

109TH CONGRESS  
1ST SESSION

# H. R. 3778

To establish ocean bottom trawl areas in which trawling is permitted, to protect deep sea corals and sponges, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2005

Mr. SHAW (for himself, Mr. FARR, Mr. SHAYS, and Mr. PALLONE) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Science, 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

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## A BILL

To establish ocean bottom trawl areas in which trawling is permitted, to protect deep sea corals and sponges, 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 “Bottom Trawl and  
5       Deep Sea Coral Habitat Act”.

6       **SEC. 2. FINDINGS.**

7       Congress makes the following findings:

1           (1) Ocean resources are a vital component of  
2           the United States economy, as noted by the United  
3           States Commission on Ocean Policy.

4           (2) A proper balance of use and protection of  
5           ocean resources is necessary to ensure the sustain-  
6           ability of such resources.

7           (3) Deep ocean habitats provide fishery re-  
8           sources and sites for deep sea corals and deep sea  
9           sponges.

10          (4) Many fishermen of the United States derive  
11          their livelihoods from fishing in deep ocean areas.

12          (5) It is important that fishermen continue to  
13          be permitted to use areas that have traditionally  
14          been fished, as long as conservation considerations  
15          allow.

16          (6) According to the National Research Council,  
17          approximately 10 percent of the United States Ex-  
18          clusive Economic Zone, an area of a total of  
19          3,400,000 square nautical miles, is used each year  
20          by fishermen who employ bottom trawls and, in the  
21          area that is 50 miles or less from shore, this per-  
22          centage is higher than 75 percent in some regions.

23          (7) Vessel monitoring systems are increasingly  
24          used in the fishing industry. For example, coverage

1 of such systems for bottom trawl vessels in the Pa-  
2 cific and North Pacific is 100 percent.

3 (8) Deep sea corals and deep sea sponges host  
4 biological diversity that, according to the United  
5 States Commission on Ocean Policy, “may rival that  
6 of coral communities in warmer, shallower waters”.  
7 For example, more than 1,300 species live among  
8 Lophelia coral reefs in the northeastern Atlantic  
9 Ocean.

10 (9) Complex seafloor habitats created by struc-  
11 ture-forming organisms, such as deep sea corals and  
12 deep sea sponges, provide spawning habitat, food,  
13 and shelter to numerous fishes and other associated  
14 species, including commercially and recreationally  
15 targeted species.

16 (10) Deep sea corals and deep sea sponges typi-  
17 cally exhibit slow growth, extreme longevity, and  
18 highly patchy distribution, predominately along con-  
19 tinental margins, seamounts, undersea canyons, and  
20 ridges.

21 (11) Deep sea corals and deep sea sponges have  
22 not been fully studied for their benefit to society or  
23 for their ecological importance to other associated  
24 species.

1           (12) Deep sea corals, deep sea sponges, and  
2           their associated invertebrates are a potential source  
3           of compounds with biomedical properties, some of  
4           which are currently in clinical trials to study their  
5           anti-cancer, anti-tumor, and anti-inflammatory prop-  
6           erties.

7           (13) The United States Commission on Ocean  
8           Policy found that deep sea corals, along with their  
9           shallow-water counterparts, are declining at a “dis-  
10          turbing pace,” and that certain types of fishing gear  
11          damage deep sea coral ecosystems.

12          (14) The National Research Council, in a 2002  
13          report to Congress on the effects of trawling and  
14          dredging on seafloor habitats, found that deep sea  
15          corals warrant protection, based on evidence of the  
16          destruction of structured habitats caused by bottom  
17          trawls and dredges.

18          (15) The President’s Ocean Action Plan of  
19          2004 “encourages all regional fishery management  
20          councils to take action, where appropriate, to protect  
21          deep-sea corals when developing and implementing  
22          regional fishery management plans” and includes  
23          provisions to “research, survey, and protect deep-sea  
24          coral communities”.

1           (16) In 2005, the North Pacific Fishery Man-  
2           agement Council proposed measures that will be  
3           adopted pending approval by the Secretary of Com-  
4           merce to confine use of bottom trawls in the Aleu-  
5           tian Islands exclusive economic zone to specified his-  
6           torically productive fishing areas, to disallow use of  
7           bottom trawls in historically unfished areas of Aleu-  
8           tian Islands waters where deep sea corals have been  
9           undisturbed, to designate as no-trawling zones those  
10          areas where coral ecosystems are known to exist,  
11          and to develop a comprehensive plan for research  
12          and monitoring.

13 **SEC. 3. PURPOSES.**

14          (a) IN GENERAL.—The purposes of this Act are—

15               (1) to permit fishermen to use bottom trawls in  
16               areas that, traditionally, have been fished using bot-  
17               tom trawls and that do not contain deep sea coral  
18               and sponge ecosystems;

19               (2) to provide long-term protection for deep sea  
20               coral and sponge ecosystems, particularly in areas  
21               that have not traditionally been fished with bottom  
22               trawls; and

23               (3) to identify, map, and assess deep sea coral  
24               and sponge ecosystems to create a balanced policy

1 for maintenance of fishing and protection of deep  
2 sea ecosystems.

3 (b) PROCESS.—The Secretary shall use a process  
4 that achieves an outcome similar to the outcome achieved  
5 by the North Pacific Regional Fishery Management Coun-  
6 cil—

7 (1) to protect the habitat of deep sea corals or  
8 deep sea sponges to carry out the purposes of this  
9 Act; and

10 (2) to identify areas that are open to the use  
11 of bottom trawls and areas closed to such use where  
12 deep sea coral and sponge ecosystems are present  
13 and protected.

14 **SEC. 4. DEFINITIONS.**

15 In this Act:

16 (1) BOTTOM TRAWL.—The term “bottom  
17 trawl” means any trawl or dredge fishing gear that  
18 contacts the seafloor while in use, including pelagic  
19 trawls that contact the seafloor while in use, otter  
20 trawls, and scallop dredges.

21 (2) BOTTOM TRAWL ZONE.—The term “Bottom  
22 Trawl Zone” means any area designated under sec-  
23 tion 7 or section 10 as a Bottom Trawl Zone.

24 (3) CORAL HABITAT CONSERVATION ZONE.—  
25 The term “Coral Habitat Conservation Zone” means

1 any area designated under section 8 or section 11 as  
2 a Coral Habitat Conservation Zone.

3 (4) COUNCIL.—The term “Council” means any  
4 Regional Fishery Management Council established  
5 by section 302 of the Magnuson-Stevens Fishery  
6 Conservation and Management Act (16 U.S.C.  
7 1852).

8 (5) DEEP SEA CORAL AND SPONGE ECO-  
9 SYSTEM.—The term “deep sea coral and sponge eco-  
10 system” means an ecosystem that meets the criteria  
11 established by the Secretary pursuant to section 5(d)  
12 of this Act composed of living deep sea corals or  
13 deep sea sponges, the benthic and demersal species  
14 associated with them, and the biological, physical,  
15 chemical, and geologic components that constitute  
16 habitat for corals or sponges.

17 (6) DEEP SEA CORALS.—The term “deep sea  
18 corals” means the species that—

19 (A) occur at a depth of greater than 50  
20 meters;

21 (B) do not contain symbiotic algae; and

22 (C) are in the phylum Cnidaria, in the  
23 order—

24 (i) Antipatharia (black corals);

25 (ii) Scleractinia (stony corals);

- 1 (iii) Gorgonacea (horny corals);
- 2 (iv) Alcyonacea (soft corals);
- 3 (v) Pennatulacea (sea pens), in the
- 4 class Anthozoa; or
- 5 (vi) Hydrocorallina (hydrocorals), in
- 6 the class Hydrozoa.

7 (7) DEEP SEA SPONGES.—The term “deep sea  
8 sponges” means species of the phylum Porifera that  
9 occur at a depth of greater than 50 meters.

10 (8) EXCLUSIVE ECONOMIC ZONE.—The term  
11 “exclusive economic zone” has the meaning given  
12 that term in section 3 of the Magnuson-Stevens  
13 Fishery Conservation and Management Act (16  
14 U.S.C. 1802).

15 (9) SECRETARY.—The term “Secretary” means  
16 the Secretary of Commerce or the Secretary’s des-  
17 ignee.

18 (10) VESSEL MONITORING SYSTEM.—The term  
19 “Vessel Monitoring System” means a type of mobile  
20 transceiver unit that—

21 (A) is approved by the Office of Law En-  
22 forcement of the National Marine Fisheries  
23 Service; and

24 (B) automatically determines the vessel’s  
25 position and transmits that information to a



1           communications service provider that is ap-  
2           proved by such Office for transmission and  
3           relay to such Office.

4   **SEC. 5. MAPPING AND RESEARCH.**

5       (a) REQUIREMENT FOR MAPPING AND RESEARCH.—

6   The Secretary shall direct the Under Secretary for Oceans  
7   and Atmosphere to prepare and carry out a comprehensive  
8   program to explore, identify, research, and map the loca-  
9   tions of deep sea corals and deep sea sponges.

10      (b) DESCRIPTION OF MAPPING AND RESEARCH.—

11   The program described in subsection (a) shall include—

12           (1) creating maps of the locations of deep sea  
13           coral and sponge ecosystems; and

14           (2) conducting research related to deep sea cor-  
15           als and deep sea sponges, including research related  
16           to—

17                   (A) the natural history of such species;

18                   (B) the taxonomic classification of such  
19           species;

20                   (C) the ecological roles of such species;

21                   (D) the growth rates of such species;

22                   (E) the anthropogenic, ecological, and  
23           other benefits of such species and the habitats  
24           of such species; and

1 (F) the correlation of deep sea corals and  
2 deep sea sponges with various types of geologic  
3 formations, physical features, and other predic-  
4 tors of presence.

5 (c) COOPERATIVE RESEARCH PROGRAM.—The Sec-  
6 retary, in consultation with the Councils, shall develop a  
7 cooperative research program to identify—

8 (1) the ideal areas for the use of bottom trawls;  
9 and

10 (2) the locations of deep sea corals and deep  
11 sea sponges.

12 (d) THRESHOLDS OF DEEP SEA CORAL AND SPONGE  
13 PRESENCE.—

14 (1) IN GENERAL.—The Secretary, in consulta-  
15 tion with the Councils and expert scientists, shall de-  
16 termine the thresholds above which the abundances  
17 of various deep sea corals or deep sea sponges shall  
18 be considered to constitute an ecosystem. In deter-  
19 mining such thresholds, the Secretary shall consider  
20 the life histories and growth rates of deep sea corals  
21 and deep sea sponges and the criteria set out in  
22 paragraph (2).

23 (2) CRITERIA.—In determining the thresholds  
24 under paragraph (1), the Secretary shall consider  
25 the following criteria:

1 (A) Bycatch per unit effort of deep sea  
2 corals or deep sea sponges in fishery trawls.

3 (B) Presence of deep sea corals or deep  
4 sea sponges in research surveys.

5 (C) Predictions of the presence of deep sea  
6 corals or deep sea sponges based on correlations  
7 with geologic or physical features.

8 (D) Other methods indicating ecologically  
9 meaningful presence of these species in an area.

10 **SEC. 6. USE OF BEST AVAILABLE DATA.**

11 (a) REQUIREMENT.—The Secretary shall use the best  
12 available data to determine if an area shall be designated  
13 as a Bottom Trawl Zone or as a Coral Habitat Conserva-  
14 tion Zone.

15 (b) CONSIDERATIONS.—In delineating the boundary  
16 and determining the size of an area to be designated as  
17 a Bottom Trawl Zone or a Coral Habitat Conservation  
18 Zone, the relevant council and the Secretary shall con-  
19 sider—

20 (1) the precision and accuracy of the available  
21 trawl location data considered in making such deter-  
22 mination;

23 (2) the precision and accuracy of deep sea coral  
24 and deep sea sponge presence data considered in  
25 making such determination;

1           (3) the economic cost of such designation to in-  
2       dustry and the ecological costs and benefits of such  
3       designation to deep sea corals and deep sea sponges  
4       in the area; and

5           (4) the ease of enforcement of such designation.

6       (c) CORAL HABITAT CONSERVATION ZONES.—Not-  
7       withstanding the considerations in subsection (b), in delin-  
8       eating the boundary and determining the size of an area  
9       to be designated as a Coral Habitat Conservation Zone,  
10      the relevant Council and the Secretary—

11           (1) shall ensure that each area that is deter-  
12      mined to contain a deep sea coral and sponge eco-  
13      system is designated as a Coral Habitat Conserva-  
14      tion Zone; and

15           (2) may include a buffer area around deep sea  
16      corals or deep sea sponges present in such Zone to  
17      ensure the complete protection of potential deep sea  
18      corals or deep sea sponges in the area or to facilitate  
19      the enforcement of any appropriate prohibitions,  
20      rules, or regulations within such Zone.

21   **SEC. 7. INITIAL DESIGNATION OF BOTTOM TRAWL ZONES.**

22       (a) RECOMMENDATION BY A COUNCIL.—Not later  
23      than 24 months after the date of enactment of this Act,  
24      each Council, after notice and an opportunity for public

1 comment, shall submit to the Secretary and the Secretary  
2 shall publish in the Federal Register—

3 (1) a list of all areas for which the Council has  
4 responsibilities that were fished using bottom trawls  
5 during the 7-year period ending on December 31,  
6 2004; and

7 (2) recommendations on which portions of the  
8 areas identified in paragraph (1) should be des-  
9 ignated as Bottom Trawl Zones.

10 (b) STANDARDS FOR INITIAL DESIGNATION.—An  
11 area may not be designated as a Bottom Trawl Zone if  
12 there is evidence that a deep sea coral and sponge eco-  
13 system is present in such area.

14 (c) DESIGNATION PROCESS.—

15 (1) PROPOSED RULE.—Not later than 9 months  
16 after the date of the publication of a Council's rec-  
17 ommendations in the Federal Register pursuant to  
18 subsection (a)(2), the Secretary shall publish in the  
19 Federal Register a proposed rule to designate each  
20 area or the portion of such area that does not con-  
21 tain a deep sea coral and sponge ecosystem as a  
22 Bottom Trawl Zone.

23 (2) FAILURE TO RECOMMEND.—If a Council  
24 fails to submit recommendations to the Secretary  
25 under subsection (a), not later than 33 months after

1 the date of enactment of this Act, the Secretary  
2 shall publish in the Federal Register a list of areas  
3 located in the area for which such Council has re-  
4 sponsibility that the Secretary proposes to designate  
5 as Bottom Trawl Zones.

6 (3) COMMENT PERIOD.—The Secretary shall  
7 accept comments on a proposal published under  
8 paragraph (1) or (2) for 60 days after the date of  
9 such publication.

10 (4) FINAL DETERMINATION.—

11 (A) IN GENERAL.—Not later than 30 days  
12 after the date of the end of the comment period  
13 described in paragraph (3), the Secretary shall  
14 designate an area included in a proposal pub-  
15 lished under paragraph (1) or (2) as a Bottom  
16 Trawl Zone if such area meets the standards  
17 for such designation set out in subsection (b).

18 (B) PUBLICATION.—The Secretary shall  
19 publish in the Federal Register each designa-  
20 tion made under subparagraph (A).

21 (d) ACTIVITIES WITHIN BOTTOM TRAWL ZONES.—  
22 After the date that is 30 days after the date of the end  
23 of the comment period described in subsection (c)(3), bot-  
24 tom trawls may not be used in an area that is not des-  
25 ignated as a Bottom Trawl Zone.

1 **SEC. 8. INITIAL DESIGNATION OF CORAL HABITAT CON-**  
2 **SERVATION ZONES.**

3 (a) DESIGNATION BY THE SECRETARY.—

4 (1) IN GENERAL.—Not later than 60 days after  
5 the date of enactment of this Act, the Secretary  
6 shall designate as a Coral Habitat Conservation  
7 Zone each area—

8 (A) that a Council, prior to the date of en-  
9 actment of this Act, has designated as an area  
10 in which the use of bottom trawls is prohibited  
11 for the protection of seafloor habitat; or

12 (B) for which a map of the presence of  
13 deep sea corals or deep sea sponges has been  
14 developed and for which the best available data  
15 confirm the presence of deep sea corals or deep  
16 sea sponges.

17 (2) PUBLICATION AND EFFECTIVE DATE.—Not  
18 later than 60 days after the date of enactment of  
19 this Act, the Secretary shall publish in the Federal  
20 Register each area designated as a Coral Habitat  
21 Conservation Zone under paragraph (1) and such  
22 designation shall become effective on the date of  
23 such publication.

24 (b) RECOMMENDATION BY A COUNCIL.—

25 (1) SUBMISSION TO THE SECRETARY.—Not  
26 later than 24 months after the date of enactment of

1 this Act, each Council, after notice and an oppor-  
2 tunity for public comment, shall submit to the Sec-  
3 retary a list of all areas known to contain deep sea  
4 corals or deep sea sponges.

5 (2) INCLUDED AREAS.—A list submitted by a  
6 Council under paragraph (1) shall include each area  
7 that was considered for designation as a Bottom  
8 Trawl Zone under section 7(a) if such area that was  
9 determined by the Council or the Secretary to con-  
10 tain a deep sea coral and sponge ecosystem.

11 (3) PUBLICATION.—The Secretary shall publish  
12 in the Federal Register a list submitted by a Council  
13 under paragraph (1).

14 (c) DESIGNATION PROCESS.—

15 (1) PROPOSED RULE.—Not later than 9 months  
16 after the date of the publication of a Council's rec-  
17 ommendations pursuant to subsection (b)(3), the  
18 Secretary shall publish in the Federal Register a  
19 proposed rule to designate each area identified in  
20 such publication as a Coral Habitat Conservation  
21 Zone.

22 (2) FAILURE TO RECOMMEND.—If a Council  
23 fails to submit recommendations to the Secretary  
24 under subsection (b)(1), not later than 33 months  
25 after the date of enactment of this Act, the Sec-



1       retary shall publish in the Federal Register a list of  
2       areas located in the area for which such Council has  
3       responsibility that the Secretary proposes to des-  
4       ignate as Coral Habitat Conservation Zones.

5           (3) COMMENT PERIOD.—The Secretary shall  
6       accept comments on any proposed rule published  
7       under paragraph (1) or (2) for 60 days after the  
8       date of such publication.

9           (4) FINAL DETERMINATION.—

10           (A) IN GENERAL.—Not later than 30 days  
11       after the date of the end of the comment period  
12       described in paragraph (3), the Secretary  
13       shall—

14           (i) designate each area, or portion of  
15       such area, included in a proposed rule pub-  
16       lished under paragraph (1) as a Coral  
17       Habitat Conservation Zone, if there is ra-  
18       tional basis for such designation; or

19           (ii) if the Secretary fails to make a  
20       designation under clause (i) for an area,  
21       provide a justification for such failure.

22           (B) PUBLICATION.—The Secretary shall  
23       publish in the Federal Register each designa-  
24       tion made under subparagraph (A)(i) or jus-  
25       tification required under subparagraph (A)(ii).

1 (C) INACTION.—If the Secretary does not  
 2 publish the designation of an area under sub-  
 3 paragraph (A)(i) or the justification required  
 4 under paragraph (A)(ii) for such area within 30  
 5 days of the date of the end of the comment pe-  
 6 riod described in paragraph (3), such area shall  
 7 be deemed to be a Coral Habitat Conservation  
 8 Zone as if so designated by the Secretary.

9 **SEC. 9. UNDESIGNATED AREAS.**

10 An area not initially designated as a Bottom Trawl  
 11 Zone under section 7 or as a Coral Habitat Conservation  
 12 Zone under section 8 shall be available for subsequent des-  
 13 ignation as a Bottom Trawl Zone under section 10 or as  
 14 a Coral Habitat Conservation Zone under section 11.

15 **SEC. 10. SUBSEQUENT DESIGNATION OF BOTTOM TRAWL**  
 16 **ZONES.**

17 (a) STANDARDS FOR SUBSEQUENT DESIGNATION.—  
 18 After the initial designations of Bottom Trawl Zones made  
 19 under section 7, the Secretary, in consultation with the  
 20 relevant Council, shall designate an area as a Bottom  
 21 Trawl Zone if—

- 22 (1) the area has been surveyed for the presence
- 23 of deep sea corals and deep sea sponges; and
- 24 (2) there is no deep sea coral and sponge eco-
- 25 system present in the area.

1       (b) RECOMMENDATION BY A COUNCIL.—Upon the  
2 recommendation of the appropriate Council, the Secretary  
3 may consider any previously undesignated area for des-  
4 ignation as a Bottom Trawl Zone. The Secretary may des-  
5 ignate such area as a Bottom Trawl Zone under this sec-  
6 tion only if such area meets the designation standards set  
7 out in paragraphs (1) and (2) of subsection (a).

8       (c) DESIGNATION PROCESS.—

9           (1) PROPOSED RULE.—The Secretary shall  
10 publish in the Federal Register a proposed rule to  
11 designate an area that is not a Bottom Trawl Zone  
12 or a Coral Habitat Conservation Zone and that  
13 meets the standards set out in paragraphs (1) and  
14 (2) of subsection (a) as a Bottom Trawl Zone  
15 whether identified by the Secretary or by a Council  
16 pursuant to subsection (b).

17           (2) COMMENT PERIOD.—The Secretary shall  
18 accept comments on any proposed rule published  
19 under paragraph (1) for 60 days after the date of  
20 the publication of such proposed rule.

21           (3) FINAL DETERMINATION.—

22           (A) IN GENERAL.—Not later than 30 days  
23 after the date of the end of the comment period  
24 described in paragraph (2), the Secretary shall  
25 designate as a Bottom Trawl Area each area, or

part of such area, included in a proposed rule published under paragraph (1) if the area meets the requirements of paragraphs (1) and (2) of subsection (a).

(B) PUBLICATION.—The Secretary shall publish in the Federal Register each designation made under subparagraph (A).

**SEC. 11. SUBSEQUENT DESIGNATION OF CORAL HABITAT  
CONSERVATION ZONES.**

(a) STANDARDS FOR SUBSEQUENT DESIGNATION.—

The Secretary, in consultation with the Councils, shall designate an area as a Coral Habitat Conservation Zone if the best available data indicate the presence of a deep sea coral and sponge ecosystem in such area.

(b) SUBSEQUENT DESIGNATION THROUGH BYCATCH  
RECORDS, RESEARCH, OR MAPPING.—

(1) REVIEW OF DATA.—The Secretary shall continually collect and review, for the purpose of making a determination on the presence of deep sea coral and sponge ecosystems in an area, the following data:

(A) Bycatch records.

(B) Data and analysis that results from the mapping and research conducted pursuant to section 5.

1 (C) Any other research, mapping, or sur-  
2 vey data that the Secretary determines is ap-  
3 propriate.

4 (2) DESIGNATIONS BASED ON THE REVIEW OF  
5 DATA.—If the Secretary, in consultation with the  
6 relevant Council, determines that data reviewed  
7 under paragraph (1) indicates the presence of a deep  
8 sea coral and sponge ecosystem, the Secretary, in  
9 consultation with the Council, shall designate the  
10 area as a Coral Habitat Conservation Zone and, if  
11 appropriate, terminate the designation of the area as  
12 a Bottom Trawl Zone.

13 (c) RECOMMENDATION BY A COUNCIL.—Upon the  
14 recommendation of the appropriate Council, the Secretary  
15 may consider any area for designation as a Coral Habitat  
16 Conservation Zone.

17 (d) DESIGNATION PROCESS.—

18 (1) PROPOSED RULE.—The Secretary shall  
19 publish in the Federal Register a proposed rule to  
20 designate an area identified by the Secretary, in con-  
21 sultation with the appropriate Councils, under sub-  
22 section (a) or (b) or by a Council under subsection  
23 (c) as a Coral Habitat Conservation Zone if data in-  
24 dicate the presence of a deep sea coral and sponge  
25 ecosystem in such area.

1           (2) COMMENT PERIOD.—The Secretary shall  
2       accept comments on any proposed rule published  
3       under paragraph (1) for 60 days after the date of  
4       the publication of such proposed rule.

5           (3) FINAL DETERMINATION.—

6           (A) IN GENERAL.—Not later than 30 days  
7       after the date of the end of the comment period  
8       described in paragraph (2), the Secretary  
9       shall—

10           (i) designate as a Coral Habitat Con-  
11       servation Zone each area, or part of such  
12       area, included in a proposed rule published  
13       under paragraph (1) if data indicate the  
14       presence of a deep sea coral and sponge  
15       ecosystem in such area; or

16           (ii) if the Secretary fails to make a  
17       designation under clause (i) for an area,  
18       provide a justification that explains the  
19       reasons that the best available data do not  
20       indicate the presence of a deep sea coral  
21       and sponge ecosystem in such area.

22           (B) PUBLICATION.—The Secretary shall  
23       publish in the Federal Register each designa-  
24       tion made under subparagraph (A)(i) or jus-  
25       tification required under subparagraph (A)(ii).

(C) INACTION.—If the Secretary does not publish the designation of an area under subparagraph (A)(i) or the justification required under subparagraph (A)(ii) for such area within 30 days of the date of the end of the comment period described in paragraph (2), such area shall be deemed to be a Coral Habitat Conservation Zone as if so designated by the Secretary.

**SEC. 12. STRICTER REGULATION PERMITTED AND SAVINGS**

**CLAUSE.**

(a) IN GENERAL.—Nothing in this Act shall restrict the authority provided to the Secretary by any other provision of law to promulgate, with or without the advice of the appropriate Council, fishery or habitat protection measures for any purpose that are more restrictive than the measures set out in this Act.

(b) SAVINGS CLAUSE.—All rules and regulations issued by the Secretary under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) pertaining to the conservation, management, or protection of deep sea corals or deep sea sponges shall continue in full force and effect after the date of enactment of this Act until modified or rescinded by the Sec-

1   retary, in exercise of the authority provided to the Sec-  
2   retary under any provision of law.

3   **SEC. 13. USE OF VESSEL MONITORING SYSTEMS.**

4       Not later than 24 months after the date of enactment  
5   of this Act, a vessel that uses a bottom trawl in waters  
6   deeper than 50 meters shall use a Vessel Monitoring Sys-  
7   tem capable of accurately detecting and reporting the posi-  
8   tion of the vessel whenever the vessel leaves port with a  
9   bottom trawl on board.

10   **SEC. 14. PENALTIES AND ENFORCEMENT.**

11       (a) CIVIL PENALTIES.—Any person who is found by  
12   the Secretary, after notice and an opportunity for a hear-  
13   ing in accordance with section 554 of title 5, United States  
14   Code, to have violated the prohibition set out in section  
15   7(d) is liable to the United States for a civil penalty under  
16   section 308 of the Magnuson-Stevens Fishery Conserva-  
17   tion and Management Act (16 U.S.C. 1858) as if such  
18   person had committed an act prohibited by section 307  
19   of such Act (16 U.S.C. 1857).

20       (b) CRIMINAL OFFENSES.—

21           (1) OFFENSES.—A person is guilty of an of-  
22   fense if the person commits an act prohibited by  
23   subparagraph (D), (E), (F), (H), (I), or (L) of sec-  
24   tion 307(1) of the Magnuson-Stevens Fishery Con-  
25   servation and Management Act (16 U.S.C. 1857(1))



1 in an area designated as a Coral Habitat Conserva-  
2 tion Zone.

3 (2) PUNISHMENT.—An offense referred to in  
4 paragraph (1) is punishable by the punishments set  
5 out in section 309(b) of the Magnuson-Stevens Fish-  
6 ery Conservation and Management Act (16 U.S.C.  
7 1859(b)).

8 (c) CIVIL FORFEITURES.—Any fishing vessel (includ-  
9 ing its fishing gear, furniture, appurtenances, stores, and  
10 cargo) used, and fish (or the fair market value thereof)  
11 taken or retained, in any manner, in connection with or  
12 as a result of the commission of a violation of the prohibi-  
13 tion set out in section 7(d) (other than such a violation  
14 for which the issuance of a citation is sufficient sanction)  
15 shall be subject to the civil forfeiture provisions set out  
16 in section 310 of the Magnuson-Stevens Fishery Conserva-  
17 tion and Management Act (16 U.S.C. 1860).

18 (d) ENFORCEMENT.—The provisions of this Act shall  
19 be enforced by the officers responsible for the enforcement  
20 of the Magnuson-Stevens Fishery Conservation and Man-  
21 agement Act as provided for in subsection (a) of section  
22 311 of such Act (16 U.S.C. 1861). Such officers shall have  
23 the powers and authorities to enforce this Act as are pro-  
24 vided in such section.

1 **SEC. 15. INTERNATIONAL PROTECTIONS FOR DEEP SEA**  
2 **CORALS AND DEEP SEA SPONGES.**

3 The President is authorized to permit the Secretary,  
4 in consultation with the Secretary of State, to work with  
5 appropriate international organizations and foreign na-  
6 tions to develop the data necessary to identify areas lo-  
7 cated in international waters that contain deep sea corals  
8 or deep sea sponges and to protect such deep sea corals  
9 or deep sea sponges.

10 **SEC. 16. REPORTS TO CONGRESS.**

11 (a) IN GENERAL.—Not more than 3 years after the  
12 date of enactment of this Act, and every 3 years there-  
13 after, the Secretary shall publish and submit to Congress  
14 a report on the activities undertaken to carry out the pro-  
15 visions of this Act.

16 (b) CONTENT.—Each report required by subsection  
17 (a) shall include—

18 (1) a description of the activities carried out to  
19 protect and define areas in which the use of bottom  
20 trawls has traditionally been permitted;

21 (2) a description of the activities carried out to  
22 protect and monitor deep sea corals or deep sea  
23 sponges;

24 (3) a description of any area designated either  
25 as a Bottom Trawl Zone or a Coral Habitat Con-  
26 servation Zone;

1           (4) a summary of the research strategy created  
2           pursuant to section 5;

3           (5) a summary of any bycatch or other data  
4           that indicates the presence of a deep sea coral and  
5           sponge ecosystem in an area; and

6           (6) a summary of geologic structures that indi-  
7           cate the presence of deep sea coral and sponge eco-  
8           systems in an area, as determined by research activi-  
9           ties described in section 5.

10          (c) PUBLICATION.—Notice of the availability of each  
11       report required by this section shall be published in the  
12       Federal Register.

13       **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

14           There is authorized to be appropriated \$15,000,000  
15       to carry out this Act.

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