

EX. ORD. NO. 13196. FINAL NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF ECOSYSTEM RESERVE

Ex. Ord. No. 13196, Jan. 18, 2001, 66 F.R. 7395, provided: By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Marine Sanctuaries Act, (16 U.S.C. 1431 *et seq.*), and the National Marine Sanctuaries Amendments Act of 2000, Public Law 106-513 [see Short Title of 2000 Amendment note set out under section 1431 of this title], and in furtherance of the purposes of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Marine Protection, Research, and Sanctuaries Act [of 1972] (33 U.S.C. 1401 *et seq.* [16 U.S.C. 1431 *et seq.*, 1447 *et seq.*, 33 U.S.C. 1401 *et seq.*, 2801 *et seq.*]), Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*), Endangered Species Act [of 1973] (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act [of 1972] (16 U.S.C. 1362 [1361] *et seq.*), Clean Water Act (33 U.S.C. 1251 *et seq.*), National Historic Preservation Act [(former) 16 U.S.C. 470 *et seq.*] [see 54 U.S.C. 300101 *et seq.*], National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-e.e. [16 U.S.C. 668dd-668ee]), and other pertinent statutes, it is ordered as follows:

SEC. 1. *Preamble.* On December 4, 2000, I issued Executive Order 13178 [set out above] establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve) pursuant to my authority under the National Marine Sanctuaries Act, as amended by the National Marine Sanctuary Amendments Act of 2000 (Act). In establishing the Reserve, I set forth a number of conservation measures and created specific Reserve Preservation Areas to protect the coral reef ecosystem and related marine resources and species (resources) of the Reserve. The Act provides that no closure areas can become permanent without adequate notice and comment. Accordingly, I proposed to make permanent the Reserve Preservation Areas and initiated a 30-day comment period on this proposal. I also sought comment on the conservation measures for the Reserve. On my behalf, the Secretary of Commerce received the public comments and held seven public hearings, including six throughout Hawaii. After considering the comments expressed at the hearings and received in writing, I have determined to make permanent the Reserve Preservation Areas with certain modifications set forth below. Further, I have modified certain conservation measures to address concerns raised, particularly regarding commercial and recreational fishing within the Reserve. With this action, the establishment of the Reserve under the Act, including the conservation measures and permanent Reserve Preservation Areas, is complete. The Secretary of Commerce will manage the Reserve pursuant to Executive Order 13178, as modified by this order, under the Act. The Secretary shall also initiate the process to designate the Reserve as a National Marine Sanctuary, as required by the Act.

SEC. 2. *Purpose.* The purpose of this order is to amend Executive Order 13178 [set out above], and to make permanent Reserve Preservation Areas, as modified below, to ensure the comprehensive, strong, and lasting protection of the resources of the Northwestern Hawaiian Islands.

[SECS. 3, 4. Amended Ex. Ord. No. 13178, set out above.]

SEC. 5. *Reserve Preservation Areas.* The Reserve Preservation Areas, as modified in sections 3 and 4 of this order, are hereby made permanent in accordance with the Act.

SEC. 6. *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

§ 6402. Federal coral reef management and restoration activities

(a) In general

The Administrator, the Secretary of the Interior, or the Secretary of Commerce may conduct

activities described in subsection (b) to conserve and restore coral reefs and coral reef ecosystems that are consistent with—

- (1) all applicable laws governing resource management in Federal and State waters, including this chapter;
- (2) the National Coral Reef Resilience Strategy; and
- (3) coral reef action plans in effect under section 6404 of this title, as applicable.

(b) Activities described

Activities described in this subsection are activities to conserve, research, monitor, assess, and restore coral reefs and coral reef ecosystems in waters managed under the jurisdiction of a Federal agency specified in subsection (c) or in coordination with a State in waters managed under the jurisdiction of such State, including—

- (1) developing, including through the collection of requisite in situ and remotely sensed data, high-quality and digitized maps reflecting—

(A) current and historical live coral cover data;

(B) coral reef habitat quality data;

(C) priority areas for coral reef conservation to maintain biodiversity and ecosystem structure and function, including the reef matrix, that benefit coastal communities and living marine resources;

(D) priority areas for coral reef restoration to enhance biodiversity and ecosystem structure and function, including the reef matrix, to benefit coastal communities and living marine resources; and

(E) areas of concern that may require enhanced monitoring of coral health and cover;

- (2) enhancing compliance with Federal laws that prohibit or regulate—

(A) the taking of coral products or species associated with coral reefs; or

(B) the use and management of coral reef ecosystems;

- (3) long-term ecological monitoring of coral reef ecosystems;

(4) implementing species-specific recovery plans for listed coral species consistent with the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*);

(5) restoring degraded coral reef ecosystems;

(6) reducing land-based stressors to coral reef ecosystems;

(7) promoting ecologically sound navigation and anchorages, including through navigational aids and expansion of reef-safe anchorages and mooring buoy systems, to enhance recreational access while preventing or minimizing the likelihood of vessel impacts or other physical damage to coral reefs;

(8) monitoring and responding to severe bleaching or mortality events, disease outbreaks, invasive species outbreaks, and significant maritime accidents, including hazardous spill cleanup and the removal of grounded vessels;

(9) conducting scientific research that contributes to the understanding, sustainable use, and long-term conservation of coral reefs;

(10) enhancing public awareness, understanding, and appreciation of coral reefs and

coral reef ecosystems and their ecological and socioeconomic value; and

(11) centrally archiving, managing, and distributing on a public website data sets and coral reef ecosystem assessments, including the data repositories of the Coral Reef Conservation Program of the National Oceanic and Atmospheric Administration.

(c) Federal agencies specified

A Federal agency specified in this subsection is one of the following:

- (1) The National Oceanic and Atmospheric Administration.
- (2) The National Park Service.
- (3) The United States Fish and Wildlife Service.
- (4) The Office of Insular Affairs.

(Pub. L. 106–562, title II, § 203, as added Pub. L. 117–263, div. J, title C, § 10001(a), Dec. 23, 2022, 136 Stat. 3932.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original “this Act” which was translated as reading “this title”, meaning title II of Pub. L. 106–562, to reflect the probable intent of Congress.

The Endangered Species Act of 1973, referred to in subsec. (b)(4), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

PRIOR PROVISIONS

A prior section 6402, Pub. L. 106–562, title II, § 203, Dec. 23, 2000, 114 Stat. 2800, related to national coral reef action strategy, prior to repeal by Pub. L. 117–263, div. J, title C, § 10001(a), Dec. 23, 2022, 136 Stat. 3931.

§ 6403. National coral reef resilience strategy

(a) In general

The Administrator shall—

- (1) not later than 2 years after December 23, 2022, develop a national coral reef resilience strategy; and
- (2) review and revise the strategy—
 - (A) not less frequently than once every 15 years;
 - (B) not less frequently than once every 5 years, in the case of guidance on best practices under subsection (b)(4); and
 - (C) as appropriate.

(b) Elements

The strategy required by subsection (a) shall include the following:

- (1) A discussion addressing—
 - (A) continuing and emerging threats to the resilience of United States coral reef ecosystems;
 - (B) remaining gaps in coral reef ecosystem research, monitoring, and assessment;
 - (C) the status of management cooperation and integration among Federal reef managers and covered reef managers;
 - (D) the status of efforts to manage and disseminate critical information, and enhance interjurisdictional data sharing, related to research, reports, data sets, and maps;

(E) areas of special focus, which may include—

- (i) improving natural coral recruitment;
- (ii) preventing avoidable losses of corals and their habitat;
- (iii) enhancing the resilience of coral populations;
- (iv) supporting a resilience-based management approach;
- (v) developing, coordinating, and implementing watershed management plans;
- (vi) building and sustaining watershed management capacity at the local level;
- (vii) providing data essential for coral reef fisheries management;
- (viii) building capacity for coral reef fisheries management;
- (ix) increasing understanding of coral reef ecosystem services;
- (x) educating the public on the importance of coral reefs, threats and solutions; and
- (xi) evaluating intervention efficacy;

(F) the status of conservation efforts, including the use of marine protected areas to serve as replenishment zones developed consistent with local practices and traditions and in cooperation with, and with respect for the scientific, technical, and management expertise and responsibilities of, covered reef managers;

(G) science-based adaptive management and restoration efforts; and

(H) management of coral reef emergencies and disasters.

(2) A statement of national goals and objectives designed to guide—

(A) future Federal coral reef management and restoration activities authorized under section 6402 of this title;

(B) conservation and restoration priorities for grants awarded under section 6410 of this title; and

(C) research priorities for the reef research coordination institutes designated under section 6412(b)(1)(B)¹ of this title.

(3) A designation of priority areas for conservation, and priority areas for restoration, to support the review and approval of grants under section 6410(e) of this title.

(4) Technical assistance in the form of general templates for use by covered reef managers and Federal reef managers to guide the development of coral reef action plans under section 6404 of this title, including guidance on the best science-based practices to respond to coral reef emergencies that can be included in coral reef action plans.

(c) Consultations

In developing all elements of the strategy required by subsection (a), the Administrator shall—

(1) consult with the Secretary of the Interior, the Task Force, covered States, and covered Native entities;

(2) consult with the Secretary of Defense, as appropriate;

¹ See References in Text note below.