

CORAL REEF CONSERVATION (Title II of the Pribilof Islands Transition Act), with 2007 changes tracked on it.

SEC. 201. SHORT TITLE

This title may be cited as the ‘Coral Reef Conservation Act of 2000’.

SEC. 202. FINDINGS AND PURPOSES.

(a) The Congress finds that—

- (1) Coral reefs contain high biological diversity and serve important ecosystem functions;
- (2) Coral reef resources provide economic and environmental benefits in the form of food, jobs, natural products, and pharmaceuticals;
- (3) Coral reefs are the basis of thriving commercial and recreational fishing and tourism industries;
- (4) A combination of stressors, including climate change, has caused a rapid decline in the health of many coral reef ecosystems globally;
- (5) Natural stressors on coral reefs are compounded by human impacts including pollution, overfishing, and physical damage; and
- (6) Healthy coral reefs provide shoreline protection for coastal communities and resources.

(b) The purposes of this title are—

- (1) to preserve, sustain, and restore the condition of coral reef ecosystems;
- (2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, ~~and~~ the Nation, and the world;
- (3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;
- (4) to assist in the preservation of coral reefs ~~ecosystems~~ by supporting conservation

programs, including projects that involve affected local communities and nongovernmental organizations;

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

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

(7) to provide mechanisms to address injuries to coral reefs.

SEC. 203. NATIONAL CORAL REEF ACTION STRATEGY.

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

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

- (1) coastal uses and management;
- (2) water and air quality;
- (3) mapping and information management;
- (4) research, monitoring, and assessment;
- (5) international and regional issues;

(6) outreach and education;

(7) local strategies developed by the States or Federal agencies, including regional fishery management councils; and

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

SEC. 204. CORAL REEF CONSERVATION PROGRAM.

(a) GRANTS.— The Secretary, ~~through the Administrator and~~ subject to the availability of funds, shall provide grants of financial assistance for projects for the conservation of coral reefs ~~s~~ ~~ecosystems~~ (hereafter in this title referred to as ‘coral conservation projects’), for proposals approved by the ~~Administrator~~ Secretary in accordance with this section.

(b) MATCHING REQUIREMENTS.—

(1) Fifty percent— Except as provided in paragraph (2), Federal funds for any coral conservation project under this section may not exceed 50 percent of the total cost of such project. For purposes of this paragraph, the non-Federal share of project costs may be provided by in-kind contributions and other noncash support.

(2) WAIVER.— The ~~Secretary~~ Administrator may waive all or part of the matching requirement under paragraph (1) if the ~~Secretary~~ Administrator determines that no reasonable means are available through which applicants can meet the matching requirement and the probable benefit of such project outweighs the public interest in such matching requirement.

(c) ELIGIBILITY.— Any natural resource management authority of a State or other government authority with jurisdiction over coral reefs ~~s~~ ~~ecosystems~~, or whose activities directly or indirectly affect coral reefs ~~s~~ ~~ecosystems~~, ~~or coral reef ecosystems~~, or educational or nongovernmental

institutions with demonstrated expertise in the conservation of coral reefs ecosystems, may submit to the ~~Secretary Administrator~~ a coral conservation proposal under subsection (e).

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

~~(1) No less than 40 percent of funds available shall be awarded for coral conservation projects in the Pacific Ocean within the maritime areas and zones subject to the jurisdiction or control of the United States.~~

~~(2) No less than 40 percent of the funds available shall be awarded for coral conservation projects in the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea within the maritime areas and zones subject to the jurisdiction or control of the United States.~~

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

~~(de) PROJECT PROPOSALS.— Each proposal for a grant under this section shall include the following:~~

- ~~(1) The name of the individual or entity responsible for conducting the project.~~
- ~~(2) A description of the qualifications of the individuals who will conduct the project.~~
- ~~(3) A succinct statement of the purposes of the project.~~
- ~~(4) An estimate of the funds and time required to complete the project.~~
- ~~(5) Evidence of support for the project by appropriate representatives of States or other government jurisdictions in which the project will be conducted.~~

(6) Information regarding the source and amount of matching funding available to the applicant.

(7) A description of how the project meets one or more of the criteria in subsection (g).

(8) Any other information the ~~Secretary-Administrator~~ considers to be necessary for evaluating the eligibility of the project for funding under this title.

~~(e)~~ PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.— The ~~Secretary-Administrator~~ shall review each coral conservation project proposal to determine if it meets the criteria set forth in subsection (g).

(2) REVIEW; APPROVAL OR DISAPPROVAL.— Not later than 6 months after receiving a project proposal under this section, the ~~Secretary-Administrator~~ shall.—

(A) request and consider written comments on the proposal from each Federal agency, State government, or other government jurisdiction, including the relevant regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), or any National Marine Sanctuary, with jurisdiction or management authority over coral reef ecosystems in the area where the project is to be conducted, including the extent to which the project is consistent with locally-established priorities;

(B) provide for the merit-based peer review of the proposal and require standardized documentation of that peer review;

(C) after considering any written comments and recommendations based on the reviews under subparagraphs (A) and (B), approve or disapprove the proposal; and

(D) provide written notification of that approval or disapproval to the person who

submitted the proposal, and each of those States and other government jurisdictions that provided comments under subparagraph (A).

(fg) CRITERIA FOR APPROVAL.— The ~~Secretary~~~~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 ~~ecosystems nationally or internationally~~ by.—

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

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

(3) enhancing compliance with laws that prohibit or regulate the taking of coral products or species associated with coral reefs ~~ecosystems~~ or regulate the use and management of coral reef ecosystems;

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

(5) promoting and assisting to implement cooperative coral reef ~~ecosystem~~ conservation projects that involve affected local communities, nongovernmental organizations, or others in the private sector;

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

(7) mapping the location, ~~and~~ distribution and biodiversity of coral reefs ecosystems;

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

(9) developing and implementing cost-effective methods to restore degraded coral reef ecosystems and biodiversity; ~~or~~

(10) responding to coral disease and bleaching events; or

(11) promoting ecologically sound navigation and anchorages near coral reefs ecosystems.

(g~~h~~) PROJECT REPORTING.— Each grantee under this section shall provide periodic reports as required by the ~~Secretary-Administrator~~. Each report shall include all information required by the ~~Secretary-Administrator~~ for evaluating the progress and success of the project.

(h~~i~~) CORAL REEF TASK FORCE.— The ~~Secretary-Administrator~~ may consult with the Coral Reef Task Force to obtain guidance in establishing coral conservation project priorities under this section.

(i~~j~~) IMPLEMENTATION GUIDELINES.— Within 180 days after the date of the enactment of this Act, the ~~Secretary-Administrator~~ shall promulgate necessary guidelines for implementing this section. In developing those guidelines, the ~~Secretary-Administrator~~ shall consult with State, regional, and local entities involved in setting priorities for conservation of coral reefs ecosystems and provide for appropriate public notice and opportunity for comment.

SEC. 205. CORAL REEF CONSERVATION FUND.

(a) FUND.— The ~~Secretary-Administrator~~ may enter into ~~an~~ agreements with ~~a~~-nonprofit organizations ~~that~~ promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer funds received pursuant to this section. ~~The~~ Such organizations shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest

or revenues earned in a separate interest-bearing account, hereafter referred to as the Fund, established by such organizations 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.

(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).

(c) REVIEW OF PERFORMANCE.— The ~~Secretary-Administrator~~ shall conduct a continuing review of ~~the any~~ grant program 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.

(d) ADMINISTRATION.— Under an agreement entered into pursuant to subsection (a), the ~~Secretary-Administrator~~ may transfer funds appropriated to carry out this title to an organization. Amounts received by an organization under this subsection may be used for matching, in whole or in part, contributions (whether in money, services, or property) made to the organization by private persons and State and local government agencies.

SECTION 206. AGREEMENTS.

(a) The Secretary shall have the authority to enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this Act.

(b) For purposes related to the conservation, preservation, protection, restoration or replacement of coral reefs or coral reef ecosystems and the enforcement of this Act, the Secretary is authorized to

use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency or instrumentality of the United States, or of any state, local government, Indian tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization.

(c) AUTHORITY TO UTILIZE GRANT FUNDS.—

(1) Except as provided in paragraph (2), the Secretary is authorized to apply for, accept, and obligate research grant funding from any federal source operating competitive grant programs where such funding furthers the purpose of this Act.

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

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

(4) Funds received from grants shall be deposited in the National Oceanic and Atmospheric Administration account that serves to accomplish the purpose for which the grant was awarded.

SEC. ~~206~~207. EMERGENCY ASSISTANCE.

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

SEC. ~~207~~208. NATIONAL PROGRAM.

(a) IN GENERAL.— Subject to the availability of appropriations, the Secretary may conduct activities, including with local, regional, or international programs and partners, as appropriate, to conserve ~~coral reefs and~~ coral reef ecosystems, that are consistent with this title, the National Marine Sanctuaries Act, the Coastal Zone Management Act of 1972, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act of 1973, and the Marine Mammal Protection Act of 1972.

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

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

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

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

(4) responding to incidents and events that threaten and damage coral reef ecosystems, including disease and bleaching;

(5) cooperative conservation and management of ~~coral reefs and~~ coral reef ecosystems; and

(6) centrally archiving, managing, and distributing data sets and providing coral reef ecosystem assessments and services to the general public with local, regional, or international programs and partners.

(c) DATA ARCHIVE, ACCESS AND AVAILABILITY.—The Secretary, in coordination with similar efforts at other Departments and agencies, as appropriate, shall provide for long-term

stewardship of environmental data, products, and information via data processing, storage, and archive facilities, pursuant to this Act. To implement this provision, the Secretary may—

(1) Archive environmental data collected by federal, State, local agencies and tribal organizations and federally funded research;

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

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

(4) Develop metadata standards for coral reef ecosystems in accordance with Federal Geographic Data Committee guidelines.

(d) EMERGENCY RESPONSE, STABILIZATION AND RESTORATION.— The Secretary shall establish an account (to be called the Emergency Response, Stabilization and Restoration Account) in the Damage Assessment Restoration Revolving Fund established by Public Law 101-515, 104 Stat. 2101 (1990) (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. There are authorized to be deposited into the Emergency Response, Stabilization and Restoration Account amounts which are authorized to be appropriated for such Account pursuant to section 216, and funds which are authorized by sections 210(d)(3)(B) and 211(f)(3)(B). Amounts in the Emergency Response, Stabilization and Restoration Account shall be available for use by the Secretary as specified in sections 210 and 211.

SEC. 209. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

The provisions in this section are in addition to, and shall not affect the operation of, other federal, State or local laws or regulations providing protection to coral reefs. It is unlawful for any person to—

(a) destroy, cause the loss of, or injure any coral reef or any component thereof, except:

(1) if the destruction, loss, or injury was caused by the use of fishing gear; provided, however, that such gear is used in a manner 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

(2) if the destruction, loss, or injury was caused by an activity that is authorized by federal or State law including, but not limited to, lawful discharges from vessels of graywater, cooling water, engine exhaust, ballast water and sewage from marine sanitation devices; provided, however, that such activity shall not be construed to include actions such as vessel groundings, vessel scrapings, anchor damage, excavation not authorized by federal or State permit, or other similar activities;

(3) if the destruction, loss, or injury was the necessary result of *bona fide* marine scientific research; provided, however, that conduct of such research shall not be construed to include excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities; provided further, however, that marine scientific research activities approved by State or local permits qualify as *bona fide* marine scientific research;

(4) if the destruction, loss, or injury—

(A) was caused by a Federal Government agency during—

- (i) an emergency that posed an unacceptable threat to human health or safety or to the marine environment,
 - (ii) an emergency that posed a threat to national security, or
 - (iii) an activity necessary for law enforcement purposes or search and rescue, and
- (B) could not reasonably be avoided.

(b) interfere with the enforcement of this Act by—

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

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

(3) submitting false information to the Secretary or any officer authorized to enforce this Act in connection with any search or inspection conducted under this Act;

(c) violate any provision of this Act, any permit issued pursuant to this Act, or any regulation promulgated pursuant to this Act.

SEC. 210. DESTRUCTION OR LOSS OF, OR INJURY TO, CORAL REEFS.

(a) LIABILITY. —

(1) LIABILITY TO THE UNITED STATES.—Except as provided in subsection (f), all

persons who engage in an activity that is prohibited under sections 209(a) or 209(c), or create an imminent risk thereof, are liable, jointly and severally, to the United States for an amount equal to the sum of—

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

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

(C) interest on that amount calculated in the manner described under section 2705 of Title 33.

(2) LIABILITY IN REM.—

(A) Any vessel used in an activity that is prohibited under sections 209(a) or 209(c), or creates an imminent risk thereof, shall be liable in rem to the United States for an amount equal to the sum of—

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

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

(iii) interest on that amount calculated in the manner described under section 2705 of Title 33.

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

(3) DEFENSES.—A person is not liable under this subsection if that person establishes that the destruction, loss, or injury was caused solely by an act of God, an act of war, or an act or omission of a third party (other than an employee or agent of the defendant or one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly with the defendant), and the person acted with due care.

(4) LIMITS TO LIABILITY.—Nothing in sections 30501 to 30512 or 30706 of Title 46 shall limit liability to any person under this Act.

(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

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

(2) DAMAGE ASSESSMENT.—

(A) The Secretary shall assess damages to coral reefs in accordance with the damages definition in section 217 and shall consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

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

(c) COMMENCEMENT OF CIVIL ACTION FOR RESPONSE COSTS AND DAMAGES.—

(1) COMMENCEMENT.—The Attorney General, upon the request of the Secretary, may commence a civil action against any person or vessel that may be liable under subsection (a) of this section for response costs, seizure, forfeiture, storage, or disposal costs, and damages, and interest on that amount calculated in the manner described under section 2705 of Title 33. The Secretary,

acting as trustee for coral reefs for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

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

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

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

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

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

(d) USE OF RECOVERED AMOUNTS.—Any costs, including response costs and damages recovered by the Secretary under this section shall—

(1) as appropriate be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by Public Law 101-515, 104 Stat. 2101 (1990) (33 U.S.C. § 2706 note), or the Natural Resource Damage Assessment Fund created pursuant to Title I of Public Law 102-154, 105 Stat. 990 (1991);

(2) be available for use by the Secretary without further appropriation and remain available until expended;

(3) and shall be for use, as the Secretary considers appropriate, as follows—

(A) to reimburse the Secretary or any other federal or State agency that conducted activities under sections 210(a) and 210(b);

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

(C) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any coral reefs, or components thereof, including the reasonable costs of monitoring, or to minimize or prevent threats of equivalent injury to, or destruction of coral reefs, or components thereof.

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

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

SEC 211. ENFORCEMENT.

(a) IN GENERAL.—The Secretary shall conduct enforcement activities to carry out this Act.

(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this Act may—

(1) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this Act, any regulation promulgated under this Act, or any permit issued under this Act, and any equipment, stores, and cargo of such vessel;

(2) seize wherever found any component of coral reef taken or retained in violation of this Act, any regulation promulgated under this Act, or any permit issued under this Act;

(3) seize any evidence of a violation of this Act, any regulation promulgated under this Act, or any permit issued under this Act;

(4) execute any warrant or other process issued by any court of competent jurisdiction;

(5) exercise any other lawful authority; and

(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 209.

(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

(1) CIVIL ADMINISTRATIVE PENALTY.—Any person subject to the jurisdiction of the United States who violates this Act or any regulation promulgated or permit issued thereunder, shall be liable to the United States for a civil administrative penalty of not more than \$200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(2) PERMIT SANCTIONS.—For any person subject to the jurisdiction of the United States who has been issued or has applied for a permit under this Act, and who violates this Act or any regulation or permit issued under this Act, the Secretary may deny, suspend, amend or revoke in whole or in part any such permit. For any person who has failed to pay or defaulted on a payment

agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary, the Secretary may deny, suspend, amend or revoke in whole or in part any permit issued or applied for under this Act.

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

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

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

(6) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil

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

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

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

(d) FORFEITURE.—

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

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

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

Pursuant to Title 28, United States Code, Section 2461(c), the provisions of section 413 of the Controlled Substances Act (21 U.S.C. § 853) with the exception of subsection (d) of that section shall apply to criminal forfeitures under this section.

(2) CIVIL FORFEITURE.— The property set forth below shall be forfeited to the United States in accordance with the provisions of Chapter 46 of Title 18, United States Code, and no property right shall exist in it—

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

(b) any property, real or personal, used or intended to be used, in any manner, to commit or facilitate the commission of a violation of this Act, including,

without limitation, any vessel (including the vessel's equipment, stores, catch and cargo), vehicle, aircraft, or other means of transportation.

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

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

(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—Any person assessed a civil penalty for a violation of this Act or of any regulation promulgated under this Act and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any property seized in connection with the violation.

(f) EXPENDITURES.—

(1) Notwithstanding section 3302 of Title 31 or section 1861 of Title 16, United States

Code, amounts received by the United States as civil penalties under section 211(c) of this bill, forfeitures of property under section 211(d), and costs imposed under section 211(e), shall—

- (A) be placed into an account;
- (B) be available for use by the Secretary without further appropriation; and
- (C) remain available until expended.

(2) Amounts received under this section for forfeitures under section 211(d) and costs imposed under section 211(e) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any property seized in connection with a violation of this Act or any regulation promulgated under this Act.

(3) Amounts received under this section as civil penalties under section 211(c) of this Act and any amounts remaining after the operation of paragraph (2) shall be used as follows—

- (A) to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;
- (B) to be transferred to the Emergency Response, Stabilization and Restoration Account established under section 208(d) or an account referenced in section 210(d)(1) of this Act, to reimburse such account for amounts used for authorized emergency actions;
- (C) to conduct monitoring and enforcement activities;
- (D) to conduct research on techniques to stabilize and restore coral reefs;
- (E) to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;
- (F) to stabilize, restore or otherwise manage any other coral reef; or
- (G) to pay a reward to any person who furnishes information leading to an

assessment of a civil penalty, or to a forfeiture of property, for a violation of this Act or any regulation promulgated under this Act.

(g) CRIMINAL ENFORCEMENT.—

(1) Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited by section 209(b) of this Act shall be imprisoned for not more than five years and shall be fined not more than \$500,000 for individuals or \$1,000,000 for an organization; except that if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this Act, or places any such officer in fear of imminent bodily injury, the maximum term of imprisonment is not more than ten years.

(2) Any person (other than a foreign government or any entity of such government) who knowingly violates sections 209(a) or 209(c) shall be fined under Title 18 or imprisoned not more than five years or both.

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

(h) SUBPOENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section

554 of Title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

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

(j) INJUNCTIVE RELIEF.—

(1) If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 210 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

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

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

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

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

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

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

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

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

SEC. 212. PERMITS.

(a) IN GENERAL.—The Secretary may allow for the conduct of activities that would otherwise be prohibited by this Act or regulations issued thereunder through, in accordance with such regulations, issuance of coral reef conservation permits.

(b) FINDINGS.—No permit may be issued unless the Secretary finds—

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

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

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

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

(d) FEES.—

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

(2) AMOUNT.—Any fee assessed shall be equal to the sum of—

(A) all costs incurred, or expected to be incurred, by the Secretary in processing the permit application, including indirect costs; and

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

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

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

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

(B) waive or reduce the fee.

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

SEC. 213. COORDINATION WITH STATES AND TERRITORIES

(a) RESPONSE AND RESTORATION ACTIVITIES.—The Secretary shall, when appropriate, enter into a written agreement with any affected State regarding the manner in which response and restoration activities will be conducted within the affected State’s waters.

(b) COOPERATIVE ENFORCEMENT AGREEMENTS.—All cooperative enforcement agreements in place between the Secretary and States affected by sections 208(d) through 212 of this Act shall be updated to include enforcement of this Act where appropriate.

SEC. 214. REGULATIONS.

The Secretary may issue such regulations as are necessary and appropriate to carry out the purposes of this Act. This Act and any regulations promulgated under this Act 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. ~~208~~215. EFFECTIVENESS REPORT.

~~(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~~ Secretary publishes the ~~national coral reef strategy under section 203~~ Report on U.S. Coral Reef Task Force Agency Activities 2002 to 2003 and every 2 years thereafter, the ~~Administrator~~ Secretary 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 ~~that the~~ strategy, under section 203, including a description of the funds obligated each fiscal year to advance coral reef conservation. ~~This report will cover the time period since the last report was submitted.~~

SEC. ~~209~~216. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.— There are authorized to be appropriated to the Secretary to carry out this ~~title~~ Act, including for the Emergency Response, Stabilization and Restoration Account established under section 208(d), ~~\$16,000,000~~ \$25,797,000 in ~~for each of~~ fiscal years 2008 and such sums as may be necessary for each of fiscal years 2009 through 2012. ~~2001, 2002, 2003, and 2004, which may remain available until expended.~~

(b) ADMINISTRATION.— Of the amounts appropriated under subsection (a), not more than ~~the lesser of \$1,000,000 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.~~

SEC. ~~210~~217. DEFINITIONS.

In this title:

~~(1) ADMINISTRATOR—The term ‘Administrator’ means the Administrator of the National Oceanic and Atmospheric Administration.~~

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

(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), ~~Alcyonacea~~ ~~Alcyonacea~~ (soft corals), and ~~Coenothecalia~~ Helioporacea (blue coral), of the class Anthozoa; and

(B) all species of the ~~order Hydrocorallina~~ families Milleporidea (fire corals) and Stylasteridae (stylasterid hydrocorals) of the class Hydrozoa.

(4) CORAL REEF.— Coral Reefs are defined as limestone structures composed in whole or in part of living zooxanthellate stony corals (Class Anthozoa, Order Scleractinia), as described in section 217(3), their skeletal remains, or both, and including other coral, associated sessile invertebrates and plants, and any adjacent or associated seagrasses. ~~The term ‘coral reef’ means any reefs or shoals composed primarily of corals.~~

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

~~(56)~~ (6) CORAL REEF ECOSYSTEM.— The term ‘coral reef ecosystem’ means ~~the system of 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~~ reefs and geographically associated species and habitats, including but not limited to mangroves and seagrass habitats, their living marine resources, the people, the environment, and the processes that control its dynamics.

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

(8) DAMAGES.—The term ‘damages’ includes—

(A) compensation for—

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

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

(B) the reasonable cost of damage assessments under section 210;

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

(D) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

(E) the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archeological, historical, and cultural resource;

(F) the cost of legal actions under section 210, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and

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

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

(10) EXCLUSIVE ECONOMIC ZONE.—The term ‘Exclusive Economic Zone’ means the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.

(11) LOCAL ACTION STRATEGY.— The term ‘Local Action Strategy’ refers to a plan developed within each of the seven U.S. Coral Reef Task Force member states for collaborative action among federal, state, territory and non-governmental partners, which identifies priority actions needed to reduce key threats to valuable coral reef resources.

(12) PERSON.—The term ‘person’ means any individual; private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic; private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

(13) RESPONSE COSTS.—The term ‘response costs’ means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or component thereof, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 210.

(14) SECRETARY.— The term ‘Secretary’ means—

(A) for purposes of sections 201 through 208 and sections 215 through 217, the Secretary of Commerce, and

(B) for purposes of sections 209 through 214 and section 218—

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

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

(15) SERVICE.— Within section 217(7), the term ‘service’ means function(s), ecological or otherwise, performed by a coral reef, or component thereof.

(816) 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.

(17) TERRITORIAL SEA.—The term ‘Territorial Sea’ means the waters of the Territorial Sea of the United States under Presidential Proclamation 5928, dated December 27, 1988.

SEC. 218. JUDICIAL REVIEW.

(a) Judicial review of any action taken by the Secretary under this Act shall be in accordance with sections 701 through 706 of Title 5, except that –

(1) review of any final agency action of the Secretary taken pursuant to sections 211(c)(1) and 211(c)(2) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district; any such complaint must be filed within thirty days of the date such final agency action is taken; and

(2) review of all other final agency actions of the Secretary under this Act 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 federal judicial district in which such person resides or transacts business which is directly affected by the action taken; such petition shall be filed within 120 days from the date such final agency action is taken.

(b) Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) 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. 219. DEPARTMENT OF INTERIOR.

CORAL REEF CONSERVATION ASSISTANCE.— The Secretary of the Interior may provide technical and financial assistance to States, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico and the Virgin Islands, for management and conservation of coral reef ecosystems, including implementation of Local Action Strategies. The Secretary shall coordinate coral reef conservation activities under the Act of March 10, 1934 (16 U.S.C. § 666b), as amended, commonly known as the “Fish and Wildlife Coordination Act”, Public Law 95-616 (16 U.S.C. § 742*l*), as amended, commonly known as the “Fish and Wildlife Improvement Act of 1978”, Public Law 96-597 (48 U.S.C. § 1469d), as amended, with those coral reef conservation activities of other agencies and partners, including those activities carried out through the U.S. Coral Reef Task Force.