the establishment of an efficient regulatory process.
- It provides for a research program specifically dedicated to the development of environmentally responsible marine aquaculture technologies.

SECTION 1. SHORT TITLE.
Section 1 designates this Act as the "National Offshore Aquaculture Act of 2007."

SECTION 2. FINDINGS.
Section 2(a) proclaims that it is the policy of the United States to support an offshore aquaculture industry compatible with marine ecosystems and other uses of the EEZ, encourage the development of responsible marine aquaculture in the EEZ, establish a permitting process for aquaculture in the EEZ that provides opportunity for public comment and addresses potential risks and impacts, and promote research and development in marine aquaculture. Section 2(b) states that offshore aquaculture is an activity with respect to which the United States proclaimed sovereign rights and jurisdiction under Presidential Proclamation 5030 of March 10, 1983.

The National Aquaculture Act of 1980 declared aquaculture development to be in the national interest, and required federal agencies to address barriers to such development. Both the Department of Commerce (in 1999) and, within the Department, the National Oceanic and Atmospheric Administration (NOAA) (in 1998) have endorsed aquaculture policies in support of the National Aquaculture Act, but additional statutory authority is needed to establish an enabling regulatory environment for aquaculture in the EEZ. This Act would authorize the Secretary of Commerce to establish and implement a permitting system, in consultation with other federal agencies, coastal States, and fishery management councils, to create such an environment. Transmittal of this legislation to Congress continues the Administration's commitment in the U.S. Ocean Action Plan and responds to the recommendations of the U.S. Commission on Ocean Policy.

SECTION 3. DEFINITIONS.
Section 3 defines key terms used in the Act. "Exclusive Economic Zone" is the area extending from the seaward boundary of states and territories out to 200 nautical miles from the baseline. The geographic extent of this area is consistent with the Exclusive Economic Zone as defined under the Administration's 2005 bill to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act. "Offshore aquaculture" means all activities involved in the propagation and rearing (or attempted propagation and rearing) of marine species in the EEZ (i.e., beyond State or Territory jurisdiction). "Secretary" means the Secretary of Commerce.

Other terms defined include "coastal State", "coastline", "lessee", "marine species", "offshore aquaculture facility", "offshore aquaculture permit", and "person". "Offshore aquaculture facility" includes areas of the sea-bed or subsoil used for growing sedentary species, in addition to installations and structures located in the water column or on the surface. "Marine species" excludes birds and mammals. "Person" includes non-U.S. individuals and corporations. "Coastal State" includes U.S. Territories and possessions.

SECTION 4. OFFSHORE AQUACULTURE PERMITS.

This section provides the basis for a new federal regulatory system for offshore aquaculture:

- Section 4(a) requires the Secretary of Commerce to establish a process to allow use of the EEZ for offshore aquaculture and specifies certain elements that need to be addressed in that process, including environmental impacts.
- Section 4(b) authorizes the Secretary to issue offshore aquaculture permits and provides details on permit applications, terms and conditions, etc.
- Section 4(c) authorizes the Secretary of Commerce to collect and use fees and requires the posting of bonds or other financial guarantees.
- Section 4(d) includes provisions to ensure compatibility of offshore aquaculture with other uses, and includes roles for coastal States and fishery management councils.
- Section 4(e) requires concurrence by the Secretary of the Interior with respect to offshore aquaculture located on or near facilities managed by the Department of the Interior under the Outer Continental Shelf Lands Act and authorizes the Secretary of the Interior to impose requirements and issue and enforce regulations for these facilities.

This section outlines the specific authorities granted to the Secretary of Commerce and to the Secretary of the Interior, and establishes specific requirements that must be met in implementing this new regulatory system. Many of the details of this system will be developed through rulemaking following enactment of this legislation. The rulemaking process, which will include stakeholder input, will provide a more appropriate forum for such fine-tuning adjustments than can be accommodated in legislation. The statutory language provides sufficient authority and flexibility to address the full range of anticipated issues through the rulemaking process, and also makes plain that permits issued under the Act do not supersede or substitute for any other required authorizations under other applicable federal or State law.

Coordination with other federal agencies, coastal States, and fishery management councils is an important element of the regulatory system established in this Act. Specific agencies are not listed so as to not inadvertently preclude coordination with an agency not listed, and to avoid the need to amend this Act in response to future reorganizations or new or amended statutes governing other agencies. One exception is the inclusion of specific provisions, in section 4(e), relating to the Secretary of the Interior's responsibilities under the OCSLA. These provisions are necessary to clarify the role of the Secretary of the Interior with respect to any offshore aquaculture occurring on or near facilities permitted under the OCSLA.

The Act establishes specific offshore aquaculture permitting authority for the Department of Commerce and makes the Secretary of Commerce responsible for coordinating offshore aquaculture permitting activities. This will not preempt the authority of other federal agencies.

Section 4(a) – General.

Section 4(a) provisions apply to the overall permitting system authorized in the Act.

Overall process – Section 4(a)(1) requires that the Secretary of Commerce develop, through rulemaking, in consultation with other federal agencies, coastal States, and fishery management councils, the process for making areas of the EEZ available for development and operation of offshore aquaculture. The process must include necessary procedures and criteria for issuing and

modifying permits, coordinating the permitting process with other federal agencies and coastal States, facilitating the monitoring and evaluation of compliance with permits (including the collection of biological, chemical, and physical oceanographic data as well as social, production, and economic data), and transferring permits from the original permit holder to another person meeting the eligibility requirements and able to satisfy the requirements for bonds or other guarantees. The process must also consider the impacts of offshore aquaculture and appropriate conditions to address negative impacts.

These provisions require that the permit process include opportunities for the public to comment prior to the issuance of offshore aquaculture permits under this Act.

Section 4(a)(2) requires the Secretary to prepare an analysis under the National Environmental Policy Act (NEPA) with respect to the process for issuing offshore aquaculture permits. NOAA applies NEPA in the EEZ as a matter of policy (NOAA Administrative Order 216-6).

Periodic Review of Procedures and Criteria – Section 4(a)(3) requires the Secretary to periodically review and modify the procedures and criteria for issuing offshore aquaculture permits, as appropriate. This must be done in consultation with other federal agencies, coastal States, and fishery management councils, and must be based on the best available science.

Environmental Requirements – Section 4(a)(4) provides for the establishment of environmental requirements. These provisions are important not only to environmental nongovernmental organizations (NGOs) and other stakeholders concerned about the potential negative impacts of offshore aquaculture, but also to the aquaculture industry, since these requirements will establish expectations for the offshore aquaculture operations and provide a scientific basis for measuring compliance.

Section 4(a)(4) requires the Secretary to consult as appropriate with other federal agencies and coastal States to identify environmental requirements that apply to offshore aquaculture under existing laws. Multiple federal agencies have regulatory authority over aspects of offshore aquaculture operations in the EEZ, and their roles and the extent of their authorities will need to be clarified as part of the implementation of this Act. The U.S. Army Corps of Engineers (Corps) has been the *de facto* lead federal permitting agency for aquaculture in state waters by virtue of its authority under the Rivers and Harbors Act of 1899 to require a section 10 permit certifying that any structures will not interfere with navigation. District Corps offices have coordinated interagency reviews and prepared environmental assessments, with NOAA, the Environmental Protection Agency (EPA), and other federal agency participation.

After the existing environmental requirements that apply to offshore aquaculture are documented, the Secretary of Commerce is required to consult with appropriate federal agencies, coastal States and regional fishery management councils and establish through rulemaking additional environmental requirements to address environmental risks and impacts associated with offshore aquaculture, to the extent necessary. The environmental requirements must address risks to and impacts on natural fish stocks and marine ecosystems; cumulative effects; environmental monitoring, data archiving, and reporting by permit holders; risk-based

restrictions on species raised in offshore aquaculture; and mechanisms for tracking inventory and movement of fish or other marine species in offshore aquaculture facilities.

This provision preserves the roles and responsibilities of other federal agencies in establishing environmental requirements under current law while requiring the Secretary of Commerce to impose additional requirements specifically relating to offshore aquaculture activities for which permits are issued under this Act. The intent is to avoid duplicative and conflicting requirements, allow the Secretary to fill in any gaps or deficiencies in such environmental requirements, and facilitate the identification of all requirements that apply to an offshore aquaculture operation regardless of which Federal agency has primary responsibility. Environmental considerations such as use of pesticides and drugs are not addressed in this Act because other agencies (EPA, and the Food and Drug Administration) have primary responsibilities for such concerns.

Siting, Monitoring, and Evaluation –Section 4(a)(5) requires the Secretary to collect information to evaluate the suitability of sites for offshore aquaculture. The Secretary also must monitor the effects of aquaculture on marine ecosystems, and implement measures to protect the environment. Measures may include the temporary or permanent relocation of offshore aquaculture sites or a moratorium on additional sites within an area. The intent of this provision is to ensure monitoring of the cumulative impacts of all offshore aquaculture as well as the impacts of individual operations in the EEZ according to a common set of monitoring and evaluation protocols.

Section 4(b) – Permits.

Section 4(b) authorizes the Secretary of Commerce to issue offshore aquaculture permits to eligible persons. This section also clarifies that these permits do not supersede or substitute for any other authorization required under applicable federal or State law or regulation.

Procedures for issuance of permits – Section 4(b)(1) sets the requirements relating to the submission of an application and Secretary of Commerce decisions on permit applications.

- ***Applications*** – Section 4(b)(1)(A) identifies information to be provided by a permit applicant, including the proposed location and type of operation and the marine species to be propagated or reared, or both. Requirements for the submission of design, construction, and operational information will be specified in the rulemaking process.

- ***Timely Decisions*** – To ensure timely decisions, Section 4(b)(1)(B) requires the Secretary of Commerce to issue or deny each permit application within 120 days after determining that a permit application is complete and has satisfied all applicable statutory and regulatory requirements, as specified by regulation. This provision is needed to ensure that permits are issued within a reasonable time. A prolonged application process is one of the chief criticisms of the current regulatory system for offshore aquaculture. The 120-day requirement will not jeopardize the ability of NOAA or other agencies to satisfy environmental and other review requirements, since the 120-day period would not begin until these requirements have been satisfied. In the event that the 120-day requirement cannot be met, the Secretary is required to provide written notice to the applicant

indicating the reasons for the delay and a reasonable timeline for issuing or denying a permit.

Permit Conditions – Section 4(b)(2) sets the requirements for the permits themselves.

- ***Eligibility for permits*** – Section 4(b)(2)(A) specifies that offshore aquaculture permit holders must be residents of the United States (regardless of citizenship), or corporations, partnerships, or other entities that are organized and exist under the laws of a State or the United States. Others may receive permits if they waive immunity, consent to jurisdiction of the United States, and appoint and maintain agents within the United States who are authorized to receive and respond to any legal process issued in the United States.

  Terms and Conditions – Section 4(b)(2)(B) requires the Secretary to specify the duration, size, and location of the offshore aquaculture facility in the permit, and gives the Secretary broad latitude to establish specific terms, conditions, and restrictions that apply to a permit. The Secretary's authority to include special conditions on individual permits ensures the ability of the Secretary to address potential negative impacts that are specific to particular aquaculture sites or operations.

- ***Duration of permits*** –Section 4(b)(2)(C) specifies that offshore aquaculture permits have a duration of 20 years, and are renewable at the Secretary's discretion in up to 20-year increments. This provision is important to offshore aquaculture businesses, which require reasonable assurance of being able to occupy a particular site long enough to return a profit. It is also important to have a sufficiently long permit duration to satisfy financial institutions considering making loans to the aquaculture business. Many coastal States provide such security of tenure for aquaculture in State waters by offering leases.

  Two exceptions to the 20-year permit duration are projects involving pilot-scale testing or farm-scale research on aquaculture science and technologies, and offshore aquaculture located on leases, right-or-use and easements or rights-of-way authorized or permitted by the Department of the Interior under the OCSLA. In the latter case, the duration of the permit will be developed in consultation with the Secretary of the Interior. For aquaculture located on platforms or other facilities permitted under the OCSLA, the permit cannot extend beyond the date on which a lessee, or the lessee's operator, submits a final application to the Department of the Interior for decommissioning and removal of the facility upon which the offshore aquaculture facility is located. The OCSLA requires removal of all facilities once production ceases, and it is not anticipated that the aquaculture industry would assume liability for removing platforms, given the large costs associated with such an endeavor.

- ***Expiration or termination of permit*** – Section 4(b)(2)(D) requires the permit holders remove all structures, gear, and property from the site when a permit expires or is terminated. The Secretary may also require the permit holder to take other measures to restore the site.

- ***Requirement to use permit –*** Section 4(b)(2)(E) authorizes the Secretary of Commerce to revoke an offshore aquaculture permit if a permit holder fails to begin offshore aquaculture operations within a reasonable time, or if there is a prolonged interruption in offshore aquaculture activities under the permit. This provision is intended to prevent a speculative market for offshore aquaculture permits, by allowing the Secretary to revoke the permit of anyone who does not engage in offshore aquaculture at the approved site. It would also make previously approved sites available for other potential offshore aquaculture facilities.

National interest provision – Section 4(b)(3) gives the Secretary authority to decline to issue a permit, or to impose conditions on a permit, upon a determination that it is not in the national interest.

Section 4(c) - Fees and Other Payments.

Fees – Section 4(c)(1) authorizes the Secretary to establish application and annual permit fees and requires that fees be deposited in a NOAA appropriation account.

Right to waive fees – Section 4(c)(2) allows the Secretary to waive fees for research facilities. The fee structure may discourage innovative aquaculture operations or investments in research and development that are in the national interest.

Bonds – Section 4(c)(3) requires the applicant to post a bond or other form of financial guarantee in a sufficient amount to be determined by the Secretary to cover unpaid fees, the cost of removing a facility, and any other financial risks identified by the Secretary. This requirement reduces the financial risk to the Government of allowing aquaculture development in the EEZ, and provides a vehicle by which the Secretary can set bond requirements commensurate with the risk associated with specific aquaculture operations.

Section 4(d) – Compatibility with Other Uses.

This section provides mechanisms to ensure that the development of offshore aquaculture is compatible with other uses of ocean resources.

Consultations – Section 4(d)(1) requires the Secretary to consult with other federal agencies, coastal States, and fishery management councils to ensure compatibility with other uses of the EEZ – specifically, navigation, fishing, resource protection, recreation, national defense (including military readiness), and mineral exploration and development.

State right to object –Section 4(d)(2) allows coastal States to object to new offshore aquaculture development within 12 miles of their coastlines. The Secretary may not issue any new offshore aquaculture permits within 12 miles of any coastal State that objects by submitting a written notice; however, the coastal State's objection would not apply to permit applications received by the Secretary prior to the receipt of an objection. A coastal State could revoke its objection to offshore aquaculture at any time by submitting such revocation to the Secretary.

Whether or not a coastal State elects to opt out using this provision, a coastal State would also be able to object to the issuance or renewal of a permit through the consistency certification requirements of the Coastal Zone Management Act.

Coastal Zone Management Act consistency – Section 4(d)(3) requires compliance with applicable sections of the Coastal Zone Management Act, which requires federal activities, and any applicant for a required federal license or permit to conduct an activity, that affect any land or water use or natural resource of the coastal zone be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State coastal management programs.

Exclusion from definition of "fishing" under the Magnuson-Stevens Act– NOAA has for the past decade understood aquaculture to constitute "fishing" for both domestic and international law purposes. Section 4(d)(4) specifically excludes aquaculture conducted in the EEZ from the definition of "fishing" under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This is a very important provision for the offshore aquaculture industry, as MSA provisions that restrict the size, season, harvesting methods, and other aspects relating to the possession of species managed under fishery management plans would make everyday aspects of aquaculture operations illegal. Other provisions of MSA still would apply to aquaculture, such as taking of broodstock or juveniles from the wild. Also, to safeguard wild fisheries, the Secretary is required to ensure, to the extent practicable, that offshore aquaculture does not interfere with MSA conservation and management measures for wild stocks. In addition, Section 4(a)(4) requires the Secretary to consult with fishery management councils in establishing environmental requirements, including the establishment of mechanisms for tracking inventory and movement of fish or other marine species in offshore aquaculture facilities.

Protection of offshore aquaculture facilities – Sections 4(d)(5) authorizes the Secretary to promulgate regulations to protect offshore aquaculture facilities and, where appropriate, to request the Coast Guard to establish navigational safety zones. Section 4(d)(6) authorizes the Coast Guard to establish such zones.

Modification, suspension, and revocation of permits – Section 4(d)(7) grants the Secretary authority to modify, suspend, or revoke permits issued under the Act if the modification, suspension, or revocation is found to be in the national interest, after consulting with other agencies as appropriate and giving the permit holder notice and an opportunity to respond. However, if the Secretary determines an emergency exists that poses risks to human safety, the marine environment or marine species, or the security of the United States, the Secretary may immediately suspend, modify, or revoke the permit, and the permit holder would have an opportunity to be heard following the emergency modification, suspension, or revocation.

Other permit requirements –Section 4(d)(8) states that the issuance of permits under this Act does not obviate the requirement for authorization under other applicable authorities.

Section 4(e) – Actions Affecting the Outer Continental Shelf.

This section applies to offshore aquaculture facilities or operations located on areas managed by the Department of the Interior under the OCSLA. Facilities such as offshore oil and gas

platforms permitted under the OSCLA and other types of operations authorized under the Energy Policy Act of 2005 are potential sites for offshore aquaculture facilities, so the Secretary of the Interior may regulate offshore aquaculture located on such facilities. The Department of the Interior needs this authority in order to meet its health, safety, and other responsibilities on facilities that may be used for offshore aquaculture.

Concurrence – Section 4(e)(1) requires the concurrence of the Secretary of the Interior on permits for offshore aquaculture located on leases, right-of-use and easements, or rights-of-way authorized or permitted under the OCSLA or within 1 mile of facilities permitted or for which a plan has been approved under the OCSLA.

Consent of facility owner – Section 4(e)(2) requires the prior consent of the lessee, designated operator, and owner of the facility permitted under the OCSLA before a permit for offshore aquaculture on that facility may be issued under this Act.

Review of agreements – Section 4(e)(3) requires the Secretary of the Interior to review and approve any agreement between a lessee, designated operator, and owner of an OCSLA-permitted facility and a prospective aquaculture operator.

Coastal Zone Management Act coordination – Section 4(e)(4) provides for coordination of any additional consistency certifications required when offshore aquaculture takes place on facilities for which permits have been issued under the OCSLA.

Liability – Under Section 4(e)(5), the current and former OCSLA lessees, as well as the aquaculture permit holder, are jointly and severally liable for removal of any construction or modifications related to aquaculture operations if the aquaculture permit holder fails to do so and bonds posted for the aquaculture facility are insufficient to cover those obligations.

Authority of the Secretary of the Interior – Section 4(e)(6) authorizes the Secretary of the Interior to promulgate rules and regulations; require and enforce additional permit terms or conditions; issue orders to permit holders to protect the marine environment, property or human life or health; and enforce requirements contained in federal leases and OCSLA regulations.

SECTION 5. RESEARCH AND DEVELOPMENT.
This section acknowledges the need to cooperate with other federal agencies and industry for purposes of research and development.

Research Program – Section 5(a) authorizes the Secretary of Commerce, in consultation with other federal agencies, to establish and conduct an integrated, multidisciplinary, scientific research and development program to further marine aquaculture technologies compatible with the protection of marine ecosystems. Although not specified in the legislation, eligible areas of research would include scientific, social, legal, and environmental management issues.

Research partnerships – Section 5(b) authorizes the Secretary to conduct research and development in partnership with offshore aquaculture permit holders.

Research on aquaculture feeds – Section 5(c) requires the Secretary to collaborate with the Secretary of Agriculture to conduct research to reduce the use of wild fish in aquaculture feeds, including but not limited to the substitution of seafood processing wastes, cultured marine algae and microbial sources of nutrients important for human health and nutrition, agricultural crops, and other products. The goal of this research will be to reduce the use of fish oil and fish meal while maintaining the health and nutritional benefits these feed ingredients provide to humans who consume aquaculture products.

SECTION 6. ADMINISTRATION.

Rules and regulations – Section 6(a) requires the Secretary to promulgate, and amend as necessary, rules and regulations to carry out this Act.

Contracts, leases, grants, cooperative agreements – Section 6(b) provides authority to enter into contracts, leases, grants, and cooperative agreements.

Use and transfer of other resources – Section 6(c) authorizes the Secretary to enter into agreements with other federal agencies, State agencies, tribes, and other organizations, persons, and entities relating to the use or transfer of personnel, services, land, equipment, and facilities, with or without reimbursement, for purposes related to enforcement of this Act.

Acceptance of grants – Section 6(d) allows the Secretary to apply for and receive grants from federal sources.

Savings clause –Section 6(e) specifies that this Act is not intended to preempt the jurisdiction, responsibility or rights of other federal agencies, State agencies, Indian Tribes or Alaska Native organizations under any federal law or treaty.

Extraterritorial jurisdiction – Sections 6(f) extends the application of certain laws of the United States to offshore aquaculture facilities. Section 6(g) applies the law of the nearest adjacent coastal State to permitted offshore aquaculture facilities.

SECTION 7. AUTHORIZATION OF APPROPRIATIONS.

Section 7 authorizes appropriations to the Department of Commerce of $4,052,000 in fiscal year 2008 and thereafter such sums as may be necessary for purposes of carrying out the provisions of this Act. Implementation of the Act will require funding to cover the costs of developing and implementing a regulatory and administrative system for offshore aquaculture, supporting internal and external R&D, developing environmental requirements, and monitoring, compliance, and enforcement.

SECTION 8. UNLAWFUL ACTIVITIES.

Section 8 outlines activities that are unlawful under the Act. Unlawful activities include, but are not limited to, falsification of information; engaging in offshore aquaculture except pursuant to a valid permit issued under this Act; obstruction of lawful enforcement activities such as search or inspection; interference with lawful search or inspection by an enforcement officer; resisting or interfering with an arrest; interstate or foreign commerce of any marine species propagated or reared in violation of this Act or its regulations or permits; failing to remove all structures, gear,

and other property from the site, or to take other measures prescribed by the Secretary to restore the site, or violation of any provisions, regulations, or terms and conditions of permits issued under this Act.

SECTION 9. ENFORCEMENT PROVISIONS.
Section 9 grants enforcement authority under the Act to the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. It is not intended to extend arrest powers to additional personnel or components. Section 9 also specifies the powers of enforcement officers, provides for the issuance of citations (written warnings), and holds violators subject to certain costs associated with the storage, care, and maintenance of seized property.

SECTION 10. CIVIL ENFORCEMENT AND PERMIT SANCTIONS.
Section 10 provides for both civil administrative and civil judicial penalties. Section 10 also authorizes the Secretary to revoke, suspend, deny, and impose additional conditions or restrictions on a permit holder found to be committing or to have committed an unlawful activity under the Act. This section also contains provisions relating to injunctive relief, hearings, jurisdiction, the collection of civil penalties and nationwide service of process. Civil administrative penalties assessed by the Secretary may not exceed $200,000 per violation, with each day of a continuing violation considered a separate offense. Civil judicial penalties assessed by the Secretary may not exceed $250,000 per violation, with each day of a continuing violation considered a separate offense.

SECTION 11. CRIMINAL OFFENSES.
Section 11 identifies criminal offenses and associated maximum fines and prison terms, and establishes Federal jurisdiction over these offenses.

SECTION 12. FORFEITURES.
Section 12 provides for the forfeiture of property seized in the enforcement of this Act, and specifies the jurisdiction with respect to such forfeitures as any district court of the United States. The section includes provisions on judgments and procedures, and a rebuttable presumption that all marine species found within an offshore aquaculture facility, and which are seized in connection with an act prohibited by Section 8, are presumed to have been taken or retained in violation of the Act.

SECTION 13. SEVERABILITY AND JUDICIAL REVIEW.
Section 13 provides for severability, judicial review, and awards of litigation cost.