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CORAL REEF CONSERVATION ACT REAUTHORIZATION AND ENHANCEMENT AMENDMENTS OF 2009

JULY 10, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 860]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 860) to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009".

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

Sec. 1. Short title.
Sec. 2. Amendment of Coral Reef Conservation Act of 2000.

TITLE I—AMENDMENTS TO THE CORAL REEF CONSERVATION ACT

Sec. 101. Short title.
Sec. 102. Expansion of Coral Reef Conservation Program.
Sec. 103. Emergency response.
Sec. 104. National program.
Sec. 105. Report to Congress.
Sec. 106. Fund; grants; grounding inventory; coordination.
Sec. 107. Clarification of definitions.
Sec. 108. Authorization of appropriations.

TITLE II—UNITED STATES CORAL REEF TASK FORCE

Sec. 201. United States Coral Reef Task Force.

TITLE III—DEPARTMENT OF THE INTERIOR CORAL REEF AUTHORITIES

Sec. 301. Amendments relating to Department of the Interior program.
Sec. 302. Clarification of definitions.

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.).

TITLE I—AMENDMENTS TO THE CORAL REEF CONSERVATION ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Coral Reef Conservation Amendments Act of 2009".

SEC. 102. EXPANSION OF CORAL REEF CONSERVATION PROGRAM.

(a) PROJECT DIVERSITY.—Section 204(d) (16 U.S.C. 6403(d)) is amended—

(1) in the heading by striking "GEOGRAPHIC AND BIOLOGICAL" and inserting "PROJECT"; and

(2) by striking paragraph (3) and inserting the following:

"(3) Remaining funds shall be awarded for—

"(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Administrator in consultation with the United States Coral Reef Task Force; and

"(B) other appropriate projects, as determined by the Administrator, including monitoring and assessment, research, pollution reduction, education, and technical support.".

(b) APPROVAL CRITERIA.—Section 204(g) (16 U.S.C. 6403(g)) is amended—

(1) by striking "or" after the semicolon in paragraph (9);

(2) by striking paragraph (10); and

(3) by inserting after paragraph (9) the following:

"(10) promoting activities designed to minimize the likelihood of vessel impacts on coral reefs, particularly those areas identified under section 210(b), including the promotion of ecologically sound navigation and anchorages near coral reefs; or

"(11) 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 ecosystems.".

SEC. 103. EMERGENCY RESPONSE.

Section 206 (16 U.S.C. 6405) is amended to read as follows:

"SEC. 206. EMERGENCY RESPONSE ACTIONS.

"(a) IN GENERAL.—The Administrator may undertake or authorize action necessary—

"(1) to minimize the destruction of or injury to a coral reef, or loss of an ecosystem function of a coral reef, from—

"(A) vessel impacts, derelict fishing gear, vessel anchors, and anchor chains; and

"(B) from unforeseen or disaster-related circumstances as a result of human activities; and

"(2) to stabilize, repair, recover, or restore a coral reef that is destroyed or injured, or that has incurred the loss of an ecosystem function, as described in paragraph (1).

"(b) VESSEL REMOVAL; STABILIZATION.—Action authorized by subsection (a) includes vessel removal and emergency stabilization of the vessel or any impacted coral reef.

"(c) PARTNERING WITH OTHER FEDERAL AND STATE AGENCIES.—When possible, action by the Administrator under this section should—

"(1) be conducted in partnership with other government agencies as appropriate, including—

"(A) the Coast Guard, the Federal Emergency Management Agency, the Army Corps of Engineers, the Environmental Protection Agency, and the Department of the Interior; and

"(B) agencies of States; and

"(2) leverage resources of other agencies.

"(d) EMERGENCY RESPONSE ASSISTANCE BY OTHER FEDERAL AND STATE AGENCIES.—

"(1) IN GENERAL.—The head of any other Federal or State agency may assist the Administrator in emergency response actions under this section, using funds available for operations of the agency concerned.

"(2) REIMBURSEMENT.—The Administrator, subject to the availability of appropriations, may reimburse a Federal or State agency for assistance provided under paragraph (1).

"(e) LIABILITY FOR COSTS AND DAMAGES TO CORAL REEFS.—

"(1) TREATMENT OF CORAL REEFS UNDER NATIONAL MARINE SANCTUARIES ACT.—For purposes of the provisions set forth in paragraph (2), and subject to paragraph (5), each of the terms 'sanctuary resources', 'resource', 'sanctuary resource managed under law or regulations for that sanctuary', 'national marine sanctuary', 'sanctuary resources of the national marine sanctuary', and 'sanctuary resources of other national marine sanctuaries' is deemed to include any coral reef that is subject to the jurisdiction of the United States or any State, without regard to whether such coral reef is located in a national marine sanctuary.

"(2) APPLICABLE PROVISIONS OF NATIONAL MARINE SANCTUARIES ACT.—The provisions referred to in paragraph (1) are the following provisions of the National Marine Sanctuaries Act:

"(A) Paragraphs (6) and (7) of section 302 (16 U.S.C. 1432).

"(B) Paragraphs (1), (2), (3), and (4) of section 306 (16 U.S.C. 1436).

"(C) Section 307 (16 U.S.C. 1437).

"(D) Section 312 (16 U.S.C. 1443).

"(3) EXEMPTIONS.—The destruction, loss, or injury of a coral reef or any component thereof is not unlawful if it was—

"(A) caused by the use of fishing gear in a manner that is not prohibited under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law; or

"(B) caused by an activity that is authorized by Federal or State law, including any lawful discharge from a vessel of graywater, cooling water, engine exhaust, ballast water, or sewage from a marine sanitation device, unless the destruction, loss, or injury is a result of a vessel grounding, a vessel scraping, anchor damage, or excavation that is not authorized by a Federal or State permit;

"(C) the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than—

"(i) sampling or collecting; and

"(ii) destruction, loss, or injury that is a result of a vessel grounding, a vessel scraping, anchor damage, or excavation that is not authorized by a Federal or State permit; or

"(D)(i) caused by a Federal Government agency in—

"(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 purposes or search and rescue; and

"(ii) could not be avoided.

"(4) CLARIFICATION OF LIABILITY.—A person is not liable under this subsection if that person establishes that—

"(A) the destruction or loss of, or injury to, the coral reef or coral reef ecosystem was caused solely by an act of God, an act of war, or an act of omission of a third party, and the person acted with due care;

"(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

"(C) the destruction, loss, or injury was negligible.

"(5) STATE CONSENT REQUIRED.—

"(A) IN GENERAL.—This subsection shall not apply to any coral reef that is subject to the jurisdiction of a State unless the Governor of that State notifies the Secretary that the State consents to that application.

"(B) REVOCATION OF CONSENT.—The governor of a State may revoke consent under subparagraph (A) by notifying the Secretary of such revocation.

"(6) CONSISTENCY WITH INTERNATIONAL LAWS AND TREATIES.—

"(A) IN GENERAL.—Any action taken under the authority of this subsection must be consistent with otherwise applicable international laws and treaties.

"(B) ACTIONS AUTHORIZED WITH RESPECT TO VESSELS.—For purposes of subparagraph (A), actions authorized under this subsection include vessel removal, and emergency re-stabilization of a vessel and any coral reef that is impacted by a vessel.

"(7) LIABILITY UNDER OTHER PROVISIONS.—Nothing in this title shall alter the liability of any person under any other provision of law.".

SEC. 104. NATIONAL PROGRAM.

(a) PURPOSE OF ACT.—Section 202 (16 U.S.C. 6401) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively, and by inserting after paragraph (1) the following:

"(2) to promote the resilience of coral reef ecosystems;".

(2) by amending paragraph (4), as so redesignated, to read as follows:

"(4) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems including large-scale threats related to climate change, such as ocean acidification, to benefit local communities and the Nation, and to the extent practicable to support and enhance management and research capabilities at local management agencies and local research and academic institutions;"; and

(3) by striking "and" after the semicolon at the end of paragraph (6), as so redesignated, by striking the period at the end of paragraph (7), as so redesignated, and inserting "; and", and by adding at the end the following:

"(8) to recognize the benefits of healthy coral reefs to island and coastal communities and to encourage Federal action to ensure, to the maximum extent practicable, the continued availability of those benefits.".

(b) GOALS AND OBJECTIVES OF NATIONAL CORAL REEF ACTION STRATEGY.—Section 203(b)(8) (16 U.S.C. 6402(b)(8)) is amended to read as follows:

"(8) conservation, including resilience and the consideration of island and local traditions and practices.".

(c) AMENDMENTS RELATING TO ACTIVITIES TO CONSERVE CORAL REEFS AND CORAL REEF ECOSYSTEMS.—Section 207(b) (16 U.S.C. 6406(b)) is amended—

(1) in paragraph (3) by striking "and" after the semicolon;

(2) in paragraph (4)—

(A) by striking "cooperative conservation" and inserting "cooperative research, conservation,"; and

(B) by striking "partners." and inserting "partners, including academic institutions located in States;"; and

(3) by adding at the end the following:

"(5) improving and promoting the resilience of coral reefs and coral reef ecosystems; and

"(6) activities designed to minimize the likelihood of vessel impacts or other physical damage to coral reefs, including those areas identified in section 210(b).".

(d) CRITERIA FOR APPROVAL OF PROJECT PROPOSALS.—Section 204(g) (16 U.S.C. 6403(g)) is further amended by striking "or" after the semicolon at the end of paragraph (10), by redesignating paragraph (11) as paragraph (12), and by inserting after paragraph (10) the following:

"(11) improving and promoting the resilience of coral reefs and coral reef ecosystems; or".

(e) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—Section 207 (16 U.S.C. 6406) is amended—

(1) in subsection (b) (as amended by subsection (b) of this section) by striking "and" after the semicolon at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by adding at the end the following:

"(7) 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

(2) by adding at the end the following:

"(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.".

SEC. 105. REPORT TO CONGRESS.

Section 208 (16 U.S.C. 6407) is amended to read as follows:

"SEC. 208. REPORT TO CONGRESS.

"Not later than March 1, 2010, and every 5 years thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives 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 fiscal year of the 5-fiscal-year period preceding the fiscal year in which the report is submitted;

"(2) a description of Federal interagency and cooperative efforts with States and non-governmental partner organizations to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reef ecosystems, including projects undertaken with the Department of the Interior, the Department of Agriculture, the Environmental Protection Agency, and the 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;

"(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; and

"(5) an assessment of the condition of United States coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs, including actions taken to address large-scale threats to coral reef ecosystems related to climate change.".

SEC. 106. FUND; GRANTS; GROUNDING INVENTORY; COORDINATION.

(a) FUND; GRANTS; GROUNDING INVENTORY; COORDINATION.—The Act (16 U.S.C. 6401 et seq.) is amended—

(1) in section 205(a) (16 U.S.C. 6404(a)), by striking "organization solely" and all that follows and inserting "organization—

"(1) to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef strategy under section 203; and

"(2) to address emergency response actions under section 206.";

(2) by adding at the end of section 205(b) (16 U.S.C. 6404(b)) the following: "The organization is encouraged to solicit funding and in-kind services from the private sector, including nongovernmental organizations, for emergency response actions under section 206 and for activities to prevent damage to coral reefs, including areas identified in section 210(b)(2).";

(3) in section 205(c) (16 U.S.C. 6404(c)), by striking "the grant program" and inserting "any grant program or emergency response action";

(4) by redesignating sections 209 and 210 as sections 217 and 218, respectively; and

(5) by inserting after section 208 the following:

"SEC. 209. COMMUNITY-BASED PLANNING GRANTS.

"(a) IN GENERAL.—The Administrator may make grants to entities that are eligible to receive grants under section 204(c) 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 one or more of the criteria described in section 204(g);

"(2) be developed at the community level;

"(3) utilize where applicable watershed-based or ecosystem-based approaches;

"(4) provide for coordination with Federal and State experts and managers;

"(5) build upon local approaches or models, including traditional or island-based resource management concepts; and

"(6) complement local action strategies or regional plans for coral reef conservation.

"(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. 210. VESSEL GROUNDING INVENTORY.

"(a) IN GENERAL.—The Administrator, in coordination with other Federal agencies, may maintain an inventory of all vessel grounding incidents involving coral reefs, including a description of—

"(1) the impacts to such resources;

"(2) vessel and ownership information, if available;

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

"(4) the response action taken by the owner, the Administrator, 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 restoration 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 Administrator may—

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

"(2) identify appropriate measures, including action by other agencies, 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. 211. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

"(a) REGIONAL COORDINATION.—The Secretary and other Federal members of the United States Coral Reef Task Force shall work in coordination and collaboration with other Federal agencies and States to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems such as coastal runoff, vessel impacts, and overharvesting.

"(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 response 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. 212. AGREEMENTS.

"(a) IN GENERAL.—The Administrator may execute and perform such contracts, leases, grants, or cooperative agreements 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 Administrator may enter into, extend, or renegotiate agreements with universities and research centers with established management-driven 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 Administrator is authorized to use, with their consent and with or without reimbursement, the land, services, equip-

ment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, or Indian tribal government, or of any political subdivision thereof, or of any foreign government or international organization.

"SEC. 213. INTERNATIONAL CORAL REEF CONSERVATION STRATEGY.

"(a) INTERNATIONAL CORAL REEF ECOSYSTEM STRATEGY.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009, 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 title 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 (b) 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 title;

"(E) develop a plan to coordinate implementation of the strategy with entities described in subsection (b) in order to leverage current activities under this title 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).

"(b) COORDINATION.—In carrying out this section, 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 United States Coral Reef Task Force in carrying out this subsection.

"(c) INTERNATIONAL CORAL REEF ECOSYSTEM PARTNERSHIPS.—

"(1) IN GENERAL.—The Secretary may establish an international coral reef ecosystem partnership program to provide support, including funding and technical assistance, for activities that implement the strategy developed pursuant to subsection (a).

"(2) MECHANISMS.—The Secretary shall provide such support through existing authorities, working in collaboration with the entities described in subsection (b).

"(3) 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 developed pursuant to subsection (a), and meets the criteria specified in that strategy.

"(d) PRIORITY FOR CERTAIN PROJECTS CONDUCTED BY STATES.—In implementing this section, the Secretary shall give priority consideration to regional initiatives and projects that States are participating in with other nations.

"SEC. 214. PERMITS.

"(a) IN GENERAL.—The Administrator may, in accordance with this section and regulations issued under this title, issue a permit authorizing the conduct of bona fide research.

"(b) EXEMPT ACTIVITIES.—No permit under this section is required for an activity that is exempt from liability under section 206(e).

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

"(d) FEES.—

"(1) ASSESSMENT AND COLLECTION.—Subject to regulations issued under this title, the Administrator 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 Administrator 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 Administrator as a direct result of the conduct of the activity for which the permit is issued.

"(3) USE OF FEES.—Amounts collected by the Administrator 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 Administrator 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 Administrator 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 activity that is not prohibited by this title or regulations issued under this title.

"SEC. 215. REGULATIONS; APPLICATION IN ACCORDANCE WITH INTERNATIONAL LAW.

"(a) REGULATIONS.—The Administrator may issue such regulations as are necessary and appropriate to carry out the purposes of sections 206 and 214.

"(b) RELATIONSHIP TO INTERNATIONAL LAW.— 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. 216. JUDICIAL REVIEW.

"(a) IN GENERAL.—Judicial review of any action taken by the Secretary under this title shall be in accordance with sections 701 through 706 of title 5, United States Code, except that—

"(1) review of any final agency action of the Secretary taken under the authority of section 206(e) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district within 30 days after the date such final agency action is taken; and

"(2) review of the issuance or denial of a permit under this title may be had only by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the District of Columbia Circuit or for the Federal judicial district in which such person resides or transacts business which is directly affected by the action taken within 120 days after the date such final agency action is taken.

"(b) 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.".

(b) COOPERATIVE AGREEMENTS.—Section 204 (16 U.S.C. 6403) is amended by adding at the end the following:

"(k) MULTIYEAR COOPERATIVE AGREEMENTS.—The Administrator may enter into multiyear cooperative agreements with the heads of other Federal agencies, States, local governments, academic institutions, and non-governmental organizations to carry out the activities of the national coral reef action strategy developed under section 203 and to implement regional strategies developed pursuant to section 211.".

SEC. 107. CLARIFICATION OF DEFINITIONS.

Section 218, as redesignated by section 106(a) of this Act (relating to definitions; 16 U.S.C. 6409), is further amended—

(1) by amending paragraph (2) to read as follows:

"(2) CONSERVATION.—The term 'conservation' means the use of methods and procedures that are necessary to preserve or sustain coral reefs and associated species as resilient diverse, viable, and self-perpetuating coral reef ecosystems, including—

"(A) all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat;

"(B) mapping;

"(C) monitoring of coral reef ecosystems;

"(D) development and implementation of management strategies for marine protected area or networks thereof and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

"(E) law enforcement;

"(F) conflict resolution initiatives;

"(G) community outreach and education; and

"(H) activities that promote safe and ecologically sound navigation.";

(2) by amending paragraph (3) to read as follows:

"(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 (organ-pipe corals and others), Alcyonacea (soft corals), and Helioporacea (blue coral), of the class Anthozoa; and

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

(3) by amending paragraph (4) to read as follows:

"(4) CORAL REEF.—The term 'coral reef' means a limestone structure composed in whole or in part of living zooxanthellate stony corals (Class Anthozoa, Order Scleractinia), their skeletal remains, or both.";

(4) by amending paragraph (5) to read as follows:

"(5) CORAL REEF ECOSYSTEM.—The term 'coral reef ecosystem' means a system of coral reefs and geographically associated species, habitats, and environment, including mangroves and seagrass habitats, and the processes that control its dynamics.";

(5) by redesignating paragraphs (7) and (8) in order as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following:

"(7) 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.".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

Section 217, as redesignated by section 106(a) of this Act (relating to authorization of appropriations; 16 U.S.C. 6408), is further amended—

(1) by amending subsection (a) to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce to carry out this title $30,000,000 for fiscal year 2010, $32,000,000 for fiscal year 2011, $34,000,000 for fiscal year 2012, and $35,000,000 for fiscal years 2013 and 2014.";

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

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

"(c) COMMUNITY-BASED PLANNING GRANTS.—There is authorized to be appropriated to the Administrator to carry out section 209, $8,000,000 for fiscal years 2010 through 2014, to remain available until expended."; and

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

"(d) DEPARTMENT OF THE INTERIOR.—There is authorized to be appropriated to the Secretary of the Interior to carry out this title $10,000,000 for each of fiscal years 2009 through 2013.".

TITLE II—UNITED STATES CORAL REEF TASK FORCE

SEC. 201. UNITED STATES CORAL REEF TASK FORCE.

(a) ESTABLISHMENT.—There is hereby established the United States Coral Reef Task Force.

(b) GOAL.—The goal of the Task Force shall be to lead, coordinate, and strengthen Federal Government actions to better preserve and protect coral reef ecosystems.

(c) DUTIES.—The duties of the Task Force shall be—

(1) to coordinate, in cooperation with State and local government partners, academic partners, and nongovernmental partners if appropriate, activities regarding the mapping, monitoring, research, conservation, mitigation, restoration of coral reefs and coral reef ecosystems;

(2) to monitor and advise regarding implementation of the policy and Federal agency responsibilities set forth in Executive Order 13089 and the national

coral reef action strategy developed under section 203 of the Coral Reef Conservation Act of 2000, as amended by this Act; and

(3) to work with the Secretary of State and the Administrator of the Agency for International Development, and in coordination with the other members of the Task Force, to—

(A) assess the United States role in international trade and protection of coral species; and

(B) encourage implementation of appropriate strategies and actions to promote conservation and sustainable use of coral reef resources worldwide.

(d) MEMBERSHIP, GENERALLY.—The Task Force shall be comprised of—

(1) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, and the Secretary of the Interior, who shall be co-chairs of the Task Force;

(2) the Administrator of the Agency of International Development;

(3) the Secretary of Agriculture;

(4) the Secretary of Defense;

(5) the Secretary of the Army, acting through the Corps of Engineers;

(6) the Secretary of Homeland Security;

(7) the Attorney General;

(8) the Secretary of State;

(9) the Secretary of Transportation;

(10) the Administrator of the Environmental Protection Agency;

(11) the Administrator of the National Aeronautics and Space Administration;

(12) the Director of the National Science Foundation;

(13) the Governor, or a representative of the Governor, of the Commonwealth of the Northern Mariana Islands;

(14) the Governor, or a representative of the Governor, of the Commonwealth of Puerto Rico;

(15) the Governor, or a representative of the Governor, of the State of Florida;

(16) the Governor, or a representative of the Governor, of the State of Hawaii;

(17) the Governor, or a representative of the Governor, of the Territory of Guam;

(18) the Governor, or a representative of the Governor, of the Territory of American Samoa; and

(19) the Governor, or a representative of the Governor, of the Virgin Islands.

(e) NONVOTING MEMBERS.—The President, or a representative of the President, of each of the Freely Associated States of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau may appoint a nonvoting member of the Task Force.

(f) RESPONSIBILITIES OF FEDERAL AGENCY MEMBERS.—

(1) IN GENERAL.—The Federal agency members of the Task Force shall—

(A) identify the actions of their agencies that may affect coral reef ecosystems;

(B) utilize the programs and authorities of their agencies to protect and enhance the conditions of such ecosystems; and

(C) assist in the implementation of the National Action Plan to Conserve Coral Reefs, the national coral reef action strategy developed under section 203 of the Coral Reef Conservation Act of 2000, as amended by this Act, the local action strategies, and any other coordinated efforts approved by the Task Force.

(2) CO-CHAIRS.—In addition to their responsibilities under paragraph (1), the co-chairs of the Task Force shall administer performance of the functions of the Task Force and facilitate the coordination of the Federal agency members of the Task Force.

(g) WORKING GROUPS.—

(1) IN GENERAL.—The co-chairs of the Task Force may establish working groups as necessary to meet the goals and duties of this title. The Task Force may request the co-chairs to establish such a working group.

(2) PARTICIPATION BY NONGOVERNMENTAL ORGANIZATIONS.—The co-chairs may allow a nongovernmental organization or academic institution to participate in such a working group.

(h) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force.

(i) DEFINITIONS.—The definitions in section 218 of the Coral Reef Conservation Act of 2000, as amended by this Act , shall apply to this section.

TITLE III—DEPARTMENT OF THE INTERIOR CORAL REEF AUTHORITIES

SEC. 301. AMENDMENTS RELATING TO DEPARTMENT OF THE INTERIOR PROGRAM.

(a) AMENDMENTS AND CLARIFICATIONS TO DEFINITIONS.—

(1) FISH AND WILDLIFE COORDINATION ACT.—Section 8 of the Fish and Wildlife Coordination Act (16 U.S.C. 666b) is amended by inserting before the period at the end the following: ", including coral reef ecosystems (as such term is defined in section 218 of the Coral Reef Conservation Act of 2000) located in any unit of the National Park System, any unit of the National Wildlife Refuge System, or any Marine National Monument designated under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431) (popularly known as the 'Antiquities Act')".

(2) FISH AND WILDLIFE ACT OF 1956 AND FISH AND WILDLIFE IMPROVEMENT ACT OF 1978.—With respect to the authorities under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.) and the authorities under the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742l), references in such Acts to "wildlife" and "fish and wildlife" shall be construed to include coral reef ecosystems (as such term is defined in section 218 of the Coral Reef Conservation Act of 2000, as amended by this Act) located in any unit of the National Park System, any unit of the National Wildlife Refuge System, or any Marine National Monument designated under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431) (popularly known as the "Antiquities Act").

(b) CORAL REEF CONSERVATION ASSISTANCE.—

(1) IN GENERAL.—The Secretary of the Interior may provide technical assistance and, subject to the availability of appropriations, financial assistance for the conservation of coral reefs.

(2) DEFINITIONS.—In this subsection each of the terms "conservation" and "coral reef" has the meaning that term has under section 218 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6409), amended by this Act.

SEC. 302. CLARIFICATION OF DEFINITIONS.

Section 218, as redesignated by section 106(a) of this Act (relating to definitions; 16 U.S.C. 6409), is further amended—

(1) by amending paragraph (1) to read as follows:

"(1) ADMINISTRATOR.—The term 'Administrator'—

"(A) except as provided in subparagraph (B), means the Administrator of the National Oceanic and Atmospheric Administration; and

"(B) in sections 206, 209, 212, 214, and 215, means the Secretary of the Interior for purposes of application of those sections to national park units and national wildlife refuges."; and

(2) by amending paragraph (8), as redesignated by section 107(5) of this Act, to read as follows:

"(8) SECRETARY.—The term 'Secretary'—

"(A) except as provided in subparagraphs (B) and (C), means the Secretary of Commerce;

"(B) in section 206(e), means—

"(i) the Secretary of the Interior, with respect to any coral reef or component thereof that is located in—

"(I) any unit of the National Park System;

"(II) any unit of the National Wildlife Refuge System; or

"(III) any Marine National Monument designated under any of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 695j–1 et seq) and the provisions of law enacted by that Act, and the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431) (popularly known as the 'Antiquities Act') and that is under the administrative jurisdiction of the Secretary of the Interior; and

"(ii) the Secretary of Commerce, with respect to any other coral reef or component thereof that is located in any Marine National Monument designated under a law referred to in clause (i)(III); and

"(C) in sections 203, means the Secretary of Commerce and the Secretary of the Interior.".

PURPOSE OF THE BILL

The purpose of H.R. 860 is to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Coral reefs are some of the most threatened marine ecosystems both in the United States and globally. Reef building corals are tiny marine animals that depend on symbiotic algae to convert sunlight and nutrients into energy for growth and reproduction. Commonly found growing in colonies of polyps, both hard and soft corals secrete calcium carbonate exoskeletons that, in the aggregate, form coral reef structures. These structures reproduce and grow to become massive living structures that cover wide areas of shallow tropical and subtropical seas and represent some of the oldest living systems on the planet.

Located along one-sixth of the world's coastlines, coral reefs can support hundreds of thousands of plant and animal species, with estimates of more than 9 million reef species worldwide. The full value of coral reef ecosystems remains difficult to precisely determine, but estimates are available. The U.S. Commission on Ocean Policy in 2004 reported that coral reef ecosystems provide an estimated total worldwide value of $375 billion in goods and services. Conservation International reported more narrowly in 2008 an estimated global value for coral reefs of $29.8 billion derived from tourism, recreation, coastal protection, fisheries and the maintenance of biodiversity. More specifically, estimates of annual economic value of coral reefs in Hawaii ($364 million), Guam ($127.3 million), the Commonwealth of the Northern Mariana Islands ($61.7 million), and American Samoa ($5.8 million) demonstrate the importance of this resource to island economies. Growing interest in the medicinal properties of corals as exhibited by the pharmaceutical industry should only increase the overall economic value of corals. Additionally, scientific knowledge contained within certain corals is invaluable. Living commonly for 300 years or more, some corals can provide scientists with hundreds of years of environmental data based on the chemical composition of their skeletons, which is important for research to improve our understanding of global climate change and ocean acidification.

Unfortunately, coral species, and all associated reef species and habitats, are in peril. According to the Global Coral Reef Monitoring Network, over 28 percent of the world's coral reefs have been permanently lost. Many coral reefs must cope with multiple environmental threats, including: over-fishing and destructive fishing practices; ship groundings and debris; human population growth and shoreline development; polluted run-off and degraded water quality; and siltation and impaired water clarity. Additionally, coral reefs are increasingly threatened directly from another global phenomenon: ocean acidification. The recent release of the Monaco Declaration of 2008, signed by 155 scientists from 26 nations, made clear that ocean acidification caused by CO_2 absorption is accelerating and that irreparable damage to coral ecosystems is imminent. The declaration emphasized that it is imperative that we protect these fragile ecosystems before they literally dissolve away.

In consideration of the many threats facing coral reefs, Congress enacted in 2000 the Coral Reef Conservation Act. The Act established within the National Oceanic and Atmospheric Administration (NOAA) a Coral Reef Conservation Program to fund coral reef conservation activities directly through grants to states, territories and other partners. The Act also required development of a Coral Reef Action Strategy and authorized NOAA to undertake research, mapping, management and education and outreach activities to protect coral reef ecosystems. H.R. 860 enhances the Coral Reef Conservation Act of 2000 to provide additional tools available to federal, state and territorial marine resource managers and scientists to continue to protect coral reefs from the growing number of threats they face.

COMMITTEE ACTION

H.R. 860 was introduced on February 4, 2009 by Representative Madeleine Z. Bordallo (D–GU). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Insular Affairs, Oceans and Wildlife. On February 25, 2009, the Subcommittee held a hearing on the bill. On April 22, 2009, the Subcommittee was discharged from further consideration of H.R. 860 and the Full Natural Resources Committee met to consider the bill. Representative Bordallo (D–GU) offered an amendment in the nature of a substitute (ANS). Representative Boren (D–OK) offered an amendment to the ANS that would have narrowed the definition of "coral reef". It was withdrawn. Representative Hastings (R–WA) offered an amendment to the amendment that would have struck from the bill the new section 216 concerning judicial review. It also was withdrawn. Representative Hastings (R–WA) offered a second amendment to the ANS that would have made ineligible to receive any financial assistance under the Act any organization that was party to a lawsuit against the federal government. The amendment was withdrawn. The amendment in the nature of a substitute was then adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that this Act may be cited as the 'Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009'.

Section 2. Amendment of Coral Reef Conservation Act of 2000

Section 2 states that unless otherwise expressly provided, amendments in this bill are made to the Coral Reef Conservation Act of 2000.

TITLE I—AMENDMENTS TO THE CORAL REEF CONSERVATION ACT

Section 101. Short title

Section 101 cites this title as the 'Coral Reef Conservation Amendments Act of 2009'.

Section 102. Expansion of Coral Reef Conservation Program

Section 102 revises the Coral Reef Conservation Program established by the Coral Reef Conservation Act of 2000 to ensure diversity in projects funded by the program. It also expands the criteria used to review proposed projects to ensure that approved projects minimize the likelihood of vessel impacts to reefs and also promote and support community-based planning and management initiatives for coral reefs.

Section 103. Emergency response

Section 103 expands the authorities of the NOAA Administrator to take actions necessary to address emergency situations affecting coral reefs, including vessel impacts and unforeseen or disaster-related circumstances. These actions may include, but are not limited to, vessel removals and emergency stabilization of a vessel or impacted coral reef. Additionally, this section authorizes other federal and state agencies to assist the NOAA Administrator in emergency response activities and to receive reimbursement for services rendered. Finally, this section expands the authority for enforcement and recovery of costs for natural resource damages under the National Marine Sanctuaries Act to apply to corals and coral reefs that lie in waters under U.S. jurisdiction but outside of the boundaries of existing marine sanctuaries, provided there is state or territorial consent for coral reef damages that occur in state or territorial waters, and further provided that such actions are consistent with international law. However, exemptions are granted for damages caused by fishing activities that comply with the Magnuson-Stevens Fishery Conservation and Management Act; activities authorized by federal or state law; impacts necessary to facilitate bona fide marine scientific research; and damages caused by the federal government during emergencies.

Section 104. National program

Section 104 expands the purposes of the Coral Reef Conservation Act and the goals and objectives of the national coral reef program to incorporate greater emphasis on the importance of coral resources to local communities, to recognize the role local academic institutions play in facilitating coral reef conservation, management and research activities, and to recognize the threat of climate change to coral reef resources. This section expands the criteria for approval of project proposals to include improving the resilience of coral reefs and centrally archiving, managing, and distributing data sets about coral reef ecosystems. Finally, this section directs the Secretary to be the long-term steward and to make available environmental data, products, and information related to coral reef ecosystems.

Section 105. Report to Congress

Section 105 replaces the existing requirement in the Coral Reef Conservation Act of 2000 for two separate reports to Congress on the Conservation Grant Program and the National Program. Instead, the Administrator is required to submit to Congress once every five years, commencing no later than March 1, 2010, a report describing all activities undertaken to implement the national coral reef action strategy.

Section 106. Fund; grants; grounding inventory; coordination

Section 106 expands the role of the private organization that manages the Coral Reef Conservation Fund to clarify that this organization should encourage public-private partnerships consistent with the Act, and solicit non-federal funding and in-kind services from the private sector to support emergency response activities. This section also amends the Act by re-designating sections 209 and 210 of the Act as sections 217 and 218 and by inserting eight new sections to the Act.

Section 209 authorizes a community-based grant program to support local community efforts to prepare and implement plans supporting increased protection of high priority coral reef areas.

Section 210 directs NOAA to establish and maintain a vessel grounding inventory for all incidents involving coral reefs, including locations, vessel ownership information, estimates and costs for removal, mitigation and restoration activities, and recommendations to prevent future groundings. NOAA is also directed to identify all reef areas with a high incidence rate of vessel impacts and develop a strategy and timetable to reduce the likelihood of these impacts.

Section 211 directs the Secretary and the other federal members of the Coral Reef Task Force to coordinate and collaborate with other federal agencies, states, and territorial governments to implement the national coral reef action strategy. This section directs the Secretary to enter into written agreements with any states in regard to response and restoration activities for coral reefs within affected state waters and to update enforcement agreements.

Section 212 allows the Administrator to enter into agreements with universities and research centers, such as coral reef institutes or other educational institutions such as the University of Guam or American Samoa Community College, to conduct ecological research and monitoring that builds capacity for more effective resource management. It allows the Administrator to use, with their consent, the resources of other agencies, state, local, or tribal governments, foreign governments, or international organizations to form strategic and beneficial partnerships to accomplish shared goals in coral reef conservation.

Section 213 establishes an International Coral Reef Conservation Strategy to conserve coral reef ecosystems in waters outside of U.S. jurisdiction. It directs the Secretary to submit an international coral reef ecosystem strategy to Congress, which identifies high value coral reef ecosystems throughout the world. This strategy also states goals, activities, and partnerships needed to conserve these prioritized ecosystems. It also authorizes a partnership program to provide support for these activities that implement this strategy and conserve coral reefs that cross international boundaries, protecting the connectivity of these ecosystems. Finally, in implementing this section the Secretary is to give priority consideration to regional initiatives and projects that states are participating in with other nations.

Section 214 allows the Administrator to issue and collect fees for coral reef conservation permits for bona fide research. Any activity exempt from liability is not required to obtain a permit.

Section 215 allows the Administrator to issue regulations to carry out the purposes of the Act.

Section 216 clarifies that complaints on agency action taken pursuant to the new section 206(e) of the Act must be made within 30 days to receive judicial review of an agency action. Complaints regarding the issuance or denial of a permit must be made within 120 days. The costs of litigation may be awarded by the court to any prevailing party.

Section 106 also expands section 204 of the Coral Reef Conservation Act of 2000, allowing the Administrator to enter into multi-year cooperative agreements with federal agencies, states, territories, local governments, academic institutions, and non-governmental organizations to carry out the national coral reef action strategy and to implement regional strategies.

Section 107. Clarification of definitions

Section 107 makes technical and clarifying revisions to the definitions of 'conservation,' 'coral,' 'coral reef,' and 'coral reef ecosystem,' within the original Coral Reef Conservation Act of 2000 to better capture the biological and ecological elements of coral reefs and the full range of activities that comprise conservation and adds a definition of 'coral reef component'.

Section 108. Authorization of appropriations

Section 108 authorizes the appropriation of $30,000,000 to the Secretary of Commerce for Fiscal Year 2010, increasing incrementally each year to $35,000,000 for each of Fiscal Years 2013 and 2014 to implement the Act. This section authorizes the NOAA to receive $8 million for Fiscal Years 2010–2014 for community-based planning grants. The Secretary of the Interior is authorized to receive $10 million per year for Fiscal Years 2009–2013 to implement the Act.

TITLE II—UNITED STATES CORAL REEF TASK FORCE

Section 201. United States Coral Reef Task Force

Section 201 codifies the existing United States Coral Reef Task Force created in 2000 by President William J. Clinton pursuant to Executive Order 13089.

TITLE III—DEPARTMENT OF THE INTERIOR CORAL REEF AUTHORITIES

Section 301. Amendments relating to the Department of the Interior program

Section 301 recognizes the Secretary of the Interior's authorities over coral reef resources under the management jurisdiction of the Department of the Interior. This section would amend the Fish and Wildlife Coordination Act, the Fish and Wildlife Act of 1956, and the Fish and Wildlife Improvement Act of 1978 to clarify that coral reefs are included as fish and wildlife resources located in any unit of the National Park System, any unit of the National Wildlife Refuge System, or any Marine National Monument. In addition, the Secretary of the Interior is authorized to provide technical and financial assistance to coastal states and territories for coral reef conservation.

Section 302. Clarification of definitions

This section revises the definition of 'Secretary' to include the Secretary of the Interior for any coral reef that is located within the National Wildlife Refuge System, the National Park System, or Marine National Monument that is under the administrative jurisdiction of the Secretary of the Interior. This section also clarifies that 'Administrator' in sections 206, 209, 212, 214, and 215 means the Secretary of Interior as defined in this section.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in the bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 860—Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009

Summary: H.R. 860 would authorize the appropriation of $214 million over the 2010–2014 period to the National Oceanic and At-

mospheric Administration (NOAA) and the Department of the Interior (DOI) for programs and research on conserving coral reefs. Assuming appropriation of the authorized amounts, CBO estimates that carrying out those activities would cost $200 million through 2014. (An additional $14 million would be spent after 2014.) Enacting H.R. 860 could increase revenues and associated direct spending, but we estimate that such changes would have no significant net impact in any year.

By establishing new protections for coral reefs, H.R. 860 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the annual costs of complying with those mandates would fall below the annual thresholds established in UMRA ($69 million for intergovernmental mandates and $139 million for private-sector mandates in 2009, adjusted annually for inflation).

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 860 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	0214	2009–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION'						
NOAA Coral Reef Conservation Program:						
Authorization Level	30	32	34	35	35	166
Estimate Outlays	20	27	32	34	34	147
International Coral Reef Conservation Program:						
Authorization Level	10	10	10	10	0	40
Estimated Outlays	12	11	11	10	1	45
Community Planning Grants:						
Estimate Authorization Level	1	2	2	2	1	8
Estimate Outlays	1	2	2	2	1	8
Total Changes:						
Estimated Authorization Level	41	44	46	47	36	214
Estimated Outlays	33	40	45	46	36	200

[1] The table does not include any amounts for possible permit fees and associated spending, both of which would require future Congressional action. Such amounts are expected to be minor and to offset each other in any year.

Basis of estimate: For this estimate, CBO assumes that H.R. 860 will be enacted near the end of fiscal year 2009 and that the authorized amounts will be appropriated for each year. Estimated outlays are, based on historical spending patterns for similar programs.

The amouts specifically authorized to be appropriated by H.R. 860 include between $30 million and $35 million annually through 2014 for NOAA's current programs and $10 million annually through 2013 for new DOI programs. (By comparison, NOAA received an appropriation of $29 million in 2009 for the coral reef conservation program. The Department of the Interior, primarily the U.S. Fish and Wildlife Service, also received appropriations of several million dollars for coral reef programs in 2009.)

The bill also would authorize the appropriation of $8 million over the 2010–2014 period for community planning grants to states for coral reef research. CBO assumes that this authorization would be provided and spent roughly evenly over the five-year period.

Finally, the bill would authorize NOAA to impose fees on permits to collect coral and to use such collections for research purposes,

but only to the extent that such collections and spending are provided for in future appropriations Acts. CBO estimates that new offsetting collections from permit fees and associated spending would be negligible.

Revenues and direct spending: Enacting H.R. 860 could increase both revenues and direct spending, but CBO estimates that any such changes would largely offset each other over the 2010–2014 period.

H.R. 860 would expand the protections afforded to coral reefs located in a national marine sanctuary or national parks to coral reefs in all U.S. waters. The bill would establish enforcement mechanisms such as penalties and asset forfeitures, and would make violators liable for damages to coral reefs and the costs of federal responses to accidents that harm coral. Based on information provided by NOAA on recent accidents that damaged coral reefs in national marine sanctuaries, CBO estimates that collecting additional penalties, damages, and cost reimbursements would increase revenues by about $1 million over the 2010–2014 period and by $2 million over the 2010–2019 period.

Amounts collected under H.R. 860 from civil penalties and other monetary collections would be available without further appropriation to DOI or NOAA (depending on the location of the damaged coral reef) for activities such as repairing and restoring damaged reefs. Criminal penalties would be deposited in and spent from the Crime Victims Fund. As a result, the collection and expenditure of fines and penalties under the bill would have no significant net impact in any year.

Estimated intergovernmental and private-sector impact: H.R. 860 contains intergovernmental and private-sector mandates as defined in UMRA, but CBO estimates that the annual costs of those mandates would fall below the annual thresholds established in UMRA ($69 million for intergovernmental mandates and $139 million for private-sector mandates in 2009, adjusted annually for inflation).

The bill would impose a private-sector mandate by making it unlawful for any person to destroy, cause the loss of, or injure any coral reef that is subject to the jurisdiction of the United States. In addition, persons that damage coral reefs would be liable for the restoration and response costs. Currently, only those coral reefs protected under separate legal authorities, such as those located within national marine sanctuaries, receive such protection. Based on information from NOAA, CBO estimates that the cost of complying with this mandate would not be significant.

H.R. 860 also would authorized NOAA to issue permits for research activities that could affect coral reefs. If NOAA established a permit program that requires researchers, such as those at universities and other institutions (public and private), to obtain a permit to conduct research, that requirement would be an intergovernmental and private-sector mandate. CBO expects that few activities would likely be subject to the new permitting requirements and that the costs associated with obtaining permit would be low.

Estimate prepared by: Federal Costs: Aurora Swanson and Deborah Reis; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 860 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e) or 9(f) of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CORAL REEF CONSERVATION ACT OF 2000

* * * * * * *

TITLE II—CORAL REEF CONSERVATION

* * * * * * *

SEC. 202. PURPOSES.

The purposes of this title are—

(1) * * *

(2) to promote the resilience of coral reef ecosystems;

[(2)**]** *(3)* to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities and the Nation;

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

(4) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems including large-scale threats related to climate change, such as ocean acidification, to benefit local communities and the Nation, and to the extent practicable to support and enhance management and research capabilities at local management agencies and local research and academic institutions;

[(4)**]** *(5)* to assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

[(5)**]** *(6)* to provide financial resources for those programs and projects; **[**and**]**

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

(8) to recognize the benefits of healthy coral reefs to island and coastal communities and to encourage Federal action to ensure, to the maximum extent practicable, the continued availability of those benefits.

SEC. 203. NATIONAL CORAL REEF ACTION STRATEGY.

(a) * * *

(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) * * *

* * * * * * *

[(8) conservation, including how the use of marine protected areas to serve as replenishment zones will be developed consistent with local practices and traditions.**]**

(8) conservation, including resilience and the consideration of island and local traditions and practices.

SEC. 204. CORAL REEF CONSERVATION PROGRAM.

(a) * * *

* * * * * * *

(d) **[**GEOGRAPHIC AND BIOLOGICAL**]** *PROJECT* DIVERSITY.—The Administrator shall ensure that funding for grants awarded under subsection (b) during a fiscal year are distributed in the following manner:

(1) * * *

* * * * * * *

[(3) Remaining funds shall be awarded for projects that address emerging priorities or threats, including international priorities or threats, identified by the Administrator. When identifying emerging threats or priorities, the Administrator may consult with the Coral Reef Task Force.**]**

(3) Remaining funds shall be awarded for—

(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Administrator in consultation with the United States Coral Reef Task Force; and

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

* * * * * * *

(g) CRITERIA FOR APPROVAL.—The Administrator 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 reefs by—

(1) * * *

* * * * * * *

(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems; **[**or**]**

[(10) promoting ecologically sound navigation and anchorages near coral reefs.**]**

(10) promoting activities designed to minimize the likelihood of vessel impacts on coral reefs, particularly those areas identi-

fied under section 210(b), including the promotion of ecologically sound navigation and anchorages near coral reefs;

(11) improving and promoting the resilience of coral reefs and coral reef ecosystems; 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 ecosystems.

* * * * * * *

(k) MULTIYEAR COOPERATIVE AGREEMENTS.—The Administrator may enter into multiyear cooperative agreements with the heads of other Federal agencies, States, local governments, academic institutions, and non-governmental organizations to carry out the activities of the national coral reef action strategy developed under section 203 and to implement regional strategies developed pursuant to section 211.

SEC. 205. CORAL REEF CONSERVATION FUND.

(a) FUND.—The Administrator may enter into an agreement with a nonprofit organization that promotes coral reef conservation authorizing such organization to receive, hold, and administer funds received pursuant to this section. The organization shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest bearing account, hereafter referred to as the Fund, established by such [organization solely to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef action strategy under section 203.] *organization—*

(1) to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef strategy under section 203; and

(2) to address emergency response actions under section 206.

(b) AUTHORIZATION TO SOLICIT DONATIONS.—Pursuant to an agreement entered into under subsection (a) of this section, an organization may accept, receive, solicit, hold, administer, and use any gift to further the purposes of this title. Any moneys received as a gift shall be deposited and maintained in the Fund established by the organization under subsection (a). *The organization is encouraged to solicit funding and in-kind services from the private sector, including nongovernmental organizations, for emergency response actions under section 206 and for activities to prevent damage to coral reefs, including areas identified in section 210(b)(2).*

(c) REVIEW OF PERFORMANCE.—The Administrator shall conduct a continuing review of [the grant program] *any grant program or emergency response action* administered by an organization under this section. Each review shall include a written assessment concerning the extent to which that organization has implemented the goals and requirements of this section and the national coral reef action strategy under section 203.

* * * * * * *

[SEC. 206. EMERGENCY ASSISTANCE.

[The Administrator may make grants to any State, local, or territorial government agency with jurisdiction over coral reefs for emergencies to address unforeseen or disaster-related circumstance pertaining to coral reefs or coral reef ecosystems.]

SEC. 206. EMERGENCY RESPONSE ACTIONS.

(a) IN GENERAL.—The Administrator may undertake or authorize action necessary—

(1) to minimize the destruction of or injury to a coral reef, or loss of an ecosystem function of a coral reef, from—

(A) vessel impacts, derelict fishing gear, vessel anchors, and anchor chains; and

(B) from unforeseen or disaster-related circumstances as a result of human activities; and

(2) to stabilize, repair, recover, or restore a coral reef that is destroyed or injured, or that has incurred the loss of an ecosystem function, as described in paragraph (1).

(b) VESSEL REMOVAL; STABILIZATION.—Action authorized by subsection (a) includes vessel removal and emergency stabilization of the vessel or any impacted coral reef.

(c) PARTNERING WITH OTHER FEDERAL AND STATE AGENCIES.—When possible, action by the Administrator under this section should—

(1) be conducted in partnership with other government agencies as appropriate, including—

(A) the Coast Guard, the Federal Emergency Management Agency, the Army Corps of Engineers, the Environmental Protection Agency, and the Department of the Interior; and

(B) agencies of States; and

(2) leverage resources of other agencies.

(d) EMERGENCY RESPONSE ASSISTANCE BY OTHER FEDERAL AND STATE AGENCIES.—

(1) IN GENERAL.—The head of any other Federal or State agency may assist the Administrator in emergency response actions under this section, using funds available for operations of the agency concerned.

(2) REIMBURSEMENT.—The Administrator, subject to the availability of appropriations, may reimburse a Federal or State agency for assistance provided under paragraph (1).

(e) LIABILITY FOR COSTS AND DAMAGES TO CORAL REEFS.—

(1) TREATMENT OF CORAL REEFS UNDER NATIONAL MARINE SANCTUARIES ACT.—For purposes of the provisions set forth in paragraph (2), and subject to paragraph (5), each of the terms "sanctuary resources", "resource", "sanctuary resource managed under law or regulations for that sanctuary", "national marine sanctuary", "sanctuary resources of the national marine sanctuary", and "sanctuary resources of other national marine sanctuaries" is deemed to include any coral reef that is subject to the jurisdiction of the United States or any State, without regard to whether such coral reef is located in a national marine sanctuary.

(2) APPLICABLE PROVISIONS OF NATIONAL MARINE SANCTUARIES ACT.—The provisions referred to in paragraph (1) are

the following provisions of the National Marine Sanctuaries Act:

(A) Paragraphs (6) and (7) of section 302 (16 U.S.C. 1432).

(B) Paragraphs (1), (2), (3), and (4) of section 306 (16 U.S.C. 1436).

(C) Section 307 (16 U.S.C. 1437).

(D) Section 312 (16 U.S.C. 1443).

(3) EXEMPTIONS.—The destruction, loss, or injury of a coral reef or any component thereof is not unlawful if it was—

(A) caused by the use of fishing gear in a manner that is not prohibited under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law; or

(B) caused by an activity that is authorized by Federal or State law, including any lawful discharge from a vessel of graywater, cooling water, engine exhaust, ballast water, or sewage from a marine sanitation device, unless the destruction, loss, or injury is a result of a vessel grounding, a vessel scraping, anchor damage, or excavation that is not authorized by a Federal or State permit;

(C) the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than—

(i) sampling or collecting; and

(ii) destruction, loss, or injury that is a result of a vessel grounding, a vessel scraping, anchor damage, or excavation that is not authorized by a Federal or State permit; or

(D)(i) caused by a Federal Government agency in?

(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 purposes or search and rescue; and

(ii) could not be avoided.

(4) CLARIFICATION OF LIABILITY.—A person is not liable under this subsection if that person establishes that—

(A) the destruction or loss of, or injury to, the coral reef or coral reef ecosystem was caused solely by an act of God, an act of war, or an act of omission of a third party, and the person acted with due care;

(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

(C) the destruction, loss, or injury was negligible.

(5) STATE CONSENT REQUIRED.—

(A) IN GENERAL.—This subsection shall not apply to any coral reef that is subject to the jurisdiction of a State unless the Governor of that State notifies the Secretary that the State consents to that application.

(B) REVOCATION OF CONSENT.—The governor of a State may revoke consent under subparagraph (A) by notifying the Secretary of such revocation.

(6) CONSISTENCY WITH INTERNATIONAL LAWS AND TREATIES.—

(A) IN GENERAL.—Any action taken under the authority of this subsection must be consistent with otherwise applicable international laws and treaties.

(B) ACTIONS AUTHORIZED WITH RESPECT TO VESSELS.—For purposes of subparagraph (A), actions authorized under this subsection include vessel removal, and emergency re-stabilization of a vessel and any coral reef that is impacted by a vessel.

(7) LIABILITY UNDER OTHER PROVISIONS.—Nothing in this title shall alter the liability of any person under any other provision of law.

SEC. 207. NATIONAL PROGRAM.

(a) * * *

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

(1) * * *

* * * * * * *

(3) providing assistance to States in removing abandoned fishing gear, marine debris, and abandoned vessels from coral reefs to conserve living marine resources; [and]

(4) [cooperative conservation] *cooperative research, conservation,* and management of coral reefs and coral reef ecosystems with local, regional, or international programs and [partners.] *partners, including academic institutions located in States;*

(5) improving and promoting the resilience of coral reefs and coral reef ecosystems;

(6) activities designed to minimize the likelihood of vessel impacts or other physical damage to coral reefs, including those areas identified in section 210(b); and

(7) 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.

(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.

[SEC. 208. EFFECTIVENESS REPORTS.

[(a) GRANT PROGRAM.—Not later than 3 years after the date of the enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that documents the effectiveness of the grant program under section 204 in meeting the purposes of this title. The report shall include a State-by-State summary of Federal and non-Federal contributions toward the costs of each project.

[(b) NATIONAL PROGRAM.—Not later than 2 years after the date on which the Administrator publishes the national coral reef strategy under section 203 and every 2 years thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing all activities undertaken to implement that strategy, under section 203, including a description of the funds obligated each fiscal year to advance coral reef conservation.]

SEC. 208. REPORT TO CONGRESS.

Not later than March 1, 2010, and every 5 years thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives 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 fiscal year of the 5-fiscal-year period preceding the fiscal year in which the report is submitted;

(2) a description of Federal interagency and cooperative efforts with States and non-governmental partner organizations to prevent or address overharvesting, coastal runoff, or other anthropogenic impacts on coral reef ecosystems, including projects undertaken with the Department of the Interior, the Department of Agriculture, the Environmental Protection Agency, and the 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;

(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; and

(5) an assessment of the condition of United States coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs, including actions taken to address large-scale threats to coral reef ecosystems related to climate change.

SEC. 209. COMMUNITY-BASED PLANNING GRANTS.

(a) IN GENERAL.—The Administrator may make grants to entities that are eligible to receive grants under section 204(c) 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 identi-

fied by the community and scientific experts as high priorities for focused attention. The plans shall—

(1) support attainment of one or more of the criteria described in section 204(g);

(2) be developed at the community level;

(3) utilize where applicable watershed-based or ecosystem-based approaches;

(4) provide for coordination with Federal and State experts and managers;

(5) build upon local approaches or models, including traditional or island-based resource management concepts; and

(6) complement local action strategies or regional plans for coral reef conservation.

(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. 210. VESSEL GROUNDING INVENTORY.

(a) IN GENERAL.—The Administrator, in coordination with other Federal agencies, may maintain an inventory of all vessel grounding incidents involving coral reefs, including a description of—

(1) the impacts to such resources;

(2) vessel and ownership information, if available;

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

(4) the response action taken by the owner, the Administrator, 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 restoration 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 Administrator may—

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

(2) identify appropriate measures, including action by other agencies, 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. 211. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

(a) REGIONAL COORDINATION.—The Secretary and other Federal members of the United States Coral Reef Task Force shall work in coordination and collaboration with other Federal agencies and States to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems such as coastal runoff, vessel impacts, and overharvesting.

(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 response 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. 212. AGREEMENTS.

(a) IN GENERAL.—The Administrator may execute and perform such contracts, leases, grants, or cooperative agreements 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 Administrator may enter into, extend, or renegotiate agreements with universities and research centers with established management-driven 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 Administrator 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, or Indian tribal government, or of any political subdivision thereof, or of any foreign government or international organization.

SEC. 213. INTERNATIONAL CORAL REEF CONSERVATION STRATEGY.

(a) INTERNATIONAL CORAL REEF ECOSYSTEM STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009, 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 title 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 (b) 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 title;

(E) develop a plan to coordinate implementation of the strategy with entities described in subsection (b) in order to leverage current activities under this title 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).

(b) COORDINATION.—In carrying out this section, 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 United States Coral Reef Task Force in carrying out this subsection.

(c) INTERNATIONAL CORAL REEF ECOSYSTEM PARTNERSHIPS.—

(1) IN GENERAL.—The Secretary may establish an international coral reef ecosystem partnership program to provide support, including funding and technical assistance, for activities that implement the strategy developed pursuant to subsection (a).

(2) MECHANISMS.—The Secretary shall provide such support through existing authorities, working in collaboration with the entities described in subsection (b).

(3) 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 developed pursuant to subsection (a), and meets the criteria specified in that strategy.

(d) PRIORITY FOR CERTAIN PROJECTS CONDUCTED BY STATES.—In implementing this section, the Secretary shall give priority consideration to regional initiatives and projects that States are participating in with other nations.

SEC. 214. PERMITS.

(a) IN GENERAL.—The Administrator may, in accordance with this section and regulations issued under this title, issue a permit authorizing the conduct of bona fide research.

(b) EXEMPT ACTIVITIES.—No permit under this section is required for an activity that is exempt from liability under section 206(e).

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

(d) FEES.—

(1) ASSESSMENT AND COLLECTION.—Subject to regulations issued under this title, the Administrator 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 Administrator 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 Administrator as a direct result of the conduct of the activity for which the permit is issued.

(3) USE OF FEES.—Amounts collected by the Administrator 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 Administrator 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 Administrator 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 activity that is not prohibited by this title or regulations issued under this title.

SEC. 215. REGULATIONS; APPLICATION IN ACCORDANCE WITH INTERNATIONAL LAW.

(a) REGULATIONS.—The Administrator may issue such regulations as are necessary and appropriate to carry out the purposes of sections 206 and 214.

(b) RELATIONSHIP TO INTERNATIONAL LAW.— 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. 216. JUDICIAL REVIEW.

(a) IN GENERAL.—Judicial review of any action taken by the Secretary under this title shall be in accordance with sections 701 through 706 of title 5, United States Code, except that—

(1) review of any final agency action of the Secretary taken under the authority of section 206(e) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district within 30 days after the date such final agency action is taken; and

(2) review of the issuance or denial of a permit under this title may be had only by the filing of a petition for review by an interested person in the Circuit Court of Appeals of the United States for the District of Columbia Circuit or for the Federal judicial district in which such person resides or transacts business which is directly affected by the action taken within 120 days after the date such final agency action is taken.

(b) 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. [209.] *217.* AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title $16,000,000 for each of fiscal years 2001, 2002, 2003, and 2004, which may remain available until expended.]

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce to carry out this title $30,000,000 for fiscal year 2010, $32,000,000 for fiscal year 2011, $34,000,000 for fiscal year 2012, and $35,000,000 for fiscal years 2013 and 2014.

(b) ADMINISTRATION.—Of the amounts appropriated under subsection (a), not more than the lesser of [$1,000,000] *$2,000,000* or 10 percent of the amounts appropriated, may be used for program administration or for overhead costs incurred by the National Oceanic and Atmospheric Administration or the Department of Commerce and assessed as an administrative charge.

[(c) CORAL REEF CONSERVATION PROGRAM.—From the amounts appropriated under subsection (a), there shall be made available to the Secretary $8,000,000 for each of fiscal years 2001, 2002, 2003, and 2004 for coral reef conservation activities under section 204.

[(d) NATIONAL CORAL REEF ACTIVITIES.—From the amounts appropriated under subsection (a), there shall be made available to the Secretary $8,000,000 for each of fiscal years 2001, 2002, 2003, and 2004 for activities under section 207.]

(c) COMMUNITY-BASED PLANNING GRANTS.—There is authorized to be appropriated to the Administrator to carry out section 209, $8,000,000 for fiscal years 2010 through 2014, to remain available until expended.

(d) DEPARTMENT OF THE INTERIOR.—There is authorized to be appropriated to the Secretary of the Interior to carry out this title $10,000,000 for each of fiscal years 2009 through 2013.

SEC. [210.] *218.* DEFINITIONS.

In this title:

[(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

[(2) CONSERVATION.—The term "conservation" means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies for marine protected

areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

[(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), Alcyanacea (soft corals), and Coenothecalia (blue coral), of the class Anthozoa; and

[(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

[(4) CORAL REEF.—The term "coral reef" means any reefs or shoals composed primarily of corals.

[(5) CORAL REEF ECOSYSTEM.—The term "coral reef ecosystem" means coral and other species of reef organisms (including reef plants) associated with coral reefs, and the nonliving environmental factors that directly affect coral reefs, that together function as an ecological unit in nature.]

(1) ADMINISTRATOR.—The term "Administrator"—

(A) except as provided in subparagraph (B), means the Administrator of the National Oceanic and Atmospheric Administration; and

(B) in sections 206, 209, 212, 214, and 215, means the Secretary of the Interior for purposes of application of those sections to national park units and national wildlife refuges.

(2) CONSERVATION.—The term "conservation" means the use of methods and procedures that are necessary to preserve or sustain coral reefs and associated species as resilient diverse, viable, and self-perpetuating coral reef ecosystems, including—

(A) all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat;

(B) mapping;

(C) monitoring of coral reef ecosystems;

(D) development and implementation of management strategies for marine protected area or networks thereof and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(E) law enforcement;

(F) conflict resolution initiatives;

(G) community outreach and education; and

(H) activities that promote safe and ecologically sound navigation.

(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 (organ-pipe corals and others), Alcyonacea (soft

corals), and Helioporacea (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 a limestone structure composed in whole or in part of living zooxanthellate stony corals (Class Anthozoa, Order Scleractinia), their skeletal remains, or both.

(5) CORAL REEF ECOSYSTEM.—The term "coral reef ecosystem" means a system of coral reefs and geographically associated species, habitats, and environment, including mangroves and seagrass habitats, and the processes that control its dynamics.

* * * * * * *

(7) 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.

[(7) SECRETARY.—The term "Secretary" means the Secretary of Commerce.**]**

(8) SECRETARY.—The term "Secretary"—

(A) except as provided in subparagraphs (B) and (C), means the Secretary of Commerce;

(B) in section 206(e), means—

(i) the Secretary of the Interior, with respect to any coral reef or component thereof that is located in—

(I) any unit of the National Park System;

(II) any unit of the National Wildlife Refuge System; or

(III) any Marine National Monument designated under any of the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.), the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 695j–1 et seq) and the provisions of law enacted by that Act, and the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431) (popularly known as the "Antiquities Act") and that is under the administrative jurisdiction of the Secretary of the Interior; and

(ii) the Secretary of Commerce, with respect to any other coral reef or component thereof that is located in any Marine National Monument designated under a law referred to in clause (i)(III); and

(C) in sections 203, means the Secretary of Commerce and the Secretary of the Interior.

[(8)**]** *(9)* 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 seaward boundaries.

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FISH AND WILDLIFE COORDINATION ACT

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SEC. 8. The terms "wildlife" and "wildlife resources" as used herein include birds, fishes, mammals, and all other classes of wild animals and all types of aquatic and land vegetation upon which wildlife is dependent*, including coral reef ecosystems (as such term is defined in section 218 of the Coral Reef Conservation Act of 2000) located in any unit of the National Park System, any unit of the National Wildlife Refuge System, or any Marine National Monument designated under the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431) (popularly known as the "Antiquities Act")*.

* * * * * * *

ADDITIONAL VIEWS

Coral Reef Conservation Act of 2000 has been a good model for natural resource conservation with a focus on locally-developed and locally-driven solutions.

There are two primary authorities within the Act—to fund a coral reef program within the National Oceanic and Atmospheric Administration (NOAA), an agency within the Department of Commerce, and to provide grants to those States and territories that have coral reefs within their waters. These grants allowed for the development of Local Action Strategies that were created by the local jurisdictions and identified threats to coral reefs and solutions to those threats. This local input allowed each entity to focus future funding on their specific needs. Through these Local Action Strategies, approximately 760 projects have been identified to address eight categories of threats. Almost 65 percent of the projects are already being implemented and funding has been secured for almost 40 percent of the identified needs. By allowing the plans to be developed at the local level, this Act has focused funds where they are needed and actions are based on identifiable threats specific to that jurisdiction.

Despite this history of success of the Act, some have argued that more regulation of activities that affect coral reefs is necessary. In addition, concern has been raised that the Department of the Interior, while not having any formal role under the Coral Reef Conservation Act of 2000, has funded coral reef conservation efforts through other authorities and should have a formal role under the Act. In addition, the Office of Insular Affairs within the Department of the Interior has a close relationship with the territories and freely associated states where much of the coral reef conservation activity is located. The issue of whether to, and how to, include the Department of the Interior's activities in the Act has been partially responsible for the delay in implementing a reauthorization of the Act for two Congresses.

This authority in the 2000 Act for local entities to address coral reef conservation along with a national program to fund these activities and national coral reef research has worked well. However, some threats have been identified that needed national solutions, such as vessel groundings on sensitive coral reefs and damage from natural sources such as hurricanes. While the current Act allowed NOAA to create a national program, it did not give NOAA, or any other agency, the authority to react quickly to these threats to coral reefs when timely action could minimize or prevent further damage to the reefs.

H.R. 860, the Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009 would address this concern by giving NOAA an emergency response authority for vessel groundings or natural disaster, authority to stabilize a vessel or

the coral reef itself in the event of a ship strike, authority for inventory on ship strikes—to identify problem vessels or companies—and to identify particular at-risk coral reefs which might be subject to repeated groundings, and the authority to partner and coordinate with other agencies to maximize the effectiveness of the Federal response. In addition, the legislation codifies the U.S. Coral Reef Task Force which was created by Executive Order in 1998.

More problematic, as introduced, H.R. 860, would create a new role for the Department of the Interior consistent with the new authorities the bill would create for NOAA. The legislation would place coral reefs on a higher protection level than other marine creatures by adding coral reefs to the list of those resources protected by the National Marine Sanctuaries Act. This change in the status for coral reefs also would create a broad, new permitting program at both NOAA and the Department of the Interior. Concern was heard that this broad, new authority would extend the reach of the Act to activities—even inland activities—that were already permitted under other authorities and which only had indirect effects on coral reefs. The new permitting provision would allow NOAA or the Department of the Interior to collect fees based on the cost of the permit and additional costs such as monitoring of the activity's effects of coral reefs and for educating the public about the activity. The authority to charge permittees for a broad rage of things could create a situation where the costs of obtaining the permit would discourage permits.

Moreover, because the legislation would elevate the status of all coral reefs, the liability standards in the National Marine Sanctuaries Act would apply to activities that damage, injure or cause the loss of coral reefs. In addition, a judicial review provision in the bill would subject many existing and new activities, and the decision to permit such activities, to litigation. The legislation also would allow litigants to recover both attorney fees and expert witness fees, both of which would likely encourage litigation and reduce the amount of funding available for coral reef conservation.

The legislation also would give the Department of the Interior broad new authority by amending fish and wildlife statutes and adding "coral reef ecosystems" to the definition of "wildlife." This method of including the Department of the Interior would give the Department authority to manage coral reef ecosystems—that under H.R. 860 would also include mangroves and sea grasses—wherever they occur. This would allow the Department to create a duplicate management, research, and regulatory structure parallel to that which is authorized under H.R. 860 for NOAA.

Finally, the legislation, as introduced, would require the creation of a new International Coral Reef Conservation Program, a new international coral reef ecosystem strategy, and a new international coral reef ecosystem partnership program which would fund coral reef projects outside of U.S. waters. While coordination of coral reef conservation activities is important, Members expressed concern with spending U.S. taxpayer money on projects outside the U.S.

The Amendment in the Nature of a Substitute, successfully offered by the Subcommitteeon Insular Affairs, Oceans and Wildlife Chairwoman Madeleine Bordallo (who is also the author of the

bill), made a number of very positive changes to the bill. The most significant of these is the clarification that activities which are authorized under State or federal law are not unlawful, are not subject to liability for coral reef damage, and do not need permits. The permit authority now applies only to the issuance of bona fide research activities. In addition, the authority for the Department of the Interior was limited to those areas already under the Department's jurisdiction where coral reefs are located such as National Parks, National Wildlife Refuges, and National Marine Monuments. While the concern about adding coral reef ecosystems to the definition of wildlife still remains in the legislation, this narrowing of the Department's authority to those areas already under the Department's jurisdiction makes this provision less objectionable. The amendment also removed the requirements for some of the new international programs and gave priority for the funding of international projects to those in which States or territories are partners. These changes represent positive changes to the legislation.

However, in light of this legislation adding new authorities for both NOAA and the Department of the Interior, there are still some areas that could result in over-reach or unintended consequences by the agencies in implementing these new authorities. The issue of judicial review and the authority for lawyers and expert witnesses to receive payment will certainly lead to funds being taken away from coral reef conservation and used to finance further lawsuits against the federal government. At hearings held over the last few years, agencies have testified on several occasions about how much staff time and funding were being used to respond to lawsuits. Adding additional opportunities for such lawsuits does not help natural resource management activities.

In addition, some terms redefined by H.R. 860 have the potential to expand the reach of federal oversight beyond what might be intended by the authors. For example, the addition of mangroves and seagrasses to the definition of coral reef ecosystem will expand the reach of NOAA and the Department of the Interior into new geographical areas, and where "coral reef" is used in other statutes, these plant species could be subject to regulation. Along those lines, the definitions of coral reef and coral reef component include "skeletal remains" and "living or dead corals" which could be used to expand provisions of the legislation to large areas which may no longer have living corals. Restrictions or refinements of these definitions would limit these concerns. Finally, referencing provisions of the National Marine Sanctuaries Act rather than putting these specific provision in the Act due to potential jurisdictional concerns may cause problems as the National Marine Sanctuaries Act is modified either in this or later Congresses.

While the Amendment in the Nature of a Substitute has addressed many of our concerns and made this legislation appreciably better, we remain concerned about the added scope H.R. 860 will give to the agencies charged with implementing the Coral Reef Conservation Act of 2000.

DOC HASTINGS.
DON YOUNG.
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July 9, 2009

The Honorable Nick J. Rahall II
Chairman
Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to you concerning H.R. 860, the Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009.

H.R. 860 contains provisions within the Rule X jurisdiction of the Committee on Foreign Affairs. In the interest of permitting your Committee to proceed expeditiously to floor consideration of this important bill, I am willing to waive this Committee's right mark up these bills. I do so with the understanding that by waiving consideration of H.R. 860, the Committee on Foreign Affairs does not waive any future jurisdictional claim over the subject matters contained in the bills which fall within its Rule X jurisdiction.

Further, I request your support for the appointment of Foreign Affairs Committee conferees during any House-Senate conference convened on this legislation. I would ask that you place this letter into the committee report on H.R. 860 and insert the letters in the *Congressional Record* when the House has this bill under consideration.

I look forward to working with you as we move these important measures through the legislative process.

Sincerely,

Howard L. Berman

HOWARD L. BERMAN
Chairman

HLB:da/mco

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REPUBLICAN CHIEF OF STAFF

July 9, 2009

The Honorable Howard Berman
Chairman
Committee on Foreign Affairs
2170 Rayburn H.O.B.
Washington, D.C. 20515

Dear Mr ~~Chairman~~ Howard:

Thank you for your willingness to expedite floor consideration of H.R. 860, the Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009.

I appreciate your willingness to waive rights to further consideration of H.R. 860, even though your Committee has a jurisdictional interest in the matter and would receive a sequential referral. Of course, this waiver does not prejudice any further jurisdictional claims by your Committee over this legislation or similar language. Furthermore, I agree to support your request for appointment of conferees from the Committee on Foreign Affairs if a conference is held on this matter.

This exchange of letters will be placed in the committee report and inserted in the Congressional Record as part of the consideration of the bill on the House floor. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our respective committees.

With warm regards, I am

Sincerely,

NICK J. RAHALL, II
Chairman
Committee on Natural Resources

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