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1 by disease, pollution, or contamination (caused by rea-  
2 sons other than a natural disaster or the willful or negli-  
3 gent action of such person).

4 The purpose of any loan made by the Secretary under this  
5 section shall be to accomplish one or more of the following  
6 objectives:

7 (i) The repair, rehabilitation, or replacement of  
8 such facility.

9 (ii) The replacement of aquatic species stock.

10 (iii) To continue aquaculture operations while any  
11 such repair, rehabilitation, or replacement is in progress.

12 (iv) The purchase, construction, or reconstruction  
13 of an aquaculture facility at another location if the  
14 Secretary finds that—

15 (I) the damage to the facility is so exten-  
16 sive that its repair or rehabilitation is impracticable;

17 (II) the replacement of the destroyed facility  
18 at the same location is impracticable; or

19 (III) the pollution or contamination referred  
20 to in subparagraph (B) is likely to persist for such  
21 period of time that continued aquaculture operations  
22 at the same location are impracticable.

23 (v) To meet payments of principal and interest on  
24 any obligation of such person with respect to the facility  
25 or stock so damaged or destroyed for such period of time

1 as the Secretary deems appropriate, taking into account  
2 the degree of such damage or destruction.

3 (vi) To retire in full any such obligation.

4 (2) No loan may be made under this section for any  
5 damage or destruction—

6 (A) which is fully compensated for by insurance  
7 (including insurance paid under section 10) or other-  
8 wise; or

9 (B) for which assistance is available under any  
10 other Federal disaster assistance program.

11 (b) Any loan made pursuant to this section shall—

12 (1) mature in not more than 20 years;

13 (2) bear interest at a rate not less than the rate  
14 determined by the Secretary of the Treasury taking  
15 into consideration the average market yield on outstand-  
16 ing Treasury obligations of comparable maturity;

17 (3) be approved only upon the furnishing of such  
18 security or other reasonable assurance of repayment  
19 as the Secretary may require; and

20 (4) be subject to such other terms and conditions  
21 as the Secretary may require to protect the interests  
22 of the United States.

23 (c) The Secretary may consent to the modification of  
24 any term or condition of any loan made under this section,  
25 including, but not limited to, reduction of the rate of inter-

1 est, deferment of any installment of principal or interest,  
2 or change in any security requirement.

3 (d) All payments of principal and interest on loans  
4 made under this section shall be deposited into the Fund.

5 (e) For purposes of this section, the term "obligation"  
6 means any note, bond, debenture, or other evidence of indebt-  
7 edness issued for the purpose of financing (1) the construc-  
8 tion, reconstruction, or reconditioning of an aquaculture  
9 facility, (2) the initial operating expenses of any such  
10 facility, and (3) the acquisition of stock of aquatic species  
11 for any such facility.

12 (f) (1) Whoever makes any statement knowing it to be  
13 false, or whoever willfully overvalues any security for the  
14 purpose of obtaining for himself or for any applicant any  
15 loan under this section, or extension thereof by renewal,  
16 deferment of action, or otherwise, or the acceptance, release,  
17 or substitution of security therefor, or for the purpose of  
18 influencing in any way the action of the Secretary under this  
19 section, or for the purpose of obtaining money, property, or  
20 anything of value under this section, shall be punished by a  
21 fine of not more than \$5,000, or by imprisonment for not  
22 more than 2 years, or both.

23 (2) Whoever, with the intent to defraud, knowingly  
24 conceals, removes, disposes of, or converts to his own use or  
25 to that of another, any property mortgaged or pledged to,

1 or held by, the Secretary pursuant to this section shall be  
2 punished by a fine of not more than \$5,000, or by imprison-  
3 ment for not more than 5 years, or both.

4 (g) No loan may be made by the Secretary under this  
5 section for any damage to, or destruction of, any aquaculture  
6 facility or stock of aquatic species which occurs on or after  
7 the close of the 5-year period beginning on the effective date  
8 of this Act.

9 SEC. 10. INSURANCE AGAINST CERTAIN LOSSES IN-  
10 CURRED IN AQUACULTURE FACILITY OPERA-  
11 TIONS.

12 (a) As used in this section, unless the context otherwise  
13 requires—

14 (1) The term "direct insurance" means any insur-  
15 ance described in paragraphs (2), (3), and (4).

16 (2) The term "essential liability insurance" means  
17 insurance against all sums which the owner of an aqua-  
18 culture facility becomes legally obligated to pay as dam-  
19 ages because of bodily injury or property damage caused  
20 by the aquaculture facility, the operation of such facility,  
21 or the aquatic species cultured at such facility.

22 (3) The term "essential property insurance" means  
23 insurance against direct loss of, or direct damage to, the  
24 real or personal property of an aquaculture facility  
25 caused by perils as they are defined and limited in

1 standard fire policies and extended coverage endorse-  
2 ments thereon as approved by the State insurance au-  
3 thority, and insurance against loss of, or damage to,  
4 the real or personal property of an aquaculture facility  
5 from such perils as the Secretary by regulation shall  
6 specify, including, but not limited to vandalism, mali-  
7 cious mischief, burglary, and theft.

8 (4) The term "essential stock insurance" means  
9 insurance against loss of, or damage to, any aquatic  
10 species being cultured at an aquaculture facility due to  
11 unavoidable or natural causes, including, but not limited  
12 to, drought, pollution, hail, frost, wind, winterkill, freeze,  
13 lightning, fire, excessive rain, flood, snow, wildlife, hurri-  
14 cane, tornado, insect or parasite infestation, disease, and  
15 such other unavoidable or natural causes as the Secre-  
16 tary by regulation shall specify.

17 (5) The term "insurer" includes any insurance  
18 company or group of companies under common owner-  
19 ship which is authorized to engage in the insurance  
20 business under the laws of any State.

21 (6) The term "owner" means any person having  
22 an insurable interest in an aquaculture facility or  
23 aquatic species stock.

24 (7) The term "pool" means any pool or association  
25 of insurers in any State which is formed, associated, or

1 otherwise created for the purpose of making insurance  
2 more readily available.

3 (8) The term "reasonable premium rate" means  
4 that premium rate determined by the Secretary, which  
5 would permit the purchase of any direct insurance cov-  
6 erage by a reasonably prudent person in similar circum-  
7 stances with due regard to the costs and benefits in-  
8 volved.

9 (b) The Secretary may by regulation define any tech-  
10 nical or trade term necessary in the administration of this  
11 section, insofar as any such definition is not inconsistent  
12 with the provisions of this section.

13 (c) (1) The Secretary shall conduct, within 6 months  
14 after the effective date of this Act, and annually thereafter,  
15 a study to determine whether direct insurance is generally  
16 available to owners at reasonable premium rates, through  
17 insurers, pools, or a suitable program adopted under State  
18 law.

19 (2) (A) If the Secretary finds, as a result of the study  
20 referred to in paragraph (1), that essential property insur-  
21 ance or essential liability insurance is not available at rea-  
22 sonable premium rates in any State and such insurance has  
23 not been provided by State action, the Secretary may estab-  
24 lish a program to provide such insurance in such State, if  
25 the Secretary considers the issuance of such insurance neces-

1 sary and appropriate to carry out the purposes and policy of  
2 this Act.

3 (B) Any essential property insurance or essential lia-  
4 bility insurance issued by the Secretary under this para-  
5 graph shall be subject to such terms and conditions, and to  
6 such deductibles and other restrictions and limitations as the  
7 Secretary deems appropriate; except that the Secretary may  
8 not provide essential property insurance or essential liability  
9 insurance with respect to—

10 (i) any aquaculture facility or stock of aquatic  
11 species which the Secretary determines to be uninsurable  
12 due to the failure of the owner to follow established  
13 principles for operating aquaculture facilities or cultur-  
14 ing aquatic species, as the case may be; or

15 (ii) any aquaculture facility which the Secretary  
16 determines to lack reasonable protective measures to pre-  
17 vent loss or damage.

18 (3) (A) If the Secretary finds, as a result of the study  
19 referred to in paragraph (1), that essential stock insurance  
20 is not available at reasonable premium rates in any State  
21 and that such insurance has not been provided by State  
22 action, the Secretary shall establish a program to provide  
23 such insurance in such State.

24 (B) Any essential stock insurance issued by the Secre-  
25 tary under this paragraph shall be subject to such terms

1 and conditions and to such deductibles and other restrictions  
2 and limitations as the Secretary deems appropriate; except  
3 that the Secretary may not provide essential stock insurance  
4 with respect to any stock of aquatic species if the Secretary  
5 determines such stock to be uninsurable due to the failure of  
6 the owner to follow established principles for culturing  
7 aquatic species or due to the lack of reasonable protective  
8 measures at the aquaculture facility concerned to prevent  
9 the loss of, or damage to, the stock being cultured.

10 (d) (1) In determining the premium rate for any direct  
11 insurance offered from time to time under subsection (c)  
12 (2) or (3), the Secretary shall consult with persons knowl-  
13 edgeable and experienced in insurance, including, but not  
14 limited to, State insurance regulatory authorities, and may  
15 take into consideration with respect to the insurance con-  
16 cerned, the nature and degree of risk involved, the protective  
17 devices employed, the extent of past and anticipated losses,  
18 the prevailing rate for similar coverages, the economic im-  
19 portance of the insurance, and the relative abilities of the  
20 particular classes and types of insureds to pay the actual  
21 premium for such coverage.

22 (2) (A) The Secretary may not establish the premium  
23 rate for any direct insurance at less than 50 percent of the  
24 actual premium rate for such insurance.

25 (B) For purposes of subparagraph (A), the actual

1 premium rate for any direct insurance offered under this sec-  
2 tion shall be determined as follows:

3 (i) If insurance of the same kind is generally of-  
4 fered by insurers or pools in the State concerned, the  
5 actual premium rate shall be that rate which the Secre-  
6 tary determines to be the median premium rate for all  
7 such insurance so offered.

8 (ii) If insurance of the same kind is not generally  
9 offered by insurers or pools in the State concerned, the  
10 actual premium rate shall be that rate which the Secre-  
11 tary determines to be the rate at which insurers or pools  
12 in such State would offer such insurance, taking into ac-  
13 count actuarially sound principles applicable to the ele-  
14 ments making up such rate, including, but not limited to,  
15 claim losses, general administrative expenses, acquisition  
16 expenses, taxes, license fees, and profits.

17 In making determinations under clauses (i) and (ii), the  
18 Secretary shall consult with the insurance regulatory author-  
19 ity of the State concerned and any rate advisory organiza-  
20 tion licensed by such State.

21 (3) Nothing in this section shall be construed to pro-  
22 hibit or require either the adoption of uniform national rates  
23 or the periodic modification of the currently estimated rea-  
24 sonable premium rates for any particular coverage, class,

1 State, or risk on the basis of additional information or actual  
2 loss experience.

3 (e) (1) The Secretary may enter into any contract,  
4 agreement, treaty, or other arrangement with any insurer  
5 or pool to provide reinsurance coverage with respect to any  
6 direct insurance issued by such insurer or pool, in considera-  
7 tion of payment of such premiums, fees, or other charges by  
8 insurers or pools which the Secretary deems to be appro-  
9 priate, after consultation with persons knowledgeable and  
10 experienced in insurance.

11 (2) Reinsurance issued under this subsection shall re-  
12 imburse an insurer or pool for its total proved and approved  
13 claims for covered losses resulting from providing the direct  
14 insurance concerned during the term of the reinsurance con-  
15 tract, agreement, treaty, or other arrangement, over and  
16 above the amount of the insurer's or pool's retention of such  
17 losses, as provided in such reinsurance, contract, agreement,  
18 treaty, or other arrangement entered into under this section.

19 (3) Such contracts, agreements, treaties, or other ar-  
20 rangements may be made without regard to section 3679  
21 (a) of the Revised Statutes of the United States (31  
22 U.S.C. 665 (a) ), and shall include any terms and conditions  
23 which the Secretary deems necessary to carry out the pur-  
24 poses of this section. The premium rates and terms and con-  
25 ditions of such contracts, agreements, treaties, or other ar-

1 rangements with an insurer or pool shall be uniform in any  
2 one year throughout the country.

3 (f) (1) All premiums received by the Secretary under  
4 this section shall be deposited into the Fund.

5 (2) The Secretary, in a suit brought in the appropriate  
6 United States district court, shall be entitled to recover from  
7 any owner, insurer, or pool the amount of any unpaid  
8 premium lawfully payable to the Secretary by such owner,  
9 insurer, or pool under any direct insurance or reinsurance  
10 issued under this section.

11 (3) No action or proceeding shall be brought for the  
12 recovery of any premium due the Secretary, or for the re-  
13 covery of any premium paid to the Secretary in excess of  
14 the amount due, unless such action or proceeding is com-  
15 menced within 5 years after the right accrued for which  
16 the claim is made; except that, if the insurer has made or  
17 filed with the Secretary a false or fraudulent statement or  
18 other document with intent to evade, in whole or in part,  
19 the payment of premiums, the claim shall not be deemed  
20 to have accrued until its discovery by the Secretary.

21 (g) In order to provide for maximum efficiency in the  
22 administration of the insurance and reinsurance program  
23 provided under this section, and in order to facilitate the  
24 expeditious payment of any claims under such program, the  
25 Secretary may enter into contracts with any insurer, pool,

1 or person, for the purpose of providing for the performance  
2 of any of the following functions:

3 (1) The estimation or determination of any amounts  
4 of payments for reinsurance or direct insurance claims.

5 (2) The receipt, disbursement, and accounting for  
6 funds in making payments for reinsurance and direct  
7 insurance claims.

8 (3) The auditing of the records of any insurer, pool,  
9 or person to the extent necessary to assure that proper  
10 payments are made.

11 (4) The establishment of the basis of liability for  
12 reinsurance or direct insurance payments, including the  
13 total amount of proved and approved claims which may  
14 be payable to any insurer, pool, or owner, and the total  
15 amount of premiums earned by any insurer or pool in  
16 the respective States from direct insurance or re-  
17 insurance.

18 (5) The provision of assistance in any manner pro-  
19 vided for in the contract to further the purposes of this  
20 section.

21 (h) The Secretary may, with the consent of the agency  
22 concerned, accept and utilize, on a reimbursable basis, the  
23 officers, employees, services, facilities, and information of any  
24 Federal agency with respect to any insurance matter which  
25 is within the purview of this section.

1 (i) The Secretary may prescribe regulations establish-  
2 ing the general method or methods by which proved and ap-  
3 proved claims for losses are paid under any direct insurance  
4 or reinsurance issued under this section. Proved and approved  
5 claims shall be paid from the Fund.

6 (j) The Secretary, in providing any direct insurance or  
7 reinsurance under this section may adjust and pay all claims  
8 for proved and approved losses covered by such insurance  
9 and, upon the disallowance by the Secretary, or upon the  
10 refusal of the claimant to accept the amount allowed upon  
11 any such claim, the claimant, within one year after the date  
12 of mailing of notice of disallowance or partial disallowance  
13 of the claim, may institute an action on such claim against  
14 the Secretary in the United States district court for the dis-  
15 trict in which the insured owner or reinsured insurer or pool  
16 resides or principally conducts business, and jurisdiction is  
17 here'ly conferred upon such court to hear and determine  
18 such action without regard to the amount in controversy.

19 (k) The face amount of direct insurance and reinsurance  
20 coverage outstanding and in force at any one time under this  
21 section shall not exceed \$1,000,000,000.

22 (l) No direct insurance or reinsurance may be issued  
23 by the Secretary under this section after the close of the  
24 5-year period beginning on the effective date of this Act.

1 SEC. 11. FEDERAL AQUACULTURE ASSISTANCE FUND.

2 (a) There is established in the Treasury of the United  
3 States a Federal Aquaculture Assistance Fund. The Fund  
4 shall be available to the Secretary as a revolving fund for  
5 the purpose of carrying out, and administering, sections 8,  
6 9, and 10. The Fund shall consist of—

- 7 (1) any sums appropriated to the Fund;
- 8 (2) any fees received by the Secretary in connec-  
9 tion with any guarantee made under section 8;
- 10 (3) recoveries and receipts received by the Secre-  
11 tary under security, subrogation, and other rights and  
12 authorities under sections 8, 9, and 10;
- 13 (4) payments of principal and interest received  
14 by the Secretary under any loan made under section 9;
- 15 (5) premiums paid to, or recovered by, the Secre-  
16 tary for any direct insurance or reinsurance issued by  
17 the Secretary under section 10; and
- 18 (6) moneys deposited pursuant to the last sentence  
19 of subsection (b).

20 All payments made by the Secretary to carry out the provi-  
21 sions of sections 8, 9, and 10 (including reimbursements to  
22 other Government accounts) shall be paid from the Fund,  
23 only to the extent provided in appropriation Acts. Sums  
24 in the Fund which are not currently needed for the pur-  
25 poses of sections 8, 9, and 10 shall be kept on deposit or

1 invested in obligations of, or guaranteed by, the United  
2 States.

3 (b) If at any time the moneys in the Fund are not  
4 sufficient to pay any amount the Secretary is obligated to  
5 pay under section 8 (d) (1) or any direct insurance or re-  
6 insurance claim under section 10, the Secretary shall issue  
7 to the Secretary of the Treasury notes or other obligations  
8 (only to such extent and in such amounts as may be provided  
9 for in appropriation Acts) in such forms and denominations,  
10 bearing such maturities, and subject to such terms and con-  
11 ditions as the Secretary of the Treasury prescribes. Such  
12 notes or other obligations shall bear interest at a rate deter-  
13 mined by the Secretary of the Treasury, taking into consid-  
14 eration the current average market yield on outstanding  
15 marketable obligations of the United States of comparable  
16 maturities during the month preceding the issuance of such  
17 notes or other obligations. The Secretary of the Treasury  
18 shall purchase any notes and other obligations to be issued  
19 hereunder and for such purpose he may use as a public debt  
20 transaction the proceeds from the sale of any securities issued  
21 under the Second Liberty Bond Act, as amended, and the  
22 purposes for which securities may be issued under such Act,  
23 as amended, are extended to include any purchases of such  
24 notes and obligations. The Secretary of the Treasury at any  
25 time may sell any of the notes or other obligations acquired

1 by him under this subsection. All redemptions, purchases,  
2 and sales by the Secretary of the Treasury of such notes  
3 or other obligations shall be treated as public debt trans-  
4 actions of the United States. Moneys borrowed under this  
5 subsection shall be deposited in the Fund and redemptions  
6 of such notes and obligations shall be made by the Secretary  
7 from the Fund.

8 SEC. 12. REPORT AND RECOMMENDATIONS.

9 Before the close of the 90th day after the close of the  
10 3-year period beginning on the effective date of this Act, the  
11 Secretary shall review the operation and effectiveness of the  
12 disaster loan program provided for under section 9 and the  
13 insurance program provided for under section 10 and shall  
14 submit a report thereon to the Congress, together with the  
15 recommendation of the Secretary as to whether or not either  
16 such program should be continued and, if the Secretary rec-  
17 ommends continuation, such suggestions as the Secretary may  
18 have for improving the operation and effectiveness of such  
19 program.

20 SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

21 (a) For purposes of carrying out the provisions of this  
22 Act (other than sections 8, 9, or 10), there are authorized  
23 to be appropriated, notwithstanding any authorization for  
24 appropriations in any other Act in effect before the date of  
25 the enactment of this Act—

1           (1) to the Department of Commerce, not to  
2 exceed—

3           (A) \$4,000,000 for the fiscal year 1979,

4           (B) \$15,000,000 for the fiscal year 1980, and

5           (C) \$17,000,000 for the fiscal year 1981;

6           (2) to the Department of the Interior, not to  
7 exceed—

8           (A) \$2,000,000 for the fiscal year 1979,

9           (B) \$7,500,000 for the fiscal year 1980, and

10           (C) \$8,500,000 for the fiscal year 1981; and

11           (3) to the Department of Agriculture, not to ex-  
12 ceed—

13           (A) \$2,000,000 for the fiscal year 1979,

14           (B) \$7,500,000 for the fiscal year 1980, and

15           (C) \$8,500,000 for the fiscal year 1981.

16           (b) There are authorized to be appropriated, without  
17 fiscal year limitation, to the Fund such sums as may be  
18 necessary and appropriate for purposes of carrying out sec-  
19 tions 8, 9, and 10; but not to exceed \$500,000,000 for the  
20 purposes of section 8 and not to exceed \$250,000,000 for the  
21 purposes of section 9.

22 **SEC. 14. EFFECTIVE DATE.**

23           This Act shall take effect October 1, 1978.

85TH CONGRESS  
2d SESSION

S. 2762

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**A BILL**

To provide for the development of aquaculture  
in the United States, and for other purposes.

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By Mr. GRAVEL

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MARCH 17 (legislative day, FEBRUARY 9), 1978

Read twice and referred to the Committees on Agriculture, Nutrition, and Forestry and Commerce, Science, and Transportation jointly by unanimous consent



United States  
of America

# Congressional Record

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WASHINGTON, FRIDAY, MARCH 17, 1978

No. 39

## Senate

By Mr. GRAVEL:

S. 2762. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Agriculture, Nutrition, and Forestry, jointly, by unanimous consent.

### NATIONAL AQUACULTURE ORGANIC ACT OF 1978

● Mr. GRAVEL. Mr. President, I am introducing today legislation to focus national attention on the long neglected activity of aquaculture.

Aquaculture is the controlled cultivation of aquatic plants and animals. It is practiced in various degrees of intensity throughout the world and the time is now right for concerted action in the United States.

By introducing the National Aquaculture Organic Act of 1978, I hope to promote the concept of aquaculture by encouraging increased and coordinated activity in this area by public, private, educational, and almost any other, seriously interested party.

### AQUACULTURE—AN OVERVIEW

The world activity in aquaculture is wide and varied. China has been cultivating fish for over 2000 years. Japan now produces more than 10 percent of its seafood needs through aquaculture. And Russia has been giving aquaculture increased attention.

The United States has been dabbling in various forms of aquaculture for a considerable period of time, but a Library of Congress report (aquaculture—1976—serial No. 94-31) indicates that aquaculture in the United States has grown insignificantly compared to such activities in other parts of the world. The species which are presently receiving the most attention in the United States are salmon, catfish, trout, oysters, crayfish, clams, and shrimp. The potential for increased production of these species, as well as the production of species heretofore uncultured in the United States is very promising.

My home State of Alaska has been involved in the cultivation of fin fish since the late 1800's. With more than 50 percent of the entire U.S. coastline located within the State of Alaska, one can understand why my interest in aquaculture is great. The potential for marine aquaculture development within Alaska is

truly incredible, not to mention the vast possibilities for future freshwater-cultivation.

### AQUACULTURE—MARKET POTENTIAL

World fishery resources were once thought to be practically unlimited. This has been clearly shown not to be the case. The world resources are now estimated by some experts to be capable of yielding a maximum global harvest of 100 to 150 million metric tons per year. More conservative estimates rarely exceed 100 million metric tons, including that of the National Oceanic and Atmospheric Administration, which estimates that the 100 million metric ton figure will be met by 1980. This suggests that a world shortage of fish products is possible in the foreseeable future.

World per capita fish consumption has increased over the past several years and in the United States alone has risen to a present level of 12.9 pounds per person per year. Reliable estimates project American consumption to increase to 15.2 pounds by the year 2000. A Library of Congress study has predicted that in the same period of time overall demand for seafood products in the United States, both edible and industrial, is expected to increase by a full 80 percent.

All these indicators suggest that the demand for fish products will only continue to increase in the years to come. With wild fish stock exploitation reaching maximum levels, per capita consumption of fish products on the rise, and the world population expected to increase from a level of 4 billion today to 6 billion by the turn of the century, aquaculture must be viewed as a promising possibility in helping to meet these food demands.

### AQUACULTURE—ECONOMIC POTENTIAL

For a nation practically surrounded by water and replete with possible sites for raising inland fish species, fishery imports into the United States are surprisingly high. In 1976 the United States imported 4.6 billion pounds of edible fishery products valued at \$1.7 billion, and 1.6 billion pounds of industrial fishery products worth \$5 billion. This adds up to \$2.2 billion of American money sent abroad to purchase fishery products. The U.S. fishery exports in 1976 amounted to 241 million pounds, valued at only \$330 million.

This leaves a net annual trade deficit of practically \$2 billion for foreign fish products. Stated another way, close to 65 percent of fish consumed in the United States is imported from foreign countries.

The studious application of aquaculture techniques could help to reverse this unfavorable balance of trade situation. A promotion of aquaculture will result in the creation of many new jobs, fishery employment on a year-round rather than a seasonal basis, and an overall stability to the historical boom or bust fishery economy.

**NATIONAL AQUACULTURE ORGANIC ACT—INTENT**

Mr. President, the National Aquaculture Organic Act of 1978 will provide long overdue impetus to the promotion of aquaculture in the United States. My desire is to encourage the development of aquaculture of all types in all parts of the United States. This would include encouraging aquaculture for marine, as well as fresh water, species; for aquatic plants, as well as aquatic animals; for presently cultured species, as well as species as yet untested by the techniques of aquaculture; and for the rehabilitation and enhancement of public fisheries, as well as the promotion of commercial enterprises.

To accomplish these goals, my legislation designates the Department of Commerce as the agency with ultimate responsibility. The Commerce Department will, however, operate in close conjunction with the Departments of Agriculture and Interior, as both those Departments have proven themselves expert in many important aspects of aquaculture.

There are many facets to aquaculture, and I believe no single agency can or should be named the exclusive authority. The better approach is to tap the existing expertise of the several Departments and coordinate all aquaculture efforts through the Department of Commerce.

An Interagency Committee on Aquaculture will be formed to facilitate and coordinate information and activities among the three Departments, as well as all other agencies and parties involved.

My legislation also provides for the formulation of a national aquaculture development plan. This plan, to be drawn up in the year following enactment, will embody concrete suggestions on specific directions and priorities to pursue in the development of aquaculture in the United States.

A grant program will encourage participation in what is generally considered a rather expensive enterprise. These grants will allow the private entrepreneur to get involved in a venture that would otherwise, by virtue of prohibitive startup costs, be reserved for large corporations or the individual of great wealth.

A Federal aquaculture assistance fund is created for three purposes: First, to facilitate aquaculture financing by guaranteeing loans made to aquaculture

operations since such loans have historically been unreasonably difficult to obtain, second, to make disaster loans for aquaculture stocks which are destroyed by unavoidable diseases; and third, to provide insurance coverage to aquaculture operations in those instances where insurance is not otherwise available.

**NATIONAL AQUACULTURE ORGANIC ACT—COMPARISON TO OTHER AQUACULTURE LEGISLATION**

Mr. President, the bill I offer today is in many respects similar to other pieces of aquaculture legislation already introduced in the Senate. S. 1043, introduced by Senator BENTSEN and of which I am a cosponsor, and S. 2218 and S. 2582, introduced by Senators STONE and WEICKER, respectively, all make numerous points which coincide with the proposals I have here. H.R. 9370, a House aquaculture bill that just recently passed that Chamber by a vote of 234 to 130, is also similar in many regards to this piece of legislation.

There are, however, three important new areas which my bill emphasizes, and I should like briefly to explain them.

First, unlike the other aquaculture legislation I would require that the national aquaculture development plan be formulated at the regional level in advisory subcommittees and finalized at the national level by the National Advisory Committee. In a country as large as ours, with aquaculture interests as varied as they are, regional input for this national plan is an absolute necessity.

To insure adequate input from interests as diverse as shrimp farmers in Florida, salmon ranchers in Alaska, oyster raisers in Maine, and catfish farmers in the Midwest, information must be gathered on a regional basis. Only persons intimately familiar with the regional needs and conditions of the various parts of this country can provide such particularized data.

Second, I add the enhancement and rehabilitation of traditional publicly owned fish stocks as a major goal to be addressed by this legislation. It seems obvious that in addition to encouraging development of commercial aquaculture for the private sector, we should not overlook the desirability of rehabilitating the numerous depleted fish stocks which are of vital importance to the public sector.

The third and final issue of importance is the problem of land and water access for aquaculture facilities. I believe the contributions which aquaculture can make in helping to meet nutritional needs, stimulating commercial activity, and enhancing existing fisheries warrant its being given due consideration in land and water use management deliberations.

Aquaculture is certainly an activity that has been neglected in this country for too long. The numerous benefits to be

gained—commercial, nutritional, and conservational, among others—have not yet been fully appreciated. Passage of this legislation will be a positive step toward translating these benefits into tangible realities.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2762

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aquaculture Organic Act of 1978".*

SEC. 2. FINDINGS, PURPOSE, AND POLICY.

(a) The Congress finds the following:

(1) The world production of seafood has declined since 1970 and the harvest of some populations of fish and shellfish has exceeded levels of maximum sustainable yield.

(2) Certain stocks of fish and shellfish of importance to the United States are depleted, or are declining, and such depletion or decline has an undesirable impact on both commercial and recreational fisheries.

(3) There is an extensive market for seafood in the United States, but the United States imports in excess of 60 percent of its fish and shellfish for human consumption (which imports are ten times the level of exports), and this dependence on imports as a source of protein makes it difficult to insure continuous supplies and suggests that alternatives such as aquaculture be developed.

(4) Many segments of the world population are now facing serious nutritional deficiencies and food shortages due to adverse climatic conditions and the steady growth of population. These problems will become more severe, and the resulting demand for increased food production will have to be met chiefly through the application of scientific and technological advances from research on aquaculture and other food production systems.

(5) Aquaculture is contributing significantly to world food supplies with production equal to 10 percent of current landings of seafoods and has the potential for increase by a factor of five before the end of this century.

(6) Less than 3 percent of current United States fisheries production results from aquaculture but there is a good potential for expanding production from aquaculture to equal or exceed the worldwide average, thereby helping to provide United States consumers with stable supplies of high quality aquatic foods.

(7) Growth of aquatic plants is a source of food for human and animal consumption as well as a source of industrial materials and energy. The Congress recognizes the importance of developing aquaculture of both plant and animal species.

(8) The stocking of advanced life stages of fish and shellfish produced by aquaculture is a means of rebuilding and augmenting fish and shellfish populations and establishing new fisheries.

(9) The application of aquaculture technology offers opportunities for the recovery of wasted thermal energy, nutrients, and other resources and may be a more efficient use of these resources for food production culture.

(10) Where water, whether fresh, brackish, or marine is suitable for aquaculture, appropriate consideration should be given to the utilization of such water for aquaculture along with the other uses of such water.

(11) Where land-use management policies may inhibit the development of aquaculture facilities in areas suitable for aquaculture, appropriate consideration should be given to the utilization of these areas for aquaculture along with the other uses of such areas.

(12) Current efforts to develop aquaculture in the United States are highly diffuse, and a strong commitment by the Federal Government will make aquaculture more efficient and competitive, thereby stimulating public and private investment and development.

(13) While many scientific and technological problems are unsolved, there is sufficient knowledge to further the development of aquaculture production systems for many species of fish and shellfish.

(14) The development of aquaculture in the United States has been limited by the inability of producers of aquatic species to obtain adequate capital and a reliable source of seed stock.

(15) Aquaculture in the United States has traditionally concentrated on a few aquatic species, but many others have a potential for commercial and other culture. However, the culture of additional species may include a higher degree of risk than the culture of traditional species, especially during the initial stages.

(16) Government programs that help to reduce the risks associated with production of agricultural commodities have not been generally available to producers of those aquatic species in which the risk is high.

(17) The rehabilitation and enhancement of the publicly owned fish and shellfish resources are desirable applications of aquaculture technology as a means to increase the general public benefits to be derived from the utilization of these common property resources.

(18) Extensions of jurisdiction over marine resources by numerous nations have resulted in the exclusion of many fishing nations from traditional fishing areas and created a demand in those nations for aquatic food-stuffs. Aquaculture could supply this new demand.

(19) The Select Committee on Nutrition and Human Needs of the Senate has recommended an increase in the fish consumption of the American family. Aquaculture can help to carry out this recommendation.

(b) The purpose of this Act is to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national plan for aquaculture; and

(3) developing programs and encouraging activities;

which will result in the coordination of domestic aquaculture efforts, the conservation of existing aquatic resources, the rehabilitation and enhancement of the publicly owned fish and shellfish stocks, the encouragement of commercial aquaculture activities, the creation of new industries and job opportunities, and other national benefits."

(c) Aquaculture has a high potential for augmenting existing commercial and sport fisheries, thereby increasing the supply of aquatic protein for both human and animal consumption and assisting the United States in meeting its future food needs and

contributing to the solution of world food problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture.

### SEC. 3. DEFINITIONS.

As used in this Act—

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including ocean ranching.

(2) The term "aquaculture facility" means any land, structure, or other appurtenance, if such land, structure, and appurtenance is located within the United States, which is used for aquaculture, including, but not limited to, any laboratory, vehicle, hatchery, rearing pond, race, sty, pen, incubator, or other equipment.

(3) The term "aquatic species" means any species, native or introduced, of finfish, mollusk or crustacean or other aquatic invertebrate, amphibian, reptile, or aquatic plant, other than any such species which is primarily used for ornamental purposes.

(4) The term "Fund" means the Federal Aquaculture Assistance Fund established by section 11.

(5) The term "person" means any individual who is a citizen or national of the United States and any corporation, partnership, association, or other entity (including, but not limited to, any community development corporation or fisherman's cooperative) organized or existing under the laws of any State.

(6) The term "Secretary" means the Secretary of Commerce.

(7) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and any other Commonwealth, territory, or possession of the United States.

(8) The term "United States", when used in a geographical context, means all States.

### SEC. 4. NATIONAL AQUACULTURE DEVELOPMENT PLAN.

"(a) (1) Before the close of the 1-year period beginning on the effective date of this Act, the Secretary, after consultation with the Secretary of the Interior and the Secretary of Agriculture, shall prepare a National Aquaculture Development Plan (hereinafter in this Act referred to as the "plan").

"(2) (A) The Secretary shall, after consultation with the Secretary of the Interior and the Secretary of Agriculture, establish and advisory committee for the purpose of assisting the Secretary in formulating a plan responsive to the various regional needs, interests, and approaches to the concept of aquaculture.

"(B) Such advisory committee shall be composed of regional subcommittees. The committee regions shall be established as follows:

"(i) Eight regional subcommittees shall be created which correspond in geographical composition to the eight regional divisions created under section 302(a) of the Fishery Conservation and Management Act of 1970.

"(ii) Other regional subcommittees shall be created by the Secretary to represent the remaining non-oceanic States which are not a part of the regional subcommittees created by clause (i) of this subparagraph. Such other regional subcommittees shall be established on the basis of the following criteria:

"(I) geographical proximity of States to one another,

"(II) similarity of States in aquacultural activities and potential, and

"(III) other relevant factors.

"(C) Membership of the regional advisory subcommittee from any region must include representatives of at least the following groups, where such groups exist in that region:

"(i) State fish and game department;

"(ii) commercial fishermen;

"(iii) fishfood processors;

"(iv) private sector aquaculture organizations;

"(v) regional fishery management councils;

"(vi) Federal fish and wildlife agency;

"(vii) recreational fishermen; and

"(viii) educational institutions.

"(D) The governors of the various States shall appoint members to the regional advisory subcommittees.

"(E) The members of the regional advisory committees established under subparagraph (B), while away from their homes or regular places of business in the performance of services for the committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(b) The plan shall be formulated at the regional level and coordinated and finalized at the secretarial level. The final plan shall—

(1) identify those aquatic species (hereinafter referred to in this Act as "priority aquatic species") which the Secretary determines to have a potential for culturing on a commercial or other basis, which determination shall be made by the Secretary after taking into account—

(A) the extent of commercial aquaculture, if any, currently being carried out with respect to such species, and the projected biological and economic feasibility of culturing such species;

(B) the extent to which aquaculture research and development have been undertaken, within the public and private sectors, with respect to such species;

(C) the time and resources which will be required to develop aquaculture technology to the point where such species can be cultured on a commercial or other basis; and

(D) such other factors as the Secretary determines to be appropriate; and

(2) contain an aquaculture development program, prepared by the Secretary, for each priority aquatic species.

(c) The aquaculture development program contained in the plan for each priority aquatic species shall set forth those actions which the Secretary determines should be undertaken, and the period of time within which each such action should be completed, to provide for the culture of each such species on a commercial or other basis. Such actions, with respect to each priority aquatic species, shall include—

(1) such research and development, technical assistance, demonstration, extension education, and training as may be necessary and appropriate regarding—

(A) aquaculture facility and operation,

(B) water quality management,

(C) utilization of waste products (including thermal effluents),

(D) nutrition and the development of economical feeds,

(E) life history, genetics, physiology, and pathology and disease control (including research regarding organisms which may not be harmful to fish and shellfish but are injurious to humans).

(F) processing and market development, and

(G) production management and quality control;

(2) research with respect to the effect of the culture of such species on estuarine and other water areas;

(3) the identification and analysis of any legal or regulatory constraints which may affect the culture of such species;

(4) the development of adequate supplies of seed stock;

(5) the construction, purchase, lease, or acquisition of necessary developmental aquaculture facilities; and

(6) such other actions relating to research and development, technical assistance, demonstration, extension education, and training as such Secretary deems necessary and appropriate.

(d) In preparing an aquaculture development program for any priority aquatic species, and in reviewing any such program pursuant to subsection (f), the Secretary shall, to the extent practicable, take into account any significant action which has been, or which is proposed to be undertaken by any other Federal agency, any State agency, or any person, and which may affect the accomplishment of the program.

(e) Each action under each aquaculture development program prepared under this section for a priority aquatic species shall be implemented, either individually, jointly, or collectively, by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as specified by the Secretary in the program on the basis of—

(1) responsibilities vested in the respective Secretaries by law or any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970); and

(2) in cases where paragraph (1) does not apply, the experience, expertise, and other appropriate resources which the department, over which the Secretary concerned has jurisdiction, may have with respect to the action required under the program.

(f) (1) The Secretary, in consultation with the Secretary of the Interior, the Secretary of Agriculture, and the chief executive officer of any other Federal agency, any appropriate Regional Fishery Management Council, and any State agency which has significant functions which relate to aquaculture, shall review on an annual basis—

(A) each aquatic species not identified as a priority aquatic species; and

(B) the aquaculture development program established under the plan for each priority aquatic species to determine whether the actions specified in the program are being accomplished on a successful and timely basis.

(2) If as a result of the review conducted pursuant to paragraph (1) (A), the Secretary determines, after taking into account the criteria set forth in subsection (b) (1), that any aquatic species has a potential for culturing on a commercial or other basis the Secretary shall by regulation amend and plan to identify such species as a priority aquatic species and prepare an aquaculture development program for such species pursuant to subsection (c).

(3) If as a result of the review conducted pursuant to paragraph (1) (B), the Secretary finds that—

(A) any action so specified should be revised the Secretary shall make such revision to the program as he deems necessary and appropriate; or

(B) sufficient progress is not being made with respect to any such program or that

actions taken under any such program indicate that culture of the priority aquatic species concerned is doubtful, the Secretary shall cancel the program.

The Secretary shall by regulation amend the plan whenever any revision or cancellation is made pursuant to this subsection.

#### SEC. 5. FUNCTIONS AND POWERS

(a) In implementing the aquaculture development program prepared under section 4 for any priority aquatic species, the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as the case may be, shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to culture of the species to interested public and private organizations and individuals, but in providing such assistance shall, to the maximum extent practicable, avoid duplication of like assistance provided by other Federal agencies;

(2) consult and cooperate with interested persons, Federal, State, and local government agencies, regional commissions, and educational institutions regarding the development of aquaculture technology;

(3) produce, under the authority of section 4(c) (4), and sell at cost seed stock for the priority aquatic species when privately produced seed stock is unavailable, unreliable, or not sufficient to meet production needs;

(4) encourage the implementation of aquaculture technology in the rehabilitation and enhancement of the publicly owned fish and shellfish stocks, as well as the promotion of private commercial aquacultural enterprises;

(5) assist the development of aquaculture by requiring that in areas where multiple land and water uses exist, aquaculture should be viewed as an important use which should be given appropriate consideration; and

(6) prescribe such regulations as may be necessary to carry out such program.

(b) The Secretary, the Secretary of the Interior, or the Secretary of Agriculture may, incident to such Secretary's implementation of any aquaculture development program—

(1) for the purposes of assessing the biological and economic feasibility of any aquaculture system—

(A) conduct scale tests of the system, and, if necessary for the conduct of any such test, construct, operate, and maintain developmental aquaculture facilities, including, but not limited to, pilot plants for testing laboratory-scale results; and

(B) conduct such other tests or analyses as may be necessary;

(1) develop methods to enhance aquatic species stocks by aquaculture;

(3) carry out such studies and research with respect to aquatic species as may be appropriate regardless of whether such species is or has been identified as a priority aquatic species; and

(4) take such other actions as such Secretary deems necessary and appropriate.

(c) In addition to carrying out such other functions as are required under this Act, the Secretary shall—

(1) establish and maintain an aquaculture information center which shall function as a national clearinghouse for the collection, selection, analysis, and dissemination of scientific, technical, legal, and economic information relating to aquaculture;

(2) conduct appropriate surveys, in coordination with other agencies, of public and private aquaculture being carried out in the

United States with respect to each aquatic species for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(3) arrange for the mutual exchange of information relating to aquaculture with foreign nations; and

(4) conduct a continuing study to determine which existing capture fisheries could be adversely impacted in the marketplace by competition from products produced by commercial aquaculture enterprises significantly aided under this Act, which study shall include an assessment of economic impact by species and by geographical region, and recommended measures to ameliorate any adverse impact. The Secretary shall report to Congress on the findings made under such study no later than 2 years following the effective date of this Act and every 2 years thereafter.

Any production information submitted to the Secretary by any person under paragraph (2) shall be confidential and shall not be disclosed except to the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, as the case may be, for purposes of carrying out this Act, the advisory committee which may be established under section 4(a)(2)(A), or when required under court order. The Secretary shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information.

(d) (1) The Secretary, the Secretary of the Interior, and the Secretary of Agriculture are each authorized to accept any gift, temporary donation, or devise or bequest of real or personal property, or the proceeds therefrom, or interests therein, for use in carrying out any function that such Secretary may have under this Act. Any such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary concerned to be in accordance with law and compatible with the purpose for which acceptance is sought.

(2) Any gift or bequest of money, and any proceeds from the sale of other property received as a gift or bequest under this subsection, shall be deposited in a separate account in the Treasury and shall be disbursed upon the order of the Secretary concerned.

**SEC. 6. COORDINATION OF FEDERAL AGENCY ACTIVITIES REGARDING AQUACULTURE.**

(a) (1) There is established the Interagency Committee on Aquaculture (hereinafter in this section referred to as the "Committee") which shall be composed of the following officers or their designees:

- (A) The Secretary, who shall be the Chairman of the Committee.
- (B) The Secretary of the Interior.
- (C) The Secretary of Agriculture.
- (D) The Administrator of the Environmental Protection Agency.
- (E) The Administrator of the Energy Research and Development Administration.
- (F) The Commissioner of Food and Drugs.
- (G) The Administrator of the Small Business Administration.
- (H) The Chief of Engineers.

(I) The chief executive officer of any other Federal agency and any Regional Fishery Management Council which the Secretary finds to have significant functions which relate, or may relate, to the development of

aquaculture.

(2) The functions of the Committee shall be—

(A) to ensure that there is a continuing exchange of information among the agencies represented on the Committee with respect to the nature and status of the programs or projects being carried out by such agencies which relate, or which may relate, to aquaculture in general or to the implementation of the plan; and

(B) to review on a continuing basis the relevant programs and projects of all Federal agencies to determine whether they are being carried out in compliance with subsection (b).

(b) Each Federal agency which has any function or responsibility with respect to aquaculture or has jurisdiction over any activity which affects, or may affect, the achievement of the purposes of this Act, shall, in consultation with the Secretary and to the maximum extent practicable, carry out such function, responsibility, and activity in a manner which is consistent with the purposes of this Act.

(c) Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer or any Federal agency to carry out any functions relating to aquaculture which are authorized under any other provision of law.

**SEC. 7. CONTRACTS AND GRANTS.**

(a) The Secretary may carry out any function under this Act, and the Secretary of the Interior or the Secretary of Agriculture may carry out any function relating to any aquaculture development program which he is specified to implement under the plan, through grants to, or contracts with, any other Federal agency, any agency of any State and, subject to the approval of the State, any agency of any political subdivision thereof, any regional commission, any educational institution, or any other person.

(b) Any contract entered into, or any grant made, pursuant to this section shall contain such conditions and limitations as the Secretary concerned shall by regulation prescribe as being necessary and appropriate to protect the interests of the United States; except that no contract may be entered into, and no grant may be made, pursuant to this section unless the applicant submits with his application therefor a certification from each appropriate State agency and each appropriate local government agency stating that nothing in the laws administered by such agency prevents the carrying out of the project to which the contract or grant will be applied.

(c) The amount of any grant made pursuant to this section may not exceed one-half the estimated cost of the project for which the grant is made.

(d) Any person who receives a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, or any of their authorized representatives, for purposes of audit and examination, any book, document, paper, and record that is pertinent to the funds received by such person under such grant or contract.

**SEC. 8. GUARANTEES OF OBLIGATIONS ISSUED FOR AQUACULTURE FACILITIES.**

(a) (1) The Secretary may, subject to the provisions of this section, guarantee, or make a commitment to guarantee, the payment of interest on, and the principal amount of, any obligation issued by an obligor for any of the following purposes:

- (A) The financing of the construction,

reconstruction, or reconditioning of any aquaculture facility (including the financing of the purchase cost of any aquaculture facility to be reconstructed or reconditioned); except that no obligation may be guaranteed under this section later than 3 years after the date of the completion of the construction, reconstruction, or reconditioning of the aquaculture facility involved.

(B) The acquisition of stocks of aquatic species for any aquaculture facility.

(C) The financing of the initial operating expenses of any aquaculture facility.

(D) The financing of marketing operations exclusively for aquaculture products.

(E) The refinancing of any existing obligation issued for any of the purposes specified in subparagraph (A), (B), (C), or (D), whether or not guaranteed under this section, including, but not limited to, any short-term obligation incurred for the purposes of obtaining temporary funds for refinancing. Guarantees and commitments to guarantee may be made under this section without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a)).

(2) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to both principal and interest, including any interest, if provided for in the guarantee, which may accrue between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(3) Any guarantee, or commitment to guarantee, made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee or commitment of guarantee, so made shall be incontestable.

(4) The aggregate unpaid principal amount of all obligations guaranteed under this section and outstanding at any one time shall not exceed \$500,000,000.

(b) (1) Obligations guaranteed under this section—

(A) shall have an obligor approved by the Secretary as being responsible and possessing the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of the aquaculture facilities;

(B) shall be in an aggregate principal amount which does not exceed 87½ percent of the actual cost involved or the depreciated actual cost, as determined by the Secretary;

(C) shall have maturity dates satisfactory to the Secretary, but not to exceed 25 years;

(D) shall provide for payments by the obligor satisfactory to the Secretary; and

(E) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such percentage per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary.

(2) In guaranteeing any obligation under this section, the Secretary shall give preference to any person with 40 or fewer employees which, together with its affiliates, is primarily engaged in the business of aquaculture or commercial fishing for aquatic species.

(3) No obligation shall be guaranteed under this section unless the obligor conveys or agrees to convey to the Secretary such security interest as the Secretary may require to reasonably protect the interests of the United States.

(c) (1) The Secretary may charge a fee for any obligation guaranteed under this section,

the amount of which shall be established by the Secretary by regulation but which may not exceed one-half of 1 percent per annum of the outstanding principal balance of the obligation. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least 60 days before each anniversary date thereafter.

(2) The Secretary shall charge and collect from the obligor such amounts as he may deem reasonable for the investigation of the application for any guarantee, for the appraisal of properties offered as security for any guarantee, and for the inspection of such properties during construction, reconstruction, or reconditioning; except that such charges shall not aggregate more than one-half of 1 percent of the original principal amount of the obligation to be guaranteed.

(3) All fees and other amounts received by the Secretary under the provisions of this subsection shall be deposited in the Fund.

(4) Obligations guaranteed under this section, and agreements relating thereto, shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

(d) (1) In the event of a default, which has continued for 30 days, in any payment by the obligor of principal or interest due under any obligation guaranteed under this section, the obligee or his agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 90 days from the date of each default, payment by the Secretary of the unpaid principal amount of said obligation and of the unpaid interest thereon to the date of payment. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment; except that the Secretary shall not be required to make such payment if before the expiration of such period he finds that there was no default by the obligor in the payment of principal or interest or that such default has been remedied before any such demand.

(2) Payments required to be made by the Secretary under paragraph (1) shall be made by the Secretary from the Fund.

(3) In the event of any payment by the Secretary under paragraph (1), the Secretary shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary may, under such terms and conditions as the Secretary prescribes or approves, complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by him pursuant to a security agreement with the obligor.

(4) After any default referred to in paragraph (1), the Secretary shall take such action against the obligor or any other parties liable thereunder that, in his discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States

all records and evidence necessary to prosecute any such suit. The Secretary may accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary receives through the sale of property an amount of cash in excess of any payment made to an obligee under paragraph (1) and the expenses of collection of such amounts, he shall pay such excess to the obligor.

(5) Whoever, for the purpose of obtaining any loan or advance of credit from any person with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the Secretary, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the Secretary under this section, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than 2 years, or both.

(e) The Secretary shall promulgate such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this section.

(f) For purposes of this section—

(1) The term "actual cost" of an aquaculture facility, as of any specified date, means the aggregate, as determined by the Secretary, of—

(A) all amounts paid by, or for the account of, the obligor with respect to such facility on or before that date; and

(B) all amounts which the obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of such facility.

(2) The terms "construction", "reconstruction", or "reconditioning" include, but are not limited to, designing, inspecting, outfitting, and equipping of the aquaculture facility involved.

(3) The term "depreciated actual cost" means the actual cost depreciated on a straightline basis over the useful life of the property involved as determined by the Secretary.

(4) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in subsection (a).

(5) The term "obligee" means the holder of any obligation.

(6) The term "obligor" means any person primarily liable for payment of the principal or interest on any obligation.

#### SEC. 9. DISASTER LOANS:

(a) (1) The Secretary may make one or more loans from the Fund to any person if—

(A) an aquaculture facility, or stock of

aquatic species at the facility, or both, that is owned by such person is damaged or destroyed as a result of a natural disaster; or

(B) the stock of aquatic species at an aquaculture facility owned by such person is damaged or destroyed by disease, pollution, or contamination (caused by reasons other than a natural disaster or the willful or negligent action of such person).

The purpose of any loan made by the Secretary under this section shall be to accomplish one or more of the following objectives:

(1) The repair, rehabilitation, or replacement of such facility.

(2) The replacement of aquatic species stock.

(3) To continue aquaculture operations while any such repair, rehabilitation, or replacement is in progress.

(4) The purchase, construction, or reconstruction of an aquaculture facility at another location if the Secretary finds that—

(I) the damage to the facility is so extensive that its repair or rehabilitation is impracticable;

(II) the replacement of the destroyed facility at the same location is impracticable; or

(III) the pollution or contamination referred to in subparagraph (B) is likely to persist for such period of time that continued aquaculture operations at the same location are impracticable.

(v) To meet payments of principal and interest on any obligation of such person with respect to the facility or stock so damaged or destroyed for such period of time as the Secretary deems appropriate, taking into account the degree of such damage or destruction.

(vi) To retire in full any such obligation.

(2) No loan may be made under this section for any damage or destruction—

(A) which is fully compensated for by insurance (including insurance paid under section 10) or otherwise; or

(B) for which assistance is available under any other Federal disaster assistance program.

(b) Any loan made pursuant to this section shall—

(1) mature in not more than 20 years;

(2) bear interest at a rate not less than the rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Treasury obligations of comparable maturity;

(3) be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require; and

(4) be subject to such other terms and conditions as the Secretary may require to protect the interests of the United States.

(c) The Secretary may consent to the modification of any term or condition of any loan made under this section, including, but not limited to, reduction of the rate of interest, deferment of any installment of principal or interest, or change in any security requirement.

(d) All payments of principal and interest on loans made under this section shall be deposited into the Fund.

(e) For purposes of this section, the term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for the purpose of financing (1) the construction, reconstruction, or reconditioning of an aquaculture facility, (2) the initial operating expenses of any such facility, and (3) the acquisition of stock of aquatic species for any such facility.

(f)(1) Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security for the purpose of obtaining for himself or for any applicant and loan under this section, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Secretary under this section, or for the purpose of obtaining money, property or anything of value under this section, shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than 2 years, or both.

(2) Whoever, with the intent to defraud, knowingly conceals, removes, disposes of, or converts to his own use or to that of another, any property mortgaged or pledged to, or held by, the Secretary pursuant to this section shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than 5 years, or both.

(g) No loan may be made by the Secretary under this section for any damage to, or destruction of, any aquaculture facility or stock of aquatic species which occurs on or after the close of the 5-year period beginning on the effective date of this Act.

**SEC. 10. INSURANCE AGAINST CERTAIN LOSSES INCURRED IN AQUACULTURE FACILITY OPERATIONS.**

(a) As used in this section, unless the context otherwise requires—

(1) The term "direct insurance" means any insurance described in paragraphs (2), (3), and (4).

(2) The term "essential liability insurance" means insurance against all sums which the owner of an aquaculture facility becomes legally obligated to pay as damages because of bodily injury or property damage caused by the aquaculture facility, the operation of such facility, or the aquatic species cultured at such facility.

(3) The term "essential property insurance" means insurance against direct loss of, or direct damage to, the real or personal property of an aquaculture facility caused by perils as they are defined and limited in standard fire policies and extended coverage endorsements thereon as approved by the State insurance authority, and insurance against loss of, or damage to, the real or personal property of an aquaculture facility from such perils as the Secretary by regulation shall specify, including, but not limited to vandalism, malicious mischief, burglary, and theft.

(4) The term "essential stock insurance" means insurance against loss of, or damage to, any aquatic species being cultured at an aquaculture facility due to unavoidable or natural causes, including, but not limited to, drought, pollution, hail, frost, wind, winter-kill, freeze, lightning, fire, excessive rain, flood, snow, wildlife, hurricane, tornado, insect or parasite infestation, disease, and such other unavoidable or natural causes as the Secretary by regulation shall specify.

(5) The term "insurer" includes any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State.

(6) The term "owner" means any person having an insurable interest in an aquaculture facility or aquatic species stock.

(7) The term "pool" means any pool or association of insurers in any State which is formed, associated, or otherwise created for the purpose of making insurance more readily available.

(8) The term "reasonable premium rate" means that premium rate determined by the Secretary, which would permit the purchase of any direct insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved.

(b) The Secretary may by regulation define any technical or trade term necessary in the administration of this section, insofar as any such definition is not inconsistent with the provisions of this section.

(c)(1) The Secretary shall conduct, within 6 months after the effective date of this Act, and annually thereafter, a study to determine whether direct insurance is generally available to owners at reasonable premium rates, through insurers, pools, or a suitable program adopted under State law.

(2)(A) If the Secretary finds, as a result of the study referred to in paragraph (1), that essential property insurance or essential liability insurance is not available at reasonable premium rates in any State and such insurance has not been provided by State action, the Secretary may establish a program to provide such insurance in such State, if the Secretary considers the issuance of such insurance necessary and appropriate to carry out the purposes and policy of this Act.

(B) Any essential property insurance or essential liability insurance issued by the Secretary under this paragraph shall be subject to such terms and conditions, and to such deductibles and other restrictions and limitations as the Secretary deems appropriate; except that the Secretary may not provide essential property insurance or essential liability insurance with respect to—

(1) any aquaculture facility or stock of aquatic species which the Secretary determines to be uninsurable due to the failure of the owner to follow established principles for operating aquaculture facilities or culturing aquatic species, as the case may be; or

(2) any aquaculture facility which the Secretary determines to lack reasonable protective measures to prevent loss or damage.

(3)(A) If the Secretary finds, as a result of the study referred to in paragraph (1), that essential stock insurance is not available at reasonable premium rates in any State and that such insurance has not been provided by State action, the Secretary shall establish a program to provide such insurance in such State.

(B) Any essential stock insurance issued by the Secretary under this paragraph shall be subject to such terms and conditions and to such deductibles and other restrictions and limitations as the Secretary deems appropriate; except that the Secretary may not provide essential stock insurance with respect to any stock of aquatic species if the Secretary determines such stock to be uninsurable due to the failure of the owner to follow established principles for culturing aquatic species or due to the lack of reasonable protective measures at the aquaculture facility concerned to prevent the loss of, or damage to, the stock being cultured.

(d)(1) In determining the premium rate for any direct insurance offered from time to time under subsection (c) (2) or (3), the Secretary shall consult with persons knowledgeable and experienced in insurance, including, but not limited to, State insurance regulatory authorities, and may take into consideration with respect to the insurance concerned, the nature and degree of risk involved, the protective devices employed, the

extent of past and anticipated losses, the prevailing rate for similar coverages, the economic importance of the insurance, and the relative abilities of the particular classes and types of insureds to pay the actual premium for such coverage.

(2) (A) The Secretary may not establish the premium rate for any direct insurance at less than 50 percent of the actual premium rate for such insurance.

(B) For purposes of subparagraph (A) the actual premium rate for any direct insurance offered under this section shall be determined as follows:

(i) If insurance of the same kind is generally offered by insurers or pools in the State concerned, the actual premium rate shall be that rate which the Secretary determines to be the median premium rate for all such insurance so offered.

(ii) If insurance of the same kind is not generally offered by insurers or pools in the State concerned, the actual premium rate shall be that rate which the Secretary determines to be the rate at which insurers or pools in such State would offer such insurance, taking into account actuarially sound principles applicable to the elements making up such rate, including, but not limited to, claim losses, general administrative expenses, acquisition expenses, taxes, license fees, and profits.

In making determinations under clauses (i) and (ii), the Secretary shall consult with the insurance regulatory authority of the State concerned and any rate advisory organization licensed by such State.

Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of the currently estimated reasonable premium rates for any particular coverage, class, State, or risk on the basis of additional information or actual loss experience.

(e) (1) The Secretary may enter into any contract, agreement, treaty, or other arrangement with any insurer or pool to provide reinsurance coverage with respect to any direct insurance issued by such insurer or pool, in consideration of payment of such premiums, fees, or other charges by insurers or pools which the Secretary deems to be appropriate, after consultation with persons knowledgeable and experienced in insurance.

(2) Reinsurance issued under this subsection shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from providing the direct insurance concerned during the term of the reinsurance contract, agreement, treaty, or other arrangement, over and above the amount of the insurer's or pool's retention of such losses, as provided in such reinsurance, contract, agreement, treaty, or other arrangement entered into under this section.

(3) Such contracts, agreements, treaties, or other arrangements may be made without regard to section 3670(a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)), and shall include any terms and conditions which the Secretary deems necessary to carry out the purposes of this section. The premium rates and terms and conditions of such contracts, agreements, treaties, or other arrangements with an insurer or pool shall be uniform in any one year throughout the country.

(f) (1) All premiums received by the Secretary under this section shall be deposited into the Fund.

(2) The Secretary, in a suit brought in the appropriate United States district court, shall

be entitled to recover from any owner, insurer, or pool the amount of any unpaid premium lawfully payable to the Secretary by such owner, insurer, or pool under any direct insurance or reinsurance issued under this section.

(3) No action or proceeding shall be brought for the recovery of any premium due the Secretary, or for the recovery of any premium paid to the Secretary in excess of the amount due, unless such action or proceeding is commenced within 5 years after the right accrued for which the claim is made; except that, if the insurer has made or filed with the Secretary a false or fraudulent statement or other document with intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

(g) In order to provide for maximum efficiency in the administration of the insurance and reinsurance program provided under this section, and in order to facilitate the expeditious payment of any claims under such program, the Secretary may enter into contracts with any insurer, pool, or person, for the purpose of providing for the performance of any of the following functions:

(1) The estimation or determination of any amounts of payments for reinsurance or direct insurance claims.

(2) The receipt, disbursement, and accounting for funds in making payments for reinsurance and direct insurance claims.

(3) The auditing of the records of any insurer, pool, or person to the extent necessary to assure that proper payments are made.

(4) The establishment of the basis of liability for reinsurance or direct insurance payments, including the total amount of proved and approved claims which may be payable to any insurer, pool, or owner, and the total amount of premiums earned by any insurer or pool in the respective States from direct insurance or reinsurance.

(5) The provision of assistance in any manner provided for in the contract to further the purposes of this section.

(h) The Secretary may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any Federal agency with respect to any insurance matter which is within the purview of this section.

(i) The Secretary may prescribe regulations establishing the general method or methods by which proved and approved claims for losses are paid under any direct insurance or reinsurance issued under this section. Proved and approved claims shall be paid from the Fund.

(j) The Secretary, in providing any direct insurance or reinsurance under this section may adjust and pay all claims for proved and approved losses covered by such insurance and, upon the disallowance by the Secretary, or upon the refusal of the claimant to accept the amount allowed upon any such claim, the claimant, within one year after the date of mailing of notice of disallowance or partial disallowance of the claim, may institute an action on such claim against the Secretary in the United States district court for the district in which the insured owner or reinsured insurer or pool resides or principally conducts business, and jurisdiction is hereby conferred upon such court to hear and determine such action without regard to the amount in controversy.

(k) The face amount of direct insurance

and reinsurance coverage outstanding and in force at any one time under this section shall not exceed \$1,000,000,000.

(1) No direct insurance or reinsurance may be issued by the Secretary under this section after the close of the 5-year period beginning on the effective date of this Act.

**SEC. 11. FEDERAL AQUACULTURE ASSISTANCE FUND.**

(a) There is established in the Treasury of the United States a Federal Aquaculture Assistance Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out, and administering, sections 8, 9, and 10. The Fund shall consist of—

(1) any sums appropriated to the Fund;

(2) any fees received by the Secretary in connection with any guarantee made under section 8;

(3) recoveries and receipts received by the Secretary under security, subrogation, and other rights and authorities under sections 8, 9, and 10;

(4) payments of principal and interest received by the Secretary under any loan made under section 9;

(5) premiums paid to, or recovered by, the Secretary for any direct insurance or reinsurance issued by the Secretary under section 10; and

(6) moneys deposited pursuant to the last sentence of subsection (b).

All payments made by the Secretary to carry out the provisions of sections 8, 9, and 10 (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of sections 8, 9, and 10 shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(b) If at any time the moneys in the Fund are not sufficient to pay any amount the Secretary is obligated to pay under section 8(d)(1) or any direct insurance or reinsurance claim under section 10, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations to be issued hereunder and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Moneys borrowed under this subsection shall be deposited in the Fund and redemptions of such notes and obligations shall

be made by the Secretary from the Fund.

**SEC. 12. REPORTS AND RECOMMENDATIONS.**

Before the close of the 90th day after the close of the 3-year period beginning on the effective date of this Act, the Secretary shall review the operation and effectiveness of the disaster loan program provided for under section 9 and the insurance program provided for under section 10 and shall submit a report thereon to the Congress, together with the recommendation of the Secretary as to whether or not either such program should be continued and, if the Secretary recommends continuation, such suggestions as the Secretary may have for improving the operation and effectiveness of such program.

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

(a) For purposes of carrying out the provisions of this Act (other than sections 8, 9, or 10), there are authorized to be appropriated, notwithstanding any authorization for appropriations in any other Act in effect before the date of the enactment of this Act—

(1) to the Department of Commerce, not to exceed—

(A) \$4,000,000 for the fiscal year 1979.

(B) \$15,000,000 for the fiscal year 1980, and

(C) \$17,000,000 for the fiscal year 1981;

(2) to the Department of the Interior, not to exceed—

(A) \$2,000,000 for the fiscal year 1979.

(B) \$7,500,000 for the fiscal year 1980, and

(C) \$8,500,000 for the fiscal year 1981; and

(3) to the Department of Agriculture, not to exceed—

(A) \$2,000,000 for the fiscal year 1979.

(B) \$7,500,000 for the fiscal year 1980, and

(C) \$9,500,000 for the fiscal year 1981.

(b) There are authorized to be appropriated, without fiscal year limitation, to the Fund such sums as may be necessary and appropriate for purposes of carrying out sections 8, 9, and 10; but not to exceed \$500,000,000 for the purposes of section 8 and not to exceed \$250,000,000 for the purposes of section 9.

**SEC. 14. EFFECTIVE DATE.**

This Act shall take effect October 1, 1978. ■