To reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

IN THE SENATE OF THE UNITED STATES
JANUARY 25 (legislative day, J ANUARY 5), 2011
Mr. INOUYE (for himself, Mr. ROCKEFELLER, Mr. KERRY, Ms. SNOWE, and Mr. NELSON of Florida) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL
To reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Coral Reef Conservation Amendments Act of 2011”.

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

Sec. 1. Short title; table of contents.
Sec. 3. Purposes.
Sec. 4. National coral reef action strategy.
Sec. 5. Coral reef conservation program.
SEC. 2. AMENDMENT OF CORAL REEF CONSERVATION ACT OF 2000.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq.).

SEC. 3. PURPOSES.

Section 202 (16 U.S.C. 6401) is amended to read as follows:

"SEC. 202. PURPOSES.

"The purposes of this Act are—

"(1) to preserve, sustain, and restore the condition of coral reef ecosystems;"
“(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;

“(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

“(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

“(5) to provide financial resources for those programs and projects;

“(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects; and

“(7) to provide mechanisms to prevent and minimize damage to coral reefs.”.

SEC. 4. NATIONAL CORAL REEF ACTION STRATEGY.

Section 203 (16 U.S.C. 6402) is amended to read as follows:

“(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Coral Reef Conservation Amendments Act of 2011, the Secretary shall submit to the Senate Committee on Commerce, Science, and Trans-
portation and to the House of Representatives Committee on Natural Resources and publish in the Federal Register a national coral reef ecosystem action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary may consult the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).

“(b) GOALS AND OBJECTIVES.—The action strategy shall include a statement of goals and objectives as well as an implementation plan, including a description of the funds obligated each fiscal year to advance coral reef conservation. The action strategy and implementation plan shall include discussion of—

“(1) coastal uses and management, including land-based sources of pollution;

“(2) climate change;

“(3) water and air quality;

“(4) mapping and information management;

“(5) research, monitoring, and assessment;

“(6) international and regional issues;

“(7) outreach and education;

“(8) local strategies developed by the States or Federal agencies, including regional fishery management councils; and
“(9) conservation.”.

SEC. 5. CORAL REEF CONSERVATION PROGRAM.

(a) In General.—Section 204 (16 U.S.C. 6403) is amended—

(1) by striking “Secretary, through the Administrator and” in subsection (a) and inserting “Secretary,”;

(2) by striking subsection (c) and inserting the following:

“(c) Eligibility.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit a coral conservation proposal to the Secretary under subsection (e).”;

(3) by striking “Geographic and Biological” in the heading for subsection (d) and inserting “Project”;

(4) by striking paragraph (3) of subsection (d) and inserting the following:

“(3) Remaining funds shall be awarded for—

“(A) projects (with priority given to community-based local action strategies) that ad-
dress emerging priorities or threats, including international and territorial priorities, or threats identified by the Secretary; and

“(B) other appropriate projects, as determined by the Secretary, including monitoring and assessment, research, pollution reduction, education, and technical support.”;

(5) by striking subsection (g) and inserting the following:

“(g) CRITERIA FOR APPROVAL.—The Secretary may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reef ecosystems nationally or internationally by—

“(1) implementing coral conservation programs which promote sustainable development and ensure effective, long-term conservation of coral reef ecosystems and biodiversity;

“(2) addressing the conflicts arising from the use of environments near coral reef ecosystems or from the use of corals, species associated with coral reef ecosystems, and coral products;

“(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or spe-
cies associated with coral reef ecosystems or regulate
the use and management of coral reef ecosystems;

“(4) developing sound scientific information on
the condition of coral reef ecosystems or the threats
to such ecosystems and their biodiversity, including
factors that cause coral disease, ocean acidification,
and bleaching;

“(5) promoting and assisting the implementa-
tion of cooperative coral reef ecosystem conservation
projects that involve affected local communities, non-
governmental organizations, or others in the private
sector;

“(6) increasing public knowledge and awareness
of coral reef ecosystems and issues regarding their
long-term conservation, including how they function
to protect coastal communities;

“(7) mapping the location, distribution, and
biodiversity of coral reef ecosystems;

“(8) developing and implementing techniques to
monitor and assess the status and condition of coral
reef ecosystems and biodiversity;

“(9) developing and implementing cost-effective
methods to restore degraded coral reef ecosystems
and biodiversity;
“(10) responding to, or taking action to help mitigate the effects of, coral disease, ocean acidification, and bleaching events;

“(11) promoting activities designed to prevent or minimize damage to coral reef ecosystems, including the promotion of ecologically sound navigation and anchorages; or

“(12) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems.”;

and

(6) by striking “coral reefs” in subsection (j) and inserting “coral reef ecosystems”.

(b) CONFORMING AMENDMENTS.—Subsections (b), (d), (e), (f), (h), (i), and (j) of section 204 (16 U.S.C. 6403) are each amended by striking “Administrator” each place it appears and inserting “Secretary”.

SEC. 6. CORAL REEF CONSERVATION FUND.

Section 205 (16 U.S.C. 6404) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) FUND.—The Secretary may enter into agreements with nonprofit organizations promoting coral reef
ecosystem conservation by authorizing such organizations
to receive, hold, and administer funds received pursuant
to this section. Such organizations shall invest, reinvest,
and otherwise administer the funds and maintain such
funds and any interest or revenues earned in a separate
interest-bearing account (referred to in section 219(a) as
the Fund) established by such organizations solely to sup-
port partnerships between the public and private sectors
that further the purposes of this title and are consistent
with the national coral reef action strategy under section
203.”;

(2) by striking “the grant program” in sub-
section (c) and inserting “any grant program”; and

(3) by striking “Administrator” in subsections
(c) and (d) and inserting “Secretary”.

SEC. 7. AGREEMENTS; REDESIGNATIONS.

The Act (16 U.S.C. 6401 et seq.) is amended—

(1) by redesignating section 206 (16 U.S.C.
6405) as section 207;

(2) by redesignating section 207 (16 U.S.C.
6406) as section 208;

(3) by redesignating section 208 (16 U.S.C.
6407) as section 218;

(4) by redesignating section 209 (16 U.S.C.
6408) as section 219;
(5) by redesignating section 210 (16 U.S.C. 6409) as section 221; and
(6) by inserting after section 205 (16 U.S.C. 6404) the following:

“SEC. 206. AGREEMENTS.

“(a) IN GENERAL.—The Secretary may execute and perform such contracts, leases, grants, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this title.

“(b) COOPERATIVE AGREEMENTS.—In addition to the general authority provided by subsection (a), the Secretary may enter into, extend, or renegotiate agreements with universities and research centers with national or regional coral reef research institutes to conduct ecological research and monitoring explicitly aimed at building capacity for more effective resource management. Pursuant to any such agreements these institutes shall—

“(1) collaborate directly with governmental resource management agencies, non-profit organizations, and other research organizations;

“(2) build capacity within resource management agencies to establish research priorities, plan interdisciplinary research projects and make effective use of research results; and
“(3) conduct public education and awareness programs for policy makers, resource managers, and the general public on coral reef ecosystems, best practices for coral reef and ecosystem management and conservation, their value, and threats to their sustainability.

“(c) USE OF OTHER AGENCIES’ RESOURCES.—For purposes related to the conservation, preservation, protection, restoration, or replacement of coral reefs or coral reef ecosystems and the enforcement of this title, the Secretary is authorized to use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization.

“(d) AUTHORITY TO UTILIZE GRANT FUNDS.—

“(1) Except as provided in paragraph (2), the Secretary may apply for, accept, and obligate research grant funding from any Federal source operating competitive grant programs where such funding furthers the purpose of this title.

“(2) The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1)
for which the granting agency lacks authority to
grant funds to Federal agencies, or for any purpose
or subject to conditions that are prohibited by law
or regulation.

“(3) Appropriated funds may be used to satisfy
a requirement to match grant funds with recipient
agency funds, except that no grant may be accepted
that requires a commitment in advance of appropria-
tions.

“(4) Funds received from grants shall be depos-
ited in the National Oceanic and Atmospheric Ad-
ministration account for the purpose for which the
grant was awarded.

“(e) Transfer of Funds.—Under an agreement
entered into pursuant to subsection (a), and subject to the
availability of funds, the Secretary may transfer funds to,
and may accept transfers of funds from, Federal agencies,
instrumentalities and laboratories, State and local govern-
ments, Indian tribes (as defined in section 4 of the Indian
Self-Determination and Educational Assistance Act (25
U.S.C. 450(b)), organizations and associations rep-
resenting Native Americans, native Hawaiians, and Native
Pacific Islanders, educational institutions, nonprofit orga-
nizations, commercial organizations, and other public and
private persons or entities, except that no more than 5
percent of funds appropriated to carry out this section may be transferred. The 5 percent limitation shall not apply to section 204 or section 210.”.

SEC. 8. EMERGENCY ASSISTANCE.

Section 207 (formerly 16 U.S.C. 6405), as redesignated by section 7 of this Act, is amended to read as follows:

“SEC. 207. EMERGENCY ASSISTANCE.

“The Secretary, in cooperation with the Federal Emergency Management Agency, as appropriate, may provide assistance to any State, local, or territorial government agency with jurisdiction over coral reef ecosystems to address any unforeseen or disaster-related circumstance pertaining to coral reef ecosystems.”.

SEC. 9. NATIONAL PROGRAM.

Section 208 (formerly 16 U.S.C. 6406), as redesignated by section 7 of this Act, is amended to read as follows:

“SEC. 208. NATIONAL PROGRAM.

“(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may conduct activities, including with local, State, regional, or international programs and partners, as appropriate, to conserve coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act, the Coastal Zone Management

“(b) AUTHORIZED ACTIVITIES.—Activities authorized under subsection (a) include—

“(1) mapping, monitoring, assessment, restoration, socioeconomic and scientific research that benefit the understanding, sustainable use, biodiversity, and long-term conservation of coral reef ecosystems;

“(2) enhancing public awareness, education, understanding, and appreciation of coral reef ecosystems;

“(3) removing, and providing assistance to States in removing, abandoned fishing gear, marine debris, and abandoned vessels from coral reef ecosystems to conserve living marine resources;

“(4) responding to incidents and events that threaten and damage coral reef ecosystems;

“(5) conservation and management of coral reef ecosystems;

“(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public with local, regional, or international programs and partners; and
“(7) activities designed to prevent or minimize damage to coral reef ecosystems, including those activities described in section 212 of this title.

“(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies shall provide for the long-term stewardship of environmental data, products, and information via data processing, storage, and archive facilities pursuant to this title. The Secretary may—

“(1) archive environmental data collected by Federal, State, local agencies, and tribal organizations and federally funded research;

“(2) promote widespread availability and dissemination of environmental data and information through full and open access and exchange to the greatest extent possible, including in electronic format on the Internet;

“(3) develop standards, protocols, and procedures for sharing Federal data with State and local government programs and the private sector or academia; and

“(4) develop metadata standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.
“(d) Emergency Response, Stabilization, and Restoration.—

“(1) Establishment of account.—The Secretary shall establish an account (to be called the Emergency Response, Stabilization, and Restoration Account) in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. Amounts appropriated for the Account under section 219, and funds authorized by sections 213(d)(1)(C)(ii) and 214(f)(3)(B), shall be deposited into the Account and made available for use by the Secretary as specified in sections 213 and 214.

“(2) Deposit and investment of certain funds.—Any amounts received by the United States pursuant to sections 213(d)(1)(C)(ii) and 212(f)(3)(B) shall be deposited into the Emergency Response, Stabilization and Restoration Account established under paragraph (1). The Secretary of Commerce may request the Secretary of the Treasury to invest such portion of the Damage Assessment Restoration Revolving Fund as is not, in the judgment of the Secretary of Commerce, required to
meet the current needs of the fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the fund, as determined by the Secretary of Commerce and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned by such investments shall be available for use by the Secretary without further appropriation and remain available until expended.”.

SEC. 10. STUDY OF TRADE IN CORALS.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of the Interior, shall conduct a study on the economic, social, and environmental values and impacts of the United States market in corals and coral products.

(b) CONTENTS.—The study shall—

(1) assess the economic and other values of the United States market in coral and coral products, including import and export trade;

(2) identify primary coral species used in the coral and coral product trade and locations of wild harvest;
• assess the environmental impacts associated with wild harvest of coral;

• assess the effectiveness of current public and private programs aimed at promoting conserva-
  tion in the coral and coral product trade;

• identify economic and other incentives for coral reef conservation as part of the coral and coral
  product trade; and

• identify additional actions, if necessary, to ensure that the United States market in coral and
  coral products does not contribute to the degradation of coral reef ecosystems.

(c) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources a report of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $100,000.

SEC. 11. INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 208, as redesignated by section 7 of this Act, the following:
“SEC. 209. INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.

“(a) INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.—

“(1) IN GENERAL.—The Secretary shall carry out international coral reef conservation activities consistent with the purposes of this Act with respect to coral reef ecosystems in waters outside the United States jurisdiction. The Secretary shall develop and implement an international coral reef ecosystem strategy pursuant to subsection (b).

“(2) COORDINATION.—In carrying out this subsection, the Secretary shall consult with the Secretary of State, the Administrator of the Agency for International Development, the Secretary of the Interior, and other relevant Federal agencies, and relevant United States stakeholders, and shall take into account coral reef ecosystem conservation initiatives of other nations, international agreements, and intergovernmental and nongovernmental organizations so as to provide effective cooperation and efficiencies in international coral reef conservation. The Secretary may consult with the Coral Reef Task Force in carrying out this subsection.

“(b) INTERNATIONAL CORAL REEF ECOSYSTEM STRATEGY.—
“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Coral Reef Conservation Amendments Act of 2011, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources, and publish in the Federal Register, an international coral reef ecosystem strategy, consistent with the purposes of this Act and the national strategy required pursuant to section 203(a). The Secretary shall periodically review and revise this strategy as necessary.

“(2) CONTENTS.—The strategy developed by the Secretary under paragraph (1) shall—

“(A) identify coral reef ecosystems throughout the world that are of high value for United States marine resources, that support high-seas resources of importance to the United States such as fisheries, or that support other interests of the United States;

“(B) summarize existing activities by Federal agencies and entities described in subsection (a)(2) to address the conservation of coral reef ecosystems identified pursuant to subparagraph (A);
“(C) establish goals, objectives, and specific targets for conservation of priority international coral reef ecosystems;

“(D) describe appropriate activities to achieve the goals and targets for international coral reef conservation, in particular those that leverage activities already conducted under this Act;

“(E) develop a plan to coordinate implementation of the strategy with entities described in subsection (a)(2) in order to leverage current activities under this Act and other conservation efforts globally;

“(F) identify appropriate partnerships, grants, or other funding and technical assistance mechanisms to carry out the strategy; and

“(G) develop criteria for prioritizing partnerships under subsection (c).

“(c) INTERNATIONAL CORAL REEF ECOSYSTEM PARTNERSHIPS.—

“(1) IN GENERAL.—The Secretary shall establish an international coral reef ecosystem partnership program to provide support, including funding and technical assistance, for activities that imple-
ment the strategy developed pursuant to subsection (b).

“(2) MECHANISMS.—The Secretary shall pro-
vide such support through existing authorities, work-
ing in collaboration with the entities described in
subsection (a)(2).

“(3) AGREEMENTS.—The Secretary may exe-
cute and perform such contracts, leases, grants, co-
operative agreements, or other transactions as may
be necessary to carry out the purposes of this sec-
tion.

“(4) TRANSFER OF FUNDS.—To implement this
section and subject to the availability of funds, the
Secretary may transfer funds to a foreign govern-
ment or international organization, and may accept
transfers of funds from such entities, except that no
more than 5 percent of funds appropriated to carry
out this section may be transferred.

“(5) CRITERIA FOR APPROVAL.—The Secretary
may not approve a partnership proposal under this
section unless the partnership is consistent with the
international coral reef conservation strategy de-
veloped pursuant to subsection (b), and meets the cri-
teria specified in that strategy.”.
SEC. 12. COMMUNITY-BASED PLANNING GRANTS.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 209, as added by section 11 of this Act, the following:

"SEC. 210. COMMUNITY-BASED PLANNING GRANTS.

"(a) In General.—The Secretary may make grants to entities that have received grants under section 204 to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by the community and scientific experts as high priorities for focused attention. The plans shall—

"(1) support attainment of 1 or more of the criteria described in section 204(g);
"(2) be developed at the community level;
"(3) utilize watershed-based approaches;
"(4) provide for coordination with Federal and State experts and managers; and
"(5) build upon local approaches, strategies, or models, including traditional or island-based resource management concepts.

"(b) Terms and Conditions.—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants under subsection (a), except that, for the purpose
of applying section 204(b)(1) to grants under this section,
‘75 percent’ shall be substituted for ‘50 percent’.”.

SEC. 13. VESSEL GROUNDING INVENTORY.

The Act (16 U.S.C. 6401 et seq.) is amended by in-
serting after section 210, as added by section 12 of this
Act, the following:

“SEC. 211. VESSEL GROUNDING INVENTORY.

“(a) IN GENERAL.—The Secretary may maintain an
inventory of all vessel grounding incidents involving coral
reefs, including a description of—

“(1) the impacts to affected coral reef eco-
systems;

“(2) vessel and ownership information, if avail-
able;

“(3) the estimated cost of removal, mitigation,
or restoration;

“(4) the response action taken by the owner,
the Secretary, the Commandant of the Coast Guard,
or other Federal or State agency representatives;

“(5) the status of the response action, including
the dates of vessel removal and mitigation or res-
toration and any actions taken to prevent future
grounding incidents; and
“(6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

“(b) IDENTIFICATION OF AT-RISK REEFS.—The Secretary may—

“(1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef ecosystems that have a high incidence of vessel impacts, including groundings and anchor damage;

“(2) identify appropriate measures, including the acquisition and placement of aids to navigation, moorings, designated anchorage areas, fixed anchors and other devices, to reduce the likelihood of such impacts; and

“(3) develop a strategy and timetable to implement such measures, including cooperative actions with other government agencies and non-governmental partners.”.

SEC. 14. PROHIBITED ACTIVITIES.

(a) IN GENERAL.—The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 211, as added by section 13 of this Act, the following:
“SEC. 212. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

“(a) PROVISIONS AS COMPLEMENTARY.—The provisions of this section are in addition to, and shall not affect the operation of, other Federal, State, or local laws or regulations providing protection to coral reef ecosystems.

“(b) DESTRUCTION, LOSS, TAKING, OR INJURY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), it is unlawful for any person to destroy, take, cause the loss of, or injure any coral reef or any component thereof.

“(2) EXCEPTIONS.—The destruction, loss, taking, or injury of a coral reef or any component thereof is not unlawful if it—

“(A) was caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law;

“(B) was caused by an activity that is authorized or allowed by Federal or State law (including lawful discharges from vessels, such as graywater, cooling water, engine exhaust, ballast water, or sewage from marine sanitation devices), unless the destruction, loss, or injury resulted from actions such as vessel groundings,
vessel scrapings, anchor damage, excavation not authorized by Federal or State permit, or other similar activities;

“(C) was the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities;

“(D) was caused by a Federal Government agency—

“(i) during—

“(I) an emergency that posed an unacceptable threat to human health or safety or to the marine environment;

“(II) an emergency that posed a threat to national security; or

“(III) an activity necessary for law enforcement or search and rescue; and

could not reasonably be avoided; or

“(E) was caused by an action taken by the master of the vessel in an emergency situation
to ensure the safety of the vessel or to save a
life at sea.

“(c) INTERFERENCE WITH ENFORCEMENT.—It is
unlawful for any person to interfere with the enforcement
of this title by—

“(1) refusing to permit any officer authorized
to enforce this title to board a vessel (other than a
vessel operated by the Department of Defense or
United States Coast Guard) subject to such person’s
control for the purposes of conducting any search or
inspection in connection with the enforcement of this
title;

“(2) resisting, opposing, impeding, intimidating,
harassing, bribing, interfering with, or forcibly ass-
saulting any person authorized by the Secretary to
implement this title or any such authorized officer in
the conduct of any search or inspection performed
under this title; or

“(3) submitting false information to the Sec-
retary or any officer authorized to enforce this title
in connection with any search or inspection con-
ducted under this title.

“(d) VIOLATIONS OF TITLE, PERMIT, OR REGULA-
tion.—It is unlawful for any person to violate any provi-
tion of this title, any permit issued pursuant to this title, or any regulation promulgated pursuant to this title.

“(e) Possession and Distribution.—It is unlawful for any person to possess, sell, deliver, carry, transport, or ship by any means any coral taken in violation of this title.”.

(b) Emergency Action Regulations.—The Secretary of Commerce shall initiate a rulemaking proceeding to prescribe the circumstances and conditions under which the exception in section 212(b)(2)(E) of the Coral Reef Conservation Act of 2000, as amended by subsection (a), applies and shall issue a final rule pursuant to that rulemaking as soon as practicable but not later than 1 year after the date of enactment of this Act. Nothing in this subsection shall be construed to require the issuance of such regulations before the exception provided by that section is in effect.

SEC. 15. DESTRUCTION OF CORAL REEFS.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 212, as added by section 14 of this Act, the following:

“SEC. 213. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY TO, CORAL REEFS.

“(a) Liability.—
“(1) Liability to the United States.—Except as provided in subsection (f), all persons who engage in an activity that is prohibited under subsections (b) or (d) of section 212, or create an imminent risk thereof, are liable, jointly and severally, to the United States for an amount equal to the sum of—

“(A) response costs and damages resulting from the destruction, loss, taking, or injury, or imminent risk thereof, including damages resulting from the response actions;

“(B) costs of seizure, forfeiture, storage, and disposal arising from liability under this section; and

“(C) interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705).

“(2) Liability in Rem.—

“(A) Any vessel used in an activity that is prohibited under subsection (b) or (d) of section 212, or creates an imminent risk thereof, shall be liable in rem to the United States for an amount equal to the sum of—

“(i) response costs and damages resulting from such destruction, loss, or in-
jury, or imminent risk thereof, including damages resulting from the response ac-
tions;

“(ii) costs of seizure, forfeiture, stor-
age, and disposal arising from liability under this section; and

“(iii) interest on that amount cal-
culated in the manner described in section
1005 of the Oil Pollution Act of 1990 (33

“(B) The amount of liability shall con-
stitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

“(3) DEFENSES.—A person or vessel is not lia-
ble under this subsection if that person or vessel estab-
ishes that the destruction, loss, taking, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contrac-
tual relationship, existing directly or indirectly with the defendant), and the person or master of the ves-

sel acted with due care.
“(4) NO LIMIT TO LIABILITY.—Nothing in sections 30501 through 30512 or section 30706 of title 46, United States Code, shall limit liability to any person under this title.

“(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

“(1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction, loss, or taking of, or injury to, coral reefs, or components thereof, or to minimize the risk or imminent risk of such destruction, loss, or injury.

“(2) DAMAGE ASSESSMENT.—

“(A) The Secretary shall assess damages (as defined in section 221(8)) to coral reefs and shall consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

“(B) There shall be no double recovery under this chapter for coral reef damages, including the cost of damage assessment, for the same incident.

“(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—
“(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) of this section for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described in section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). The Secretary, acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person or vessel may be liable for such costs or damages.

“(2) VENUE IN CIVIL ACTIONS.—A civil action under this title may be brought in the United States district court for any district in which—

“(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

“(B) the vessel is located, in the case of an action against a vessel;

“(C) the destruction, loss, or taking of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or
“(D) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.

“(d) USE OF RECOVERED AMOUNTS.—

“(1) IN GENERAL.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

“(A) be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment and Restoration Fund established by the Department of the Interior and Related Agencies Appropriations Act, 1992 (43 U.S.C. 1474b), as appropriate given the location of the violation;
“(B) be available for use by the Secretary without further appropriation and remain available until expended; and

“(C) be for use, as the Secretary considers appropriate—

“(i) to reimburse the Secretary or any other Federal or State agency that conducted activities under subsection (a) or (b) of this section for costs incurred in conducting the activity;

“(ii) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) to reimburse that account for amounts used for authorized emergency actions; and

“(iii) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.
“(2) Restoration considerations.—In development of restoration alternatives under paragraph (1)(C), the Secretary shall consider State and territorial preferences and, if appropriate, shall prioritize restoration projects with geographic and ecological linkages to the injured resources.

“(e) Statute of limitations.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the coral reefs, or components thereof, to which the action relates.

“(f) Federal government activities.—In the event of threatened or actual destruction of, loss of, or injury to a coral reef or component thereof resulting from an incident caused by a component of any Department or agency of the United States Government, the cognizant Department or agency shall satisfy its obligations under this section by promptly, in coordination with the Secretary, taking appropriate actions to respond to and mitigate the harm and restoring or replacing the coral reef or components thereof and reimbursing the Secretary for all assessment costs.

“(g) Uniformed service officers and employees.—No officer or employee of a uniformed service (as
defined in section 101 of title 10, United States Code) shall be held liable under this section, either in such officer’s or employee’s personal or official capacity, for any violation of section 212 occurring during the performance of the officer’s or employee’s official governmental duties.

“(h) CONTRACT EMPLOYEES.—No contract employee of a uniformed service (as so defined), serving as vessel master or crew member, shall be liable under this section for any violation of section 212 if that contract employee—

“(1) is acting as a contract employee of a uniformed service under the terms of an operating contract for a vessel owned by a uniformed service, or a time charter for pre-positioned vessels, special mission vessels, or vessels exclusively transporting military supplies and materials; and

“(2) is engaged in an action or actions over which such employee has been given no discretion (e.g., anchoring or mooring at one or more designated anchorages or buoys, or executing specific operational elements of a special mission activity), as determined by the uniformed service controlling the contract.”.
SEC. 16. ENFORCEMENT.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 213, as added by section 15 of this Act, the following:

"SEC. 214. ENFORCEMENT.

"(a) In General.—The Secretary shall conduct enforcement activities to carry out this title.

"(b) Powers of Authorized Officers.—

"(1) In General.—Any person who is authorized to enforce this title may—

"(A) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this title, any regulation promulgated under this title, or any permit issued under this title, and any equipment, stores, and cargo of such vessel, except that such authority shall not exist with respect to vessels owned or time chartered by a uniformed service (as defined in section 101 of title 10, United States Code) as warships or naval auxiliaries;

"(B) seize wherever found any component of coral reef taken or retained in violation of this title, any regulation promulgated under this title, or any permit issued under this title;
“(C) seize any evidence of a violation of this title, any regulation promulgated under this title, or any permit issued under this title;
“(D) execute any warrant or other process issued by any court of competent jurisdiction;
“(E) exercise any other lawful authority; and
“(F) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 212.

“(2) NAVAL AUXILIARY DEFINED.—In this subsection, the term ‘naval auxiliary’ means a vessel, other than a warship, that is owned by or under the exclusive control of a uniformed service and used at the time of the destruction, take, loss or injury for government, non-commercial service, including combat logistics force vessels, pre-positioned vessels, special mission vessels, or vessels exclusively used to transport military supplies and materials.

“(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

“(1) CIVIL ADMINISTRATIVE PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation promulgated or permit issued hereunder, shall be liable
to the United States for a civil administrative penalty of not more than $200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation. In determining the amount of civil administrative penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, and any history of prior violations, and such other matters as justice may require. In assessing such penalty, the Secretary may also consider information related to the ability of the violator to pay.

“(2) PERMIT SANCTIONS.—For any person subject to the jurisdiction of the United States who has been issued or has applied for a permit under this title, and who violates this title or any regulation or permit issued under this title, the Secretary may deny, suspend, amend, or revoke in whole or in part any such permit. For any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary, the Secretary may deny, suspend,
amend or revoke in whole or in part any permit
issued or applied for under this title.

“(3) Imposition of civil judicial penalties.—Any person who violates any provision of
this title, any regulation promulgated or permit
issued thereunder, shall be subject to a civil judicial
penalty not to exceed $250,000 for each such viola-
tion. Each day of a continuing violation shall con-
stitute a separate violation. The Attorney General,
on the request of the Secretary, may commence a
civil action in an appropriate district court of the
United States, and such court shall have jurisdiction
to award civil penalties and such other relief as jus-
tice may require. In determining the amount of a
civil penalty, the court shall take into account the
nature, circumstances, extent, and gravity of the
prohibited acts committed and, with respect to the
viator, the degree of culpability, any history of
prior violations, and such other matters as justice
may require. In imposing such penalty, the district
court may also consider information related to the
ability of the violator to pay.

“(4) Notice.—No penalty or permit sanction
shall be assessed under this subsection until after
the person charged has been given notice and an op-
opportunity for a hearing.

“(5) IN REM JURISDICTION.—A vessel used in
violating this title, any regulation promulgated under
this title, or any permit issued under this title, shall
be liable in rem for any civil penalty assessed for
such violation. Such penalty shall constitute a mari-
time lien on the vessel and may be recovered in an
action in rem in the district court of the United
States having jurisdiction over the vessel.

“(6) COLLECTION OF PENALTIES.—If any per-
son fails to pay an assessment of a civil penalty
under this section after it has become a final and
unappealable order, or after the appropriate court
has entered final judgment in favor of the Secretary,
the Secretary shall refer the matter to the Attorney
General, who shall recover the amount assessed in
any appropriate district court of the United States
(plus interest at current prevailing rates from the
date of the final order). In such action, the validity
and appropriateness of the final order imposing the
civil penalty shall not be subject to review. Any per-
son who fails to pay, on a timely basis, the amount
of an assessment of a civil penalty shall be required
to pay, in addition to such amount and interest, at-
torney’s fees and costs for collection proceedings and 
a quarterly nonpayment penalty for each quarter 
during which such failure to pay persists. Such non-
payment penalty shall be in an amount equal to 20 
percent of the aggregate amount of such person’s 
penalties and nonpayment penalties that are unpaid 
as of the beginning of such quarter.

“(7) COMPROMISE OR OTHER ACTION BY SEC-
RETARY.—The Secretary may compromise, modify, 
or remit, with or without conditions, any civil admin-
istrative penalty or permit sanction which is or may 
be imposed under this section and that has not been 
referred to the Attorney General for further enforce-
ment action.

“(8) JURISDICTION.—The several district 
courts of the United States shall have jurisdiction 
over any actions brought by the United States aris-
ing under this section. For the purpose of this sec-
tion, American Samoa shall be included within the 
judicial district of the District Court of the United 
States for the District of Hawaii. Each violation 
shall be a separate offense and the offense shall be 
deemed to have been committed not only in the dis-
trict where the violation first occurred, but also in 
any other district as authorized by law.
“(d) FORFEITURE.—

“(1) CRIMINAL FORFEITURE.—A person who is convicted of an offense in violation of this title shall forfeit to the United States—

“(A) any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of the offense, including, without limitation, any coral reef or coral reef component (or the fair market value thereof); and

“(B) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of the offense, including, without limitation, any vessel (including the vessel’s equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

Pursuant to section 2461(c) of title 28, United States Code, the provisions of section 413 of the Controlled Substances Act (21 U.S.C. 853) other than subsection (d) thereof shall apply to criminal forfeitures under this section.

“(2) CIVIL FORFEITURE.—The property set forth below shall be subject to forfeiture to the United States in accordance with the provisions of
chapter 46 of title 18, United States Code, and no property right shall exist in it:

“(A) Any property, real or personal, constituting or traceable to the gross proceeds taken, obtained, or retained, in connection with or as a result of a violation of this title, including, without limitation, any coral reef or coral reef component (or the fair market value thereof).

“(B) Any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this title, including, without limitation, any vessel (including the vessel’s equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

“(3) Application of the customs laws.—All provisions of law relating to seizure, summary judgment, and judicial forfeiture and condemnation for violation of the customs laws, the disposition of the property forfeited or condemned or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this
title, insofar as applicable and not inconsistent with the provisions hereof. For seizures and forfeitures of property under this section by the Secretary, such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs law may be performed by such officers as are designated by the Secretary or, upon request of the Secretary, by any other agency that has authority to manage and dispose of seized property.

“(4) Presumption.—For the purposes of this section there is a rebuttable presumption that all coral reefs, or components thereof, found on board a vessel that is used or seized in connection with a violation of this title or of any regulation promulgated under this title were taken, obtained, or retained in violation of this title or of a regulation promulgated under this title.

“(e) Payment of Storage, Care, and Other Costs.—Any person assessed a civil penalty for a violation of this title or of any regulation promulgated under this title and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and mainte-
nance of any property seized in connection with the violation.

“(f) EXPENDITURES.—

“(1) Notwithstanding section 3302 of title 31, United States Code, or section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861), amounts received by the United States as civil penalties under subsection (c) of this section, forfeitures of property under subsection (d) of this section, and costs imposed under subsection (e) of this section, shall—

“(A) be placed into an account;

“(B) be available for use by the Secretary without further appropriation; and

“(C) remain available until expended.

“(2) Amounts received under this section for forfeitures under subsection (d) and costs imposed under subsection (e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this title or any regulation promulgated under this title.

“(3) Amounts received under this section as civil penalties under subsection (c) of this section
and any amounts remaining after the operation of paragraph (2) of this subsection shall—

“(A) be used to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;

“(B) be transferred to the Emergency Response, Stabilization, and Restoration Account established under section 208(d) or an account described in section 213(d)(1) of this title, to reimburse such account for amounts used for authorized emergency actions;

“(C) be used to conduct monitoring and enforcement activities;

“(D) be used to conduct research on techniques to stabilize and restore coral reefs;

“(E) be used to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;

“(F) be used to stabilize, restore or otherwise manage any other coral reef; or

“(G) be used to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of
property, for a violation of this title or any reg-
ulation promulgated under this title.

“(g) CRIMINAL ENFORCEMENT.—

“(1) Any person (other than a foreign govern-
ment or any entity of such government) who know-
ingly commits any act prohibited by section 212(c)
of this title shall be imprisoned for not more than
5 years and shall be fined not more than $500,000
for individuals or $1,000,000 for an organization;
except that if in the commission of any such offense
the individual uses a dangerous weapon, engages in
contact that causes bodily injury to any officer au-
thorized to enforce the provisions of this title, or
places any such officer in fear of imminent bodily in-
jury, the maximum term of imprisonment is not
more than 10 years.

“(2) Any person (other than a foreign govern-
ment or any entity of such government) who know-
ingly violates subsection (b), (d), or (e) of section
212 shall be fined under title 18, United States
Code, or imprisoned not more than 5 years or both.

“(3) Any person (other than a foreign govern-
ment or any entity of such government) who violates
subsection (b), (d), or (e) of section 212, and who,
in the exercise of due care should know that such
person’s conduct violates subsection (b), (d), or (e) of section 212, shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.

“(4) The several district courts of the United States shall have jurisdiction over any actions brought by the United States arising under this subsection. For the purpose of this subsection, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii. Each violation shall be a separate offense and the offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any other district as authorized by law. Any offenses not committed in any district are subject to the venue provisions of section 3238 of title 18, United States Code.

“(h) SUBPOENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of wit-
nesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

“(i) COAST GUARD AUTHORITY NOT LIMITED.—
Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

“(j) INJUNCTIVE RELIEF.—
“(1) If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 213 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

“(2) Upon the request of the Secretary, the Attorney General may seek to enjoin any person who is alleged to be in violation of any provision of this title, or any regulation or permit issued under this
title, and the district courts shall have jurisdiction to grant such relief.

“(k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the internal waters of the United States, the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, the Exclusive Economic Zone of the United States as described in Presidential Proclamation 5030 of March 10, 1983, and the continental shelf, consistent with international law.

“(l) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this title, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process, and for civil cases may also be served in a place not within the United States in accordance with rule 4 of the Federal Rules of Civil Procedure.

“(m) VENUE IN CIVIL ACTIONS.—A civil action under this title may be brought in the United States district court for any district in which—

“(1) the defendant is located, resides, or is doing business, in the case of an action against a person;
“(2) the vessel is located, in the case of an action against a vessel;

“(3) the destruction of, loss of, or injury to a coral reef, or component thereof, occurred or in which there is an imminent risk of such destruction, loss, or injury; or

“(4) where some or all of the coral reef or component thereof that is the subject of the action is not within the territory covered by any United States district court, such action may be brought either in the United States district court for the district closest to the location where the destruction, loss, injury, or risk of injury occurred, or in the United States District Court for the District of Columbia.

“(n) UNIFORMED SERVICE OFFICERS AND EMPLOYEES.—No officer or employee of a uniformed service (as defined in section 101 of title 10, United States Code) shall be held liable under this section, either in such officer’s or employee’s personal or official capacity, for any violation of section 212 occurring during the performance of the officer’s or employee’s official governmental duties.

“(o) CONTRACT EMPLOYEES.—No contract employee of a uniformed service (as so defined), serving as vessel master or crew member, shall be liable under this section
for any violation of section 212 if that contract em-
ployee—

“(1) is acting as a contract employee of a uni-
formed service under the terms of an operating con-
tract for a vessel owned by a uniformed service, or a
time charter for pre-positioned vessels, special mis-
sion vessels, or vessels exclusively transporting mili-
tary supplies and materials; and

“(2) is engaged in an action or actions over which such employee has been given no discretion (e.g., anchoring or mooring at one or more des-
ignated anchorages or buoys, or executing specific operational elements of a special mission activity), as determined by the uniformed service controlling the contract.”.

SEC. 17. PERMITS.

The Act (16 U.S.C. 6401 et seq.) is amended by in-
serting after section 214, as added by section 16 of this Act, the following:

“SEC. 215. PERMITS.

“(a) IN GENERAL.—The Secretary may allow for the conduct of—

“(1) bona fide research, and

“(2) activities that would otherwise be prohib-
ited by this title or regulations issued thereunder,
through issuance of coral reef conservation permits in accordance with regulations issued under this title.

“(b) LIMITATION OF NON-RESEARCH ACTIVITIES.—
The Secretary may not issue a permit for activities other than for bona fide research unless the Secretary finds—

“(1) the activity proposed to be conducted is compatible with one or more of the purposes in section 202(b) of this title;

“(2) the activity conforms to the provisions of all other laws and regulations applicable to the area for which such permit is to be issued; and

“(3) there is no practicable alternative to conducting the activity in a manner that destroys, causes the loss of, or injures any coral reef or any component thereof.

“(c) TERMS AND CONDITIONS.—The Secretary may place any terms and conditions on a permit issued under this section that the Secretary deems reasonable.

“(d) FEES.—

“(1) ASSESSMENT AND COLLECTION.—Subject to regulations issued under this title, the Secretary may assess and collect fees as specified in this subsection.

“(2) AMOUNT.—Any fee assessed shall be equal to the sum of—
“(A) all costs incurred, or expected to be incurred, by the Secretary in processing the permit application, including indirect costs; and

“(B) if the permit is approved, all costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity and educating the public about the activity and coral reef resources related to the activity.

“(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section shall be collected and available for use only to the extent provided in advance in appropriations Acts and may be used by the Secretary for issuing and administering permits under this section.

“(4) WAIVER OR REDUCTION OF FEES.—For any fee assessed under paragraph (2) of this subsection, the Secretary may—

“(A) accept in-kind contributions in lieu of a fee; or

“(B) waive or reduce the fee.

“(e) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this
section for the conduct of any fishing activities not prohib-
ited by this title or regulations issued thereunder.”.

SEC. 18. REGIONAL, STATE, AND TERRITORIAL COORDINA-
TION.

The Act (16 U.S.C. 6401 et seq.) is amended by in-
serting after section 215, as added by section 17 of this
Act, the following:

“SEC. 216. REGIONAL, STATE, AND TERRITORIAL COORDI-
NATION.

“(a) REGIONAL COORDINATION.—The Secretary and
other Federal members of the Coral Reef Task Force shall
work in coordination and collaboration with other Federal
agencies, States, and United States territorial govern-
ments to implement the strategies developed under section
203, including regional and local strategies, to address
multiple threats to coral reefs and coral reef ecosystems.

“(b) RESPONSE AND RESTORATION ACTIVITIES.—
The Secretary shall enter into written agreements with
any States in which coral reefs are located regarding the
manner in which response and restoration activities will
be conducted within the affected State’s waters. Nothing
in this subsection shall be construed to limit Federal re-
sponse and restoration activity authority before any such
agreement is final.
“(c) Cooperative Enforcement Agreements.—

All cooperative enforcement agreements in place between the Secretary and States affected by this title shall be updated to include enforcement of this title where appropriate.”.

SEC. 19. REGULATIONS.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 216, as added by section 18, the following:

“SEC. 217. REGULATIONS.

“The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this title. This title and any regulations promulgated under this title shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.”.

SEC. 20. EFFECTIVENESS AND ASSESSMENT REPORT.

Section 218 (formerly 16 U.S.C. 6407), as redesignated by section 7 of this Act, is amended to read as follows:

“SEC. 218. EFFECTIVENESS AND ASSESSMENT REPORT.

“(a) Effectiveness Report.—Not later than March 1, 2010, and every 3 years thereafter, the Secretary
shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources a report describing all activities undertaken to implement the strategy, including—

“(1) a description of the funds obligated by each participating Federal agency to advance coral reef conservation during each of the 3 fiscal years next preceding the fiscal year in which the report is submitted;

“(2) a description of Federal interagency and cooperative efforts with States and United States territories to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reefs, including projects undertaken with the Department of Interior, Department of Agriculture, the Environmental Protection Agency, and the United States Army Corps of Engineers;

“(3) a summary of the information contained in the vessel grounding inventory established under section 210, including additional authorization or funding, needed for response and removal of such vessels; and

“(4) a description of Federal disaster response actions taken pursuant to the National Response
Plan to address damage to coral reefs and coral reef ecosystems.

“(b) ASSESSMENT REPORT.—Not later than March 1, 2013, and every 5 years thereafter, the Secretary will submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources an assessment of the conditions of U.S. coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs.”.

SEC. 21. AUTHORIZATION OF APPROPRIATIONS.

Section 219 (formerly 16 U.S.C. 6408), as redesignated by section 7 of this Act, is amended—

(1) by striking “$16,000,000 for each of fiscal years 2001, 2002, 2003, and 2004,” in subsection (a) and inserting “$34,000,000 for fiscal year 2012, $36,000,000 for fiscal year 2013, $38,000,000 for fiscal year 2014, and $40,000,000 for each of fiscal years 2015 through 2016, of which no less than 24 percent per year (for each of fiscal years 2012 through 2016) shall be used for the grant program under section 204, no less than 6 percent shall be used for Fishery Management Councils, and up to 10 percent per year shall be used for the Fund established under section 205(a),”;

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(2) by striking “$1,000,000” in subsection (b) and inserting “$2,000,000”;

(3) by striking subsection (c) and inserting the following:

“(c) COMMUNITY-BASED PLANNING GRANTS.—There are authorized to be appropriated to the Secretary to carry out section 210 $10,000,000 for fiscal years 2012 through 2016, to remain available until expended.”; and

(4) by striking subsection (d) and inserting the following:

“(d) INTERNATIONAL CORAL REEF CONSERVATION PROGRAM.—There are authorized to be appropriated to the Secretary to carry out section 209 $8,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.”.

SEC. 22. JUDICIAL REVIEW.

The Act (16 U.S.C. 6401 et seq.) is amended by inserting after section 219, as redesignated by section 7 of this Act, the following:

“SEC. 220. JUDICIAL REVIEW.

“(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is not applicable to any action taken by the Secretary under this title, except that—

“(1) review of any final agency action of the Secretary taken pursuant to sections 214(c)(1) and

...
214(c)(2) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district; any such complaint must be filed within 30 days of the date such final agency action is taken; and

“(2) review of any final agency action of the Secretary taken pursuant to section 215 may be had by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the federal judicial district in which such person resides or transact business which is directly affected by the action taken; such petition shall be filed within 120 days from the date such final agency action is taken.

“(b) No Review in Enforcement Proceedings.—Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

“(c) Cost of Litigation.—In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party whenever it determines that such award is appropriate.”.
SEC. 23. DEFINITIONS.

Section 221 (formerly 16 U.S.C. 6409), as redesignated by section 7 of this Act, is amended to read as follows:

“SEC. 221. DEFINITIONS.

“In this title:

“(1) BIODIVERSITY.—The term ‘biodiversity’ means the variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part, including diversity within species, between species, and of ecosystems.

“(2) BONA FIDE RESEARCH.—The term ‘bona fide research’ means scientific research on corals, the results of which are likely—

“(A) to be eligible for publication in a referred scientific journal;

“(B) to contribute to the basic knowledge of coral biology or ecology; or

“(C) to identify, evaluate, or resolve conservation problems.

“(3) CORAL.—The term ‘coral’ means species of the phylum Cnidaria, including—

“(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera
(organpipe corals and others), Alcyonacea (soft corals), and Helioporidae (blue coral) of the class Anthozoa; and

“(B) all species of the families Milleporidae (fire corals) and Stylasteridae (stylasterid hydrocorals) of the class Hydrozoa.

“(4) CORAL REEF.—The term ‘coral reef’ means limestone structures composed in whole or in part of living corals, as described in paragraph (3), their skeletal remains, or both, and including other corals, associated sessile invertebrates and plants, and associated seagrasses.

“(5) CORAL REEF COMPONENT.—The term ‘coral reef component’ means any part of a coral reef, including individual living or dead corals, associated sessile invertebrates and plants, and any adjacent or associated seagrasses.

“(6) CORAL REEF ECOSYSTEM.—The term ‘coral reef ecosystem’ means the system of coral reefs and geographically associated species, habitats, and environment, including any adjacent or associated mangroves and seagrass habitats, and the processes that control its dynamics.

“(7) CORAL PRODUCTS.—The term ‘coral products’ means any living or dead specimens, parts, or
derivatives, or any product containing specimens,
parts, or derivatives, of any species referred to in
paragraph (3).

“(8) DAMAGES.—The term ‘damages’ in-
cludes—

“(A) compensation for—

“(i) the cost of replacing, restoring, or
acquiring the equivalent of the coral reef,
or component thereof; and

“(ii) the lost services of, or the value
of the lost use of, the coral reef or compo-
ment thereof, or the cost of activities to
minimize or prevent threats of, equivalent
injury to, or destruction of coral reefs or
components thereof, pending restoration or
replacement or the acquisition of an equiv-
alent coral reef or component thereof;

“(B) the reasonable cost of damage assess-
ments under section 213;

“(C) the reasonable costs incurred by the
Secretary in implementing section 208(d);

“(D) the reasonable cost of monitoring ap-
propriate to the injured, restored, or replaced
resources;
“(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archaeological, historical, and cultural resource;

“(F) the cost of legal actions under section 213, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and

“(G) the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.

“(9) EMERGENCY ACTIONS.—The term ‘emergency actions’ means all necessary actions to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components thereof, or to minimize the risk of such additional destruction, loss, or injury.

“(10) EXCLUSIVE ECONOMIC ZONE.—The term ‘Exclusive Economic Zone’ means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.
“(11) PERSON.—The term ‘person’ means any individual, private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic, private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

“(12) RESPONSE COSTS.—The term ‘response costs’ means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or component thereof, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 213.

“(13) SECRETARY.—The term ‘Secretary’ means—

“(A) for purposes of sections 201 through 211, sections 218 through 220 (except as otherwise provided in subparagraph (B)), and the other paragraphs of this section, the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration; and
“(B) for purposes of sections 212 through 220—

“(i) the Secretary of the Interior for any coral reef or component thereof located in (I) the National Wildlife Refuge System, (II) the National Park System, and (III) the waters surrounding Wake Island under the jurisdiction of the Secretary of the Interior, as set forth in Executive Order 11048 (27 Fed. Reg. 8851 (September 4, 1962)); or

“(ii) the Secretary of Commerce for any coral reef or component thereof located in any area not described in clause (i).

“(14) SERVICE.—The term ‘service’ means functions, ecological or otherwise, performed by a coral reef or component thereof.

“(15) STATE.—The term ‘State’ means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States,
that contains a coral reef ecosystem within its sea-
ward boundaries.

“(16) TERRITORIAL SEA.—The term ‘Terror-
torial Sea’ means the waters of the Territorial Sea
of the United States under Presidential Proclama-
tion 5928, dated December 27, 1988.”