

108TH CONGRESS
2D SESSION

H. R. 4928

To prohibit the import, export, and take of certain coral reef species, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2004

Mr. CASE introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Ways and Means and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the import, export, and take of certain coral
reef species, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coral Reef Conserva-
5 tion and Protection Act of 2004”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Coral reefs and coral reef ecosystems are
9 the marine equivalent of tropical rain forests, con-

1 taining some of the richest biological diversity, habi-
2 tats, and systems on Earth and supporting thou-
3 sands of fish, invertebrates, algae, plankton, sea
4 grasses, and other species.

5 (2) Coral reefs and coral reef ecosystems have
6 great commercial, recreational, cultural, and aes-
7 thetic value to human communities as shoreline pro-
8 tection, areas of natural beauty, and sources of food,
9 jobs, and pharmaceuticals, and are the focus of a
10 wide variety of activities, including education, re-
11 search, recreation, tourism, and fishing.

12 (3) Studies indicate that coral reef ecosystems
13 in the United States and around the world are being
14 degraded and severely threatened by human activi-
15 ties including land-based pollution, overfishing, de-
16 structive fishing practices, coastal development, ves-
17 sel groundings, and climate change.

18 (4) Executive Order 13089 created the United
19 States Coral Reef Task Force, which is chaired by
20 the Secretary of the Interior and the Secretary of
21 Commerce, to develop measures necessary to reduce
22 and mitigate coral reef ecosystem degradation and to
23 restore damaged coral reefs, assess the United
24 States' role in international trade and protection of
25 coral reef species, and implement appropriate strate-

1 gies and actions to promote conservation and sus-
2 tainable use of coral reef resources.

3 (5) International trade in coral, other reef in-
4 vertebrates, reef fish, live rock, and other coral prod-
5 ucts contributes to the decline and degradation of
6 reefs, primarily through the use of destructive collec-
7 tion practices, overexploitation of resources, loss of
8 reef habitat, and introduction of non-indigenous spe-
9 cies, invasive species, and pathogens.

10 (6) The United States is the largest importer of
11 live coral, live rock, and marine fish for the aquar-
12 ium trade and of coral skeletons and precious corals
13 for souvenirs and jewelry.

14 (7) The harvest of live coral and wild live rock
15 is of special concern because it removes essential
16 components of reef habitats, increases erosion, and
17 damages critical fisheries habitats.

18 (8) More than half of the fish imported into the
19 United States for the marine aquarium market are
20 estimated to be captured with the use of cyanide and
21 other poisons which kill other coral reef species and
22 the corals that form the reef framework, and these
23 destructive fishing practices are becoming increas-
24 ingly common in other countries to meet the growing

1 worldwide demand for ornamental fish and live food
2 fish.

3 (9) As many as $\frac{1}{3}$ to $\frac{1}{2}$ of the aquarium fish
4 imported from Southeast Asia die shortly after arriv-
5 ing in the United States due to stress associated
6 with handling and transport and the use of cyanide
7 during capture, and such high mortality rates lead
8 to continued pressure for extraction from the wild to
9 maintain public and private collections.

10 (10) The United States, as the world's largest
11 importer of coral reef species and products and as
12 a party to the Convention on the International
13 Trade in Endangered Species of Wild Fauna and
14 Flora (CITES), should play a substantial role in
15 conserving and restoring coral reef ecosystems, in-
16 cluding assisting other countries in developing and
17 implementing coral reef conservation programs and
18 ensuring that the market in the United States for
19 coral reef species and products does not contribute
20 to the detriment of the survival of the species in the
21 wild or to the detriment of coral reef ecosystems.

22 (11) The United States should also exercise
23 leadership in moving from a species-based sustain-
24 able management approach to an ecosystem-based
25 approach.

1 (b) PURPOSE.—The purpose of this Act is to provide
2 a series of nondiscriminatory measures which are nec-
3 essary for the conservation of coral reef species and fur-
4 ther the obligations of the United States under CITES.

5 **SEC. 3. PROHIBITION ON TAKING, IMPORTING, EXPORTING,**
6 **AND TRANSPORTING CERTAIN CORAL REEF**
7 **SPECIES.**

8 (a) IN GENERAL.—Subject to section 4, it is unlawful
9 for any person to—

10 (1) take any covered coral reef species within
11 waters under the jurisdiction of the United States;

12 (2) import into or export from the United
13 States any covered coral reef species;

14 (3) possess, sell, purchase, deliver, carry, trans-
15 port, or receive in interstate or foreign commerce
16 any covered coral reef species taken or imported in
17 violation of paragraphs (1) or (2); or

18 (4) attempt to commit any act described in
19 paragraphs (1) through (3).

20 (b) COVERED CORAL REEF SPECIES.—

21 (1) IN GENERAL.—For the purposes of this
22 Act, the term “covered coral reef species” means—

23 (A) any species of coral or ornamental reef
24 fish;

1 (B) any coral reef species listed in Appen-
2 dix II of the Convention on International Trade
3 in Endangered Species of Wild Fauna and
4 Flora (CITES) as of the effective date of this
5 Act;

6 (C) any coral reef species added to Appen-
7 dix II of CITES after the effective date of this
8 Act, unless the Secretary of the Interior, in con-
9 sultation with the Secretary of Commerce, finds
10 before the expiration of the 90-day period which
11 begins on the effective date of the inclusion of
12 such species in Appendix II that the take, im-
13 port, and export of such species do not rep-
14 resent a substantial risk of harm to the sustain-
15 ability of such species and its coral reef eco-
16 system; or

17 (D) any other coral reef species (excluding
18 any finfish, mollusk, crustacean, or other ani-
19 mal or plant species taken for human consump-
20 tion) the take, import, or export of which the
21 Secretary of the Interior and the Secretary of
22 Commerce have determined, after notice and
23 opportunity for public comment—

1 (i) presents a substantial risk of harm
2 to the sustainability of such species or of
3 its coral reef ecosystem; or

4 (ii) results in high mortality rates for
5 individuals of that species due to poor sur-
6 vivorship in transport or captivity.

7 (2) REMOVAL OF A SPECIES FROM DEFINI-
8 TION.—

9 (A) IN GENERAL.—A species may be re-
10 moved from the definition of covered coral reef
11 species under paragraphs (1)(B) through (D), if
12 the Secretary of the Interior determines that
13 the take, import, and export of such species do
14 not represent a substantial risk of harm to the
15 sustainability of that species and of its coral
16 reef ecosystem.

17 (B) ROLE OF SECRETARY OF COM-
18 MERCE.—In carrying out subparagraph (A), the
19 Secretary of the Interior shall consult with the
20 Secretary of the Commerce with respect to a
21 covered coral reef species under paragraph
22 (1)(B) or (1)(C), and act jointly with the Sec-
23 retary of the Interior with respect to a covered
24 coral reef species under paragraph (1)(D).

1 (c) EFFECTIVE DATE.—This section shall take effect
2 upon the expiration of the 1-year period which begins on
3 the date of the enactment of this Act.

4 **SEC. 4. EXCEPTIONS.**

5 (a) IN GENERAL.—

6 (1) SCIENTIFICALLY-BASED MANAGEMENT
7 PLANS.—

8 (A) EXCEPTION.—Section 3 shall not
9 apply with respect to a covered coral reef spe-
10 cies if such species was taken in accordance
11 with a qualified scientifically-based management
12 plan.

13 (B) QUALIFICATION OF PLAN.—For pur-
14 poses of this subsection, a scientifically-based
15 management plan is qualified if the appropriate
16 Secretary determines that the plan—

17 (i) provides for the conservation of a
18 covered coral reef species and its habitat;

19 (ii) provides that a covered coral reef
20 species is taken in such a manner and in
21 such quantities so as not to threaten the
22 biological sustainability of that species or
23 its role in the ecosystem and so as to mini-
24 mize the adverse impact of the take on the
25 coral reef;

(iii) addresses factors relevant to the conservation of a covered coral reef species, which may include illegal trade, domestic trade, subsistence use, disease, habitat loss, and cumulative effects of the take on the coral reef species; and

(iv) prohibits the use of the destructive collection practices described in subsection (b)(2).

(C) APPROPRIATE SECRETARY.—For purposes of this paragraph, the term “appropriate Secretary” means—

(i) the Secretary of Commerce with respect to domestic plans;

(ii) the Secretary of Commerce and the Secretary of the Interior with respect to foreign plans; or

(iii) the Secretary with jurisdiction over the waters in which the plan is located with respect to plans located in waters within the Exclusive Economic Zone (as defined under section (3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)).

(2) COOPERATIVE BREEDING PROGRAMS.—

1 (A) EXCEPTION.—Section 3 shall not
2 apply with respect to a covered coral reef spe-
3 cies if such species is a product of a qualified
4 cooperative breeding program.

5 (B) QUALIFICATION OF PROGRAM.—For
6 purposes of this subsection, a cooperative breed-
7 ing program is qualified if the Secretary of
8 Commerce, in the case of domestic programs, or
9 the Secretary of Commerce and the Secretary
10 of the Interior, in the case of foreign programs,
11 determines that the program is—

12 (i) designed to promote the conserva-
13 tion of covered coral reef species and main-
14 tain such species in the wild by enhancing
15 the propagation and survival of such spe-
16 cies; and

17 (ii) developed and administered by, or
18 in conjunction with, an aquarium, con-
19 servation, or zoological organization which
20 meets standards established by the appro-
21 priate Secretary.

22 (3) AQUACULTURE AND MARICULTURE FACILI-
23 TIES.—

24 (A) EXCEPTION.—Section 3 shall not
25 apply with respect to a covered coral reef spe-

1 cies if such species is a product of a qualified
2 aquaculture or mariculture facility.

3 (B) QUALIFICATION OF FACILITY.—For
4 purposes of this subsection, an aquaculture or
5 mariculture facility is qualified if the Secretary
6 of Commerce, in the case of domestic facilities,
7 or the Secretary of Commerce and the Sec-
8 retary of the Interior, in the case of foreign fa-
9 cilities, determines that the facility—

10 (i) demonstrates the capability to
11 produce sufficient captive covered coral
12 reef species in the numbers to be traded
13 from that facility;

14 (ii) operates in a manner which is not
15 detrimental to the conservation of the spe-
16 cies in the wild;

17 (iii) operates in a manner which does
18 not harm existing ecosystems, such as by
19 introducing non-indigenous species or
20 pathogens; and

21 (iv) operates with sufficient safe-
22 guards so as to prevent the escape of cap-
23 tive species and their eggs, larvae, young,
24 fragments, and other organs of propaga-
25 tion.

1 (4) SCIENTIFIC, MUSEUM, OR ZOOLOGICAL PUR-
2 POSES.—Section 3 shall not apply with respect to a
3 covered coral reef species taken pursuant to author-
4 ization by the Secretary of Commerce, or imported
5 or exported pursuant to authorization by the Sec-
6 retary of the Interior for scientific purposes, mu-
7 seum purposes, or zoological breeding or display.

8 (5) INCIDENTAL TAKES.—Section 3 shall not
9 apply with respect to a covered coral reef species
10 taken incidentally, if such incidental takes are ex-
11 empted by the Secretary of the Interior and the Sec-
12 retary of Commerce by regulation.

13 (6) SUBSISTENCE.—Section 3 shall not apply
14 with respect to a covered coral reef species taken for
15 personal consumption by an individual, if the taking
16 is customary, traditional, or necessary for the sub-
17 sistence of the individual or the individual's family.

18 (b) NO EXCEPTION FOR SPECIES TAKEN USING DE-
19 STRUCTIVE COLLECTION PRACTICES.—

20 (1) IN GENERAL.—No exception shall be al-
21 lowed under subsection (a) with respect to a covered
22 coral reef species that was—

23 (A) taken in waters under the jurisdiction
24 of the United States using any destructive col-
25 lection practice; or

1 (B) imported or exported without a certifi-
2 cation by the importer or exporter that the cov-
3 ered coral reef species to be imported or ex-
4 ported was not taken through the use of any
5 destructive collection practice.

6 (2) DESTRUCTIVE COLLECTION PRACTICES.—
7 For the purposes of this Act, “destructive collection
8 practice” means any practice used in the take of
9 coral reef species which includes any of the fol-
10 lowing:

11 (A) Reef-dredging.

12 (B) Explosives.

13 (C) Poisons.

14 (D) Any other destructive collection prac-
15 tice identified by the Secretary of Commerce by
16 regulation, in consultation with the Secretary of
17 the Interior and the advisory group described in
18 section 6(b).

19 (3) PRESENCE OF POISONS.—For the purposes
20 of this Act, the presence of cyanide, any other poi-
21 son, or any metabolite associated with any such poi-
22 son in a coral reef species shall constitute evidence
23 that poison was used in the take of the coral reef
24 species.

1 **SEC. 5. CONSULTATION REGARDING PROTECTION OF**
2 **CORAL REEF SPECIES.**

3 The Secretary of State, in consultation with the Ad-
4 ministrator of the United States Agency for International
5 Development, the Secretary of the Interior, and the Sec-
6 retary of Commerce, may initiate consultations with for-
7 eign governments which are engaged in, or whose citizens
8 include persons engaged in, commercial operations which
9 take coral reef species, for the purpose of—

10 (1) encouraging the protection of coral reef spe-
11 cies through building consensus on standards for,
12 and implementation of, sustainable management
13 plans; and

14 (2) taking steps to eliminate of the use of the
15 destructive collection practices described in section
16 4(b)(2).

17 **SEC. 6. COORDINATION REGARDING CONSERVATION OF**
18 **CORAL REEF ECOSYSTEMS.**

19 (a) CORAL REEF TASK FORCE.—In carrying out this
20 Act, the Secretary of the Interior and the Secretary of
21 Commerce shall coordinate with members of the Coral
22 Reef Task Force for the conservation and sustainable
23 management of coral reef ecosystems.

24 (b) ADVISORY GROUP.—

25 (1) IN GENERAL.—The Secretary of the Inte-
26 rior and the Secretary of Commerce shall convene an

1 advisory group consisting of individuals representing
2 public and private organizations affected by this Act,
3 including persons involved in the conservation of
4 coral reef ecosystems, the harvest and trade of coral
5 reef species, and the operation of cooperative breed-
6 ing programs and aquaculture and mariculture fa-
7 cilities for the propagation of coral reef species, and
8 representatives of Federal agencies, states, and terri-
9 tories, which are represented on the Coral Reef Task
10 Force.

11 (2) DEVELOPMENT OF GUIDELINES, STRATEGY,
12 AND CRITERIA.—Before the expiration of the 1-year
13 period which begins on the date of the enactment of
14 this Act, the Secretary of the Interior and the Sec-
15 retary of Commerce, in consultation with the advi-
16 sory group, shall develop—

17 (A) criteria and indicators for the con-
18 servation and sustainable management of coral
19 reef ecosystems;

20 (B) a coordinated national strategy for
21 conservation and sustainable management of
22 coral reef species and ecosystems based on the
23 criteria and indicators developed under sub-
24 paragraph (A); and

1 (C) guidelines for the capture, commercial
2 transport, and handling of coral reef species
3 which would improve their rates of survival.

4 (c) INTERNATIONAL COOPERATION.— The Secretary
5 of State and the Administrator of the United States Agen-
6 cy for International Development, in coordination with the
7 heads of other appropriate departments and agencies,
8 shall utilize their authorities to further the purposes of
9 this Act by encouraging policies and implementing pro-
10 grams to promote the conservation and sustainable man-
11 agement of coral reef ecosystems in other parts of the
12 world, by such means as multilateral negotiations, partici-
13 pation in various international fora, bilateral assistance,
14 and capacity building.

15 **SEC. 7. ENFORCEMENT.**

16 (a) CIVIL MONEY PENALTIES.—

17 (1) IN GENERAL.—The Secretary of the Inte-
18 rior or the Secretary of Commerce, upon finding a
19 violation of section 3, may require the person re-
20 sponsible for such violation to pay a civil money pen-
21 alty in an amount determined under a schedule of
22 penalties which is established and published by the
23 Secretary, but which does not exceed \$25,000 for
24 each violation, and which takes into account—

25 (A) the nature of the violation involved;

1 (B) the revenues of the person;

2 (C) previous violations of section 3 by the
3 person; and

4 (D) such other factors as the Secretary
5 considers appropriate.

6 (2) NOTICE AND OPPORTUNITY FOR HEAR-
7 ING.—The Secretary of the Interior or the Secretary
8 of Commerce may not make any determination ad-
9 verse to a person under subsection (a) until such
10 person has been given written notice and an oppor-
11 tunity to be heard before the Secretary or designee.

12 (b) DECLARATORY OR INJUNCTIVE RELIEF.—The
13 Attorney General may bring a civil action in an appro-
14 priate United States district court seeking declaratory or
15 injunctive relief for any alleged violation of sections 3.

16 (c) CRIMINAL PENALTIES.—

17 (1) IN GENERAL.—Any person who knowingly
18 violates section 3 shall be fined in accordance with
19 title 18, United States Code, imprisoned for not
20 more than 6 months, or both.

21 (2) PERSONS ENGAGED IN BUSINESS.—Any
22 person engaged in business as an importer or ex-
23 porter of coral reef species who knowingly violates
24 section 3 shall be fined in accordance with title 18,

1 United States Code, or imprisoned for not more
2 than 2 years, or both.

3 (3) FALSE STATEMENTS IN CERTIFICATIONS.—

4 Any person who knowingly makes, causes to be
5 made, or submits any false material statement or
6 representation in a certification under section
7 4(b)(1)(B) shall be fined in accordance with title 18,
8 United States Code, or imprisoned for not more
9 than 2 years, or both, and may also be prohibited
10 from importing or exporting any coral reef species.

11 (d) REWARDS AND INCIDENTAL EXPENSES.—

12 (1) IN GENERAL.—The Secretary of the Inte-
13 rior or the Secretary of Commerce may pay, from
14 sums received as penalties, fines, or forfeitures of
15 property for violations of section 3—

16 (A) a reward to any person who furnishes
17 information which leads to an arrest, criminal
18 conviction, civil penalty assessment, or for-
19 feiture of property for any violation of section
20 3; and

21 (B) the reasonable and necessary costs in-
22 curred by any person in providing temporary
23 care for any coral reef species pending the dis-
24 position of any civil or criminal proceeding al-
25 leging a violation of section 3.

1 (2) AMOUNT OF REWARD.—The amount of a
 2 reward paid under this subsection shall be des-
 3 ignated by the Secretary of the Interior or the Sec-
 4 retary of Commerce.

5 (3) INELIGIBILITY OF GOVERNMENT OFFI-
 6 CIALS.—Any officer or employee of the United
 7 States or any State or local government who fur-
 8 nishes information or renders service in the perform-
 9 ance of his official duties is ineligible to receive a re-
 10 ward under this subsection.

11 (e) EXECUTIVE BRANCH ENFORCEMENT.—

12 (1) SEARCHES AND SEIZURES.—

13 (A) IN GENERAL.—Any person authorized
 14 by the Secretary of the Interior, the Secretary
 15 of Commerce, the Secretary of the Treasury, or
 16 the Secretary of the Department in which the
 17 Coast Guard is operating may search and seize
 18 any coral reef species taken, imported, ex-
 19 ported, possessed, sold, delivered, carried,
 20 transported, or received in violation of section
 21 3, with or without a warrant, as authorized by
 22 law.

23 (B) SEIZED CORAL REEF SPECIES.—Any
 24 coral reef species seized under subparagraph
 25 (A) shall be held by any person so authorized

1 pending disposition of civil or criminal pro-
2 ceedings, or the institution of an action in rem
3 for forfeiture of such coral reef species pursu-
4 ant to paragraph (3), except that the appro-
5 priate Secretary may, in lieu of holding such
6 species, permit the owner or consignee to post
7 a bond or other surety satisfactory to the Sec-
8 retary, but upon forfeiture of any such property
9 to the United States, or the abandonment or
10 waiver of any claim to any such property, it
11 shall be disposed of (other than by sale to the
12 general public) by the Secretary in such a man-
13 ner, consistent with the purposes of this Act, as
14 the Secretary shall by regulation prescribe.

15 (2) CITATIONS.—If any officer authorized to
16 enforce the provisions of this Act finds that a person
17 has violated section 3, such officer may, in accord-
18 ance with regulations issued by the Secretary of
19 Commerce, Secretary of the Interior, and the Sec-
20 retary of the department in which the Coast Guard
21 is operating, issue a citation to the violator.

22 (3) FORFEITURE.—

23 (A) CORAL REEF SPECIES.—All coral reef
24 species taken, imported, exported, possessed,
25 sold, delivered, carried, transported, or received

1 in violation of section 3 shall be subject to for-
2 feiture to the United States.

3 (B) EQUIPMENT USED IN UNLAWFUL
4 PRACTICES.—All guns, traps, nets, and other
5 equipment, vessels, vehicles, aircraft, and other
6 means of transportation used to aid the take,
7 importing, exporting, possessing, selling, pur-
8 chasing, delivering, carrying, transporting, or
9 receiving of any coral reef species in violation of
10 section 3, shall be subject to forfeiture to the
11 United States upon conviction of a criminal vio-
12 lation pursuant to subsections (b)(1) or (b)(2).

13 (4) OTHER PROVISIONS OF LAW.—Any provi-
14 sion of law relating to the seizure, forfeiture, and
15 condemnation of a vessel for violation a customs law,
16 the disposition of such vessel or the proceeds from
17 the sale thereof, and the remission or mitigation of
18 such forfeiture, shall apply to any seizure or for-
19 feiture incurred or allegedly incurred under this Act,
20 insofar as such provision of law is applicable and not
21 inconsistent with the provisions of this Act, except
22 that all powers, rights, and duties conferred or im-
23 posed by the customs laws upon any officer or em-
24 ployee of the Department of the Treasury shall, for
25 the purposes of this Act, be exercised or performed

1 by the Secretary of Commerce or by such persons as
2 the Secretary may designate.

3 (f) CITIZEN ACTIONS.—

4 (1) IN GENERAL.—Except as provided in para-
5 graph (2), any person may commence a civil action
6 to enjoin any person, including the United States
7 and any other governmental instrumentality or agen-
8 cy (to the extent permitted by the 11th Amendment
9 to the Constitution), who is alleged to be in violation
10 of section 3.

11 (2) JURISDICTION OF DISTRICT COURTS.—The
12 United States District Court for the judicial district
13 in which the alleged violation occurs shall have juris-
14 diction in all actions brought under this subsection,
15 without regard for the amount in controversy or the
16 citizenship of the parties.

17 (3) INTERVENTION BY ATTORNEY GENERAL.—
18 In any such action under this subsection in which
19 the United States is not a party, the Attorney Gen-
20 eral may intervene on behalf of the United States as
21 a matter of right.

22 (4) EXCEPTIONS.—No action may be com-
23 menced under this subsection—

24 (A) prior to 60 days after written notice of
25 the violation has been given to the Secretary of

1 the Interior and the Secretary of Commerce,
2 and to any alleged violator of any such provi-
3 sion or regulation; or

4 (B) if the Secretary of the Interior, the
5 Secretary of Commerce, or the Attorney Gen-
6 eral has initiated an enforcement action under
7 this section.

8 (5) RECOVERY OF COURT COSTS.—In any ac-
9 tion brought pursuant to paragraph (1), the court
10 may award costs of litigation (including reasonable
11 attorney and expert witness fees) to any party,
12 whenever the court determines such award is appro-
13 priate.

14 (6) RELIEF UNDER OTHER LAWS.—The injunc-
15 tive relief provided by this subsection shall not re-
16 strict any right which any person may have under
17 any statute or common law to seek enforcement of
18 any standard or limitation or to seek any other re-
19 lief.

20 (g) AMERICAN SAMOA.—For the purposes of any ac-
21 tion brought under this Act, American Samoa shall be in-
22 cluded within the judicial district of the United States Dis-
23 trict Court for the District of Hawaii.

1 **SEC. 8. REGULATIONS.**

2 (a) IN GENERAL.—Before the expiration of the 1-
3 year period beginning on the date of the enactment of this
4 Act, the Secretary of the Interior and the Secretary of
5 Commerce shall promulgate such regulations as they deem
6 necessary and appropriate to carry out the purposes of
7 this Act.

8 (b) ENFORCEMENT REGULATIONS.—The Secretary
9 of the Interior, the Secretary of Commerce, the Secretary
10 of the Treasury, and the Secretary of the Department in
11 which the Coast Guard is operating, are authorized to pro-
12 mulgate such regulations as may be appropriate to enforce
13 this Act, and charge reasonable fees for expenses con-
14 nected with reviewing certificates authorized by this Act,
15 including processing applications and reasonable inspec-
16 tions, and with the transfer, board, handling, or storage
17 of coral reef species and evidentiary items seized and for-
18 feited under this Act. Any such fees collected pursuant
19 to this subsection shall be deposited in the Treasury to
20 the credit of the appropriation which is current and
21 chargeable for the cost of furnishing the services. Appro-
22 priated funds may be expended pending reimbursement
23 from parties in interest.

24 **SEC. 9. RELATIONSHIP TO STATE LAWS.**

25 Nothing in this Act shall be construed or interpreted
26 as preempting any State from imposing any more restric-

1 tive requirement regarding any coral reef species, so long
2 as such requirement is consistent with the international
3 obligations of the United States and this Act.

4 **SEC. 10. RELATIONSHIP TO FEDERAL FISHERY MANAGE-**
5 **MENT PLANS.**

6 Nothing in this Act shall be construed or interpreted
7 as preempting any fishery management plan developed
8 under the Magnuson-Stevens Fishery Conservation and
9 Management Act (16 U.S.C. 1801 et seq.) that contains
10 management measures more restrictive than those re-
11 quired by this Act.

12 **SEC. 11. DEFINITIONS.**

13 In this Act, the following definitions apply:

14 (1) The term “coral” means any living or dead
15 specimens, parts or derivatives, or any product con-
16 taining specimens, parts or derivatives of any species
17 of the phylum Cnidaria, including—

18 (A) all species of black corals
19 (Antipatharia), stony corals (Scleractinia), soft
20 corals (Alcyonacea), horny corals (Gorgonacea),
21 organ pipe corals (Stolonifera), blue corals
22 (Coenothecalia), anemones (Actiniaria),
23 coralliomorphs (Coralliomorpharia), and
24 zooanthids (Zoanthidea) of the class Anthozoa;
25 and

1 (B) all species of the fire corals
2 (Milleporina) and lace corals (Stylasterina) of
3 the class Hydrozoa.

4 (2) The term “coral reef” means any reef,
5 shoal, or other natural feature composed in part of
6 the solid skeletal structures in which corals are
7 major framework constituents.

8 (3) The term “coral reef ecosystem” means the
9 interacting complex of species (including reef plants
10 of the phyla Chlorophyta, Phaeophyta, and
11 Rhodophyta) and nonliving variables associated with
12 coral reefs and their habitats which function as an
13 ecological unit in nature and which are mutually de-
14 pendent on this function to survive.

15 (4) The term “coral reef species” means—

16 (A) any species of plant or animal, includ-
17 ing algae, seagrasses, invertebrates and
18 vertebrates that live in, on, or near coral reefs
19 and are directly dependent on the coral reef
20 ecosystem for feeding, reproduction or growth,
21 but does not include mammals, reptiles, or
22 birds; and

23 (B) products derived from coral, such as
24 live rock, coral substrate, and coral rock.

1 (5) The term “foreign commerce” includes any
2 transaction between persons within one foreign coun-
3 try, between persons in 2 or more foreign countries,
4 between a person within the United States and a
5 person in a foreign country, or between persons
6 within the United States, where the coral reef spe-
7 cies in question is moving in any country or coun-
8 tries outside the United States.

9 (6) The term “import” means to land on, bring
10 into, or introduce into, or attempt to land on, bring
11 into, or introduce into, any place subject to the ju-
12 risdiction of the United States, whether or not such
13 landing, bringing, or introduction constitutes an im-
14 portation within the meaning of the custom laws of
15 the United States.

16 (7) The term “live rock” means any hard sub-
17 strate derived from coral which is grown in the wild
18 and which is attached to and supporting any species
19 covered under paragraph (4)(A), and includes coral
20 rock and coral substrate.

21 (8) The term “ornamental reef fish” means any
22 finfish collected commercially for the aquarium and
23 curio trade, but does not include any fish taken for
24 human consumption.

1 (9) The term “State” means a State, the Dis-
2 trict of Columbia, the Commonwealth of Puerto
3 Rico, American Samoa, the Virgin Islands, Guam,
4 the Commonwealth of the Northern Mariana Is-
5 lands, and any other commonwealth, territory, or
6 possession of the United States.

7 (10) The term “take” means to capture, catch,
8 collect or harvest coral reef species by any means.

9 (11) The term “United States” includes the
10 several States, the District of Columbia, the Com-
11 monwealth of Puerto Rico, American Samoa, the
12 Virgin Islands, Guam, the Commonwealth of the
13 Northern Mariana Islands, and any other common-
14 wealth, territory or possession of the United States
15 that contains coral within its jurisdiction.

16 (12) The term “waters under the jurisdiction of
17 the United States” means the belt of seas extending
18 to a distance of 200 nautical miles measured from
19 the baseline from which the breadth of the territorial
20 sea of the United States is measured, except where
21 that distance is modified by maritime boundary
22 agreements to which the United States is a party.

1 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated to carry out
3 the provisions of this Act, for each of fiscal years 2006
4 through 2010—

5 (1) for the Secretary of the Interior,
6 \$5,000,000;

7 (2) for the Secretary of Commerce, \$3,000,000;
8 and

9 (3) for the Secretary of State, \$500,000.

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