

CORAL REEF CONSERVATION AND RESTORATION
PARTNERSHIP ACT OF 2000

JULY 19, 2000.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3919]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3919) to provide assistance for the conservation of coral reefs, to coordinate Federal coral reef conservation activities, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Coral Reef Conservation and Restoration Partnership Act of 2000”.

SEC. 2. PURPOSES.

The purposes of this Act are the following:

- (1) To maintain and restore the health of coral reef ecosystems.
- (2) To promote the wise management and long-term sustainable use of coral reef ecosystems to benefit local communities and the Nation.
- (3) To promote cooperative coral reef conservation projects that involve affected local communities and nongovernmental organizations.
- (4) To address conflicts between coral reef uses.
- (5) To enhance compliance with laws that prohibit or regulate the taking of corals, species associated with coral reefs, and coral products or that regulate the use and management of coral reef ecosystems.

(6) To develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems.

(7) To coordinate activities and programs related to coral reefs that are conducted, funded, or authorized by the Federal Government, including coral reef conservation, research, mapping, monitoring, assessment, and restoration.

SEC. 3. DEFINITIONS.

In this Act:

(1) CORAL.—The term “coral” means species of the phylum Cnidaria, including—

(A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Alcyonacea (soft corals), Gorgonacea (horny, pink, and bamboo corals), Stolonifera (organpipe corals and others), and Coenothecalia (blue coral), of the class Anthozoa;

(B) all species of the order Hydrocorallina (fire corals and hydrocorals), of the class Hydrozoa; and

(C) all species of the order Zoanthidae (gold corals).

(2) CORAL PRODUCT.—The term “coral product” means any living or dead specimen, part, or derivative, or any product containing a specimen, part, or derivative, of any species referred to in paragraph (1).

(3) CORAL REEF.—The term “coral reef” means any reef or shoal comprised primarily of the skeletal material of species of one or more of the orders Scleractinia, Antipatharia, Gorgonacea, and Zoanthidae.

(4) CORAL REEF CONSERVATION.—The term “coral reef conservation” means the use of methods, procedures, and policies that are consistent with the strategy published by the Coral Reef Task Force under section 4(b)(1), to restore and protect coral reefs and to conserve and sustain diverse, viable, and self-perpetuating coral reef ecosystems.

(5) CORAL REEF ECOSYSTEM.—The term “coral reef ecosystem” means coral and other species of living organisms associated with coral reefs, and the non-living environmental factors that directly affect coral reefs, that together function as an ecological unit in nature.

(6) CORAL REEF TASK FORCE.—The term “Coral Reef Task Force” means such task force established by section 4(a).

(7) EXECUTIVE ORDER 13089.—The term “Executive Order 13089” means such Executive Order issued by the President on June 11, 1998, pertaining to coral reef protection.

(8) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

(9) STATE.—The term “State” means—

(A) any State of the United States that contains a coral reef ecosystem within its boundaries;

(B) American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands; and

(C) 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 boundaries.

SEC. 4. COORDINATION OF FEDERAL AGENCIES.

(a) CORAL REEF TASK FORCE.—

(1) ESTABLISHMENT AND MEMBERSHIP.—There is established the Coral Reef Task Force. The Coral Reef Task Force shall, in consultation with the Governors of the States—

(A) coordinate all Federal activities related to coral reefs, and facilitate the resolution of interagency and intergovernmental conflicts associated with the use and conservation of coral reefs;

(B) develop and coordinate consistent national policies, strategies, plans, programs, projects, activities, and priorities for the conservation and protection of United States coral reefs and coral reef ecosystems;

(C) develop and coordinate a research program to identify the major causes and consequences of degradation of coral reef ecosystems, improve the understanding of coral reef health and diseases, and identify solutions and procedures to repair and restore coral reefs;

(D) develop and promote strategies and actions for the conservation and sustainable use of coral reef resources worldwide, including the sharing of information, collaborative research, and monitoring efforts; and

(E) develop and recommend solutions to reduce or eliminate unsustainable fishing practices on coral reefs worldwide.

(2) MEMBERS.—The Coral Reef Task Force shall be composed of the following:

(A) The Secretary, acting through the Administrator of the National Oceanic and Atmospheric Administration.

- (B) The Secretary of the Interior.
 - (C) The Administrator of the Environmental Protection Agency.
 - (D) The Attorney General.
 - (E) The Secretary of Agriculture.
 - (F) The Secretary of Defense.
 - (G) The Secretary of State.
 - (H) The Secretary of Transportation.
 - (I) The Director of the National Science Foundation.
 - (J) The Administrator of the Agency for International Development.
 - (K) The Administrator of the National Aeronautics and Space Administration.
 - (L) The head of any other Federal agency that the co-chairs of the Coral Reef Task Force jointly designate.
 - (M) The Governor of any State that the co-chairs jointly designate.
- (3) CO-CHAIRS.—The Secretary and the Secretary of the Interior—
- (A) shall serve as co-chairs of the Coral Reef Task Force; and
 - (B) may each provide administrative support to the Coral Reef Task Force as necessary for it to carry out its duties under this section.
- (4) PROCEDURES.—(A) The Coral Reef Task Force shall meet at least annually. Meetings of the Coral Reef Task Force and any advisory committees established to assist the Coral Reef Task Force shall be open to the public, and the Coral Reef Task Force shall provide notice of such meetings to the public.
- (B) The Coral Reef Task Force may—
- (i) establish advisory committees and working groups as are necessary to assist it in its duties;
 - (ii) select as an advisory committee an existing organization that represents a broad range of private and public interests related to coral reefs; and
 - (iii) consult with local governments, the scientific community, and any affected Regional Fishery Management Council established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) on coral reef conservation issues.
- (5) IMPLEMENTATION.—(A) Subject to subparagraph (B), the head of any agency or department of the Federal Government that takes an action that may affect a coral reef ecosystem in the United States shall, to the maximum extent practicable, ensure that—
- (i) such agency or department, respectively, supports and implements the national coral reef action strategy developed under subsection (b)(1); and
 - (ii) any actions funded, authorized, or carried out by the agency or department will not degrade the condition of coral reefs.
- (B) Subparagraph (A) shall not apply—
- (i) during time of war or national emergency;
 - (ii) when necessary for reasons of national security, as determined by the President;
 - (iii) during an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or
 - (iv) in any case that constitutes a danger to human life or a real threat to vessels, aircraft, oil or gas drilling or production platforms, or other man-made structures at sea, such as cases of force majeure caused by stress of weather or other act of God.
- (6) EXECUTIVE ORDER 13089.—The Coral Reef Task Force shall comply with Executive Order 13089 to the extent that such order is consistent with this Act. Nothing in this Act is intended to require the duplication of the Coral Reef Task Force established under that Executive Order.
- (b) ACTION STRATEGY, IMPLEMENTATION REPORT, AND PLAN.—
- (1) NATIONAL CORAL REEF ACTION STRATEGY.—Not later than 180 days after the date of enactment of this Act, the Coral Reef Task Force shall submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and publish in the Federal Register a national coral reef action strategy, consistent with the purposes and provisions of this Act, for waters under the jurisdiction of the United States. The Coral Reef Task Force shall periodically review and revise the strategy as necessary.
- (2) REPORT ON IMPLEMENTATION OF NATIONAL CORAL REEF ACTION STRATEGY.—Not later than 2 years after the date that the Coral Reef Task Force publishes the strategy under paragraph (1) and every 2 years thereafter, the task force shall submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing all activities undertaken by Federal agencies to imple-

ment the national coral reef action strategy, including a description of the funds obligated each fiscal year to advance coral reef conservation.

(3) **PLAN FOR MAPPING, MONITORING, AND ASSESSMENT.**—(A) Not later than 1 year after the date of enactment of this Act, the Coral Reef Task Force shall submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to implement a coordinated United States coral reef mapping, monitoring, and assessment program, consistent with the strategy published under paragraph (1).

(B) The plan shall include the following:

(i) A description of existing Federal coral reef mapping, monitoring, and assessment programs.

(ii) The estimated annual cost to the Federal Government to adequately map, monitor, and assess coral reefs.

(iii) A process to establish data quality standards and standardized methods for mapping, monitoring, and assessing coral reefs.

(iv) A plan to compile existing coral reef data and a listing of the geographical areas for which insufficient data exists to adequately assess the condition of coral reefs.

(v) Proposed interagency agreements needed to carry out a national mapping, monitoring, and assessment program, including agreements with non-Federal agencies.

(vi) A proposal for a national pilot project to monitor and map coral reefs.

(c) **CORAL REEF FISH MANAGEMENT AUTHORITY IN THE EEZ.**—

(1) **IN GENERAL.**—Subject to the other provisions of this subsection, the Secretary has exclusive authority to manage coral reef ecosystem fish in the exclusive economic zone as provided by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2) **DELEGATION.**—The Secretary may delegate the authority referred to in paragraph (1) to any other Federal official.

(3) **AUTHORITIES OF SECRETARY OF INTERIOR NOT AFFECTED.**—(A) Paragraph (1) does not affect any authority vested in the Secretary of the Interior on the date of enactment of this Act by the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) with respect to any area—

(i) that was in the National Wildlife Refuge System before the date of the enactment of this Act; or

(ii) that is added to the National Wildlife Refuge System after the date of enactment of this Act and for which there is no fishery management plan in effect under the Magnuson-Stevens Fishery Conservation and Management Act.

(B) Nothing in this Act shall be construed to authorize the Secretary of the Interior to designate any National Wildlife Refuge or other unit of the National Wildlife Refuge System.

(4) **CONSULTATION.**—The Secretary shall consult with the Secretary of the Interior during the development and implementation of any fishery management plan under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) that will apply to any area in the National Wildlife Refuge System, including any area added to such system after the date of enactment of this Act.

(5) **REGIONAL COUNCILS.**—Nothing in this Act affects the authority of the Regional Fishery Management Councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(6) **DEFINITIONS.**—In this subsection, the terms “exclusive economic zone” and “fish” have the meaning of those terms under section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

SEC. 5. CORAL REEF CONSERVATION ASSISTANCE.

(a) **IN GENERAL.**—The Secretary, subject to the availability of appropriations, shall provide grants to carry out projects that provide for coral reef conservation and are approved by the Secretary in accordance with this section.

(b) **ELIGIBLE PROJECT PARTNERS.**—The Secretary may accept a coral reef conservation project proposal from any of the following:

(1) Any State or local government with jurisdiction over coral reefs and whose activities directly or indirectly affect coral reefs.

(2) Any educational institution with a demonstrated expertise in coral reef conservation.

(3) Any nonprofit organization with demonstrated expertise in coral reef conservation.

(c) **ELIGIBLE PROJECTS.**—The Secretary may not approve a coral reef conservation project under this section unless the project is consistent with the coral reef action

strategy established by the Coral Reef Task Force under section 4(b)(1) and will accomplish at least one of the following objectives:

- (1) Implement measures to conserve and restore coral reef ecosystems.
 - (2) Develop and implement cost-effective methods to restore degraded coral reef ecosystems.
 - (3) Map the location and distribution of coral reefs.
 - (4) Develop and implement techniques to monitor and assess the status and condition of coral reefs.
 - (5) Research factors that cause coral disease and the loss of coral reefs.
 - (6) Support State and local community law enforcement efforts related to coral products and coral reefs.
 - (7) Assist with conflict resolution initiatives and local community outreach related to coral reefs.
 - (8) Promote ecologically sound navigation and anchorages near coral reefs.
- (d) PROJECT PROPOSAL.—Any applicant for a grant to carry out a coral reef conservation project shall submit to the Secretary the following:
- (1) The names of the persons responsible for conducting the project and a description of their qualifications.
 - (2) A description of the project.
 - (3) A description of how the project fulfills the requirements of subsection (c).
 - (4) An estimate of the funds and time required to complete the project.
 - (5) Evidence of support of the project by appropriate representatives of the State and local government jurisdictions in which the project will be conducted, if the project will be conducted by a nongovernmental partner.
 - (6) Information regarding the source and amount of matching funding available to the applicant.
 - (7) Any other information the Secretary considers to be necessary for evaluating the eligibility of the project.
- (e) PROJECT REVIEW AND APPROVAL.—
- (1) IN GENERAL.—(A) The Secretary shall review and approve or disapprove each coral reef conservation project proposal submitted under this section.
 - (B) The Secretary may approve a project proposal and provide coral reef conservation assistance under this section for a project only if, after reviewing the proposal and any comments received pursuant to paragraph (2), the Secretary determines that the project meets the requirements of this section.
 - (2) REVIEW.—Before approving or disapproving a project, the Secretary shall—
 - (A) request and consider written comments on the proposal from each Federal agency, State, or local government that will be affected by the project or that has jurisdiction over the area within which the project will be conducted, including the relevant regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);
 - (B) provide for the merit-based peer review of the proposal, require standardized documentation of that peer review, and consider any comments or recommendations resulting from such review; and
 - (C) consider the proportion of non-Federal matching funds that will be used for the project so as to maximize Federal grants for the greatest number of meritorious projects.
 - (3) NOTIFICATION.—The Secretary shall—
 - (A) not later than 6 months after receiving a project proposal under this section, provide written notification of the approval or disapproval of the project to the applicant; and
 - (B) in the case of an approved project, publish notice of project approval in the Federal Register prior to making a grant under this section for the project.
- (f) MATCHING FUNDS.—
- (1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not approve a project under this section unless the Secretary determines that there are non-Federal contributions available to cover at least 50 percent of the total cost of the project. The non-Federal contribution may be made in the form of in-kind contribution of goods and services.
 - (2) EXCEPTION.—(A) Of amounts appropriated for grants under this section, the Secretary may reserve up to 5 percent for grants for small projects for which less than 50 percent of the cost will be covered by non-Federal contributions.
 - (B) The Secretary may make a grant of funds under this paragraph for a small project only if—
 - (i) the project is proposed by and will be carried out by a local or State government;

- (ii) the total cost of the project is less than \$20,000; and
 - (iii) the Secretary determines that the grantee does not have the ability to provide at least 50 percent matching funds or in-kind contributions.
- (g) **IMPLEMENTATION REGULATIONS OR GUIDELINES.**—Within 180 days after the date that the Coral Reef Task Force publishes the national coral reef action strategy under section 4(b)(1), the Secretary shall promulgate any regulations or guidelines necessary to implement this section. In developing such regulations and guidelines, the Secretary shall provide for appropriate public notice and comment.
- (h) **PROJECT REPORTING.**—The Secretary shall require that each grantee under this section submit periodic reports, as the Secretary considers necessary, to document and evaluate the success of coral reef conservation projects funded under this Act.
- (i) **GRANT PROGRAM EFFECTIVENESS REPORT.**—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the Coral Reef Task Force, shall submit to the Congress a report that documents the effectiveness of the grant program under this section in implementing the national coral reef action strategy published pursuant to section 4(b)(1). The report shall include a State-by-State summary of projects funded under this section and a summary of Federal and non-Federal contributions toward the costs of each project.

SEC. 6. CONSERVATION ACTIVITIES BY SECRETARY OF COMMERCE.

- (a) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary may conduct activities to conserve coral reefs and coral reef ecosystems, that are consistent with this Act, the strategy published by the Coral Reef Task Force under section 4(b)(1), and the National Marine Sanctuaries Act, the Coastal Zone Management Act of 1972, and the Magnuson-Stevens Fishery Conservation and Management Act.
- (b) **AUTHORIZED ACTIVITIES.**—Activities authorized under subsection (a) include—
- (1) mapping, monitoring, assessment, restoration, and scientific research that benefits the understanding, sustainable use, 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; and
 - (3) providing assistance to States in implementing conservation measures and removing abandoned fishing gear, marine debris, and abandoned vessels from coral reefs to conserve living marine resources.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

- (a) **IN GENERAL.**—There are authorized to be appropriated to the Secretary to carry out this Act \$14,000,000 for each of fiscal years 2001, 2002, 2003, and 2004.
- (b) **CORAL REEF CONSERVATION ASSISTANCE GRANTS.**—Amounts appropriated under subsection (a) and used for coral reef conservation assistance under section 5 may remain available until expended. The Secretary shall ensure that coral reef conservation assistance provided under section 5 is distributed so that—
- (1) not less than 40 percent of the funds available for each fiscal year are awarded for coral reef conservation projects in the Pacific Ocean; and
 - (2) not less than 40 percent of the funds available for each fiscal year are awarded for coral reef conservation projects in the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea.
- (c) **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.
- (d) **NATIONAL CORAL REEF ACTIVITIES.**—Of the amounts appropriated under subsection (a), no more than 25 percent may be used by the Secretary for activities under section 6(b).
- (e) **CORAL REEF TASK FORCE.**—There are authorized to be appropriated to each of the Secretary and the Secretary of the Interior \$500,000 for each of fiscal years 2001 through 2004 to carry out the responsibilities of the Coral Reef Task Force under section 4.
- (f) **CORAL DISEASE CENTER.**—There are authorized to be appropriated to the Secretary \$1,000,000 for each of fiscal years 2001 through 2004 to establish a Coral Disease Center in the United States Virgin Islands in cooperation with the Institute of Caribbean Marine Studies and other Federal agencies. Such Center shall focus on coral health issues and shall coordinate scientific efforts throughout the United States to characterize, understand, and control coral diseases.

PURPOSE OF THE BILL

The purposes of H.R. 3919 are to provide assistance for the conservation of coral reefs, to coordinate federal coral reef conservation activities, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

Coral reefs are among the world's most biologically diverse and productive ecosystems. Coral reefs provide habitat for one-third of all marine fish species, protect coastlines from waves and storms, provide opportunities for fishing, support tourism worth billions of dollars, and harbor organisms that are important for various pharmaceutical products. Over the past few decades, public awareness of coral reefs has risen in response to the escalating loss of coral ecosystems. Worldwide, it is estimated that 10 percent of coral reefs are degraded beyond recovery and another 30 percent are in such critical condition that they require immediate attention to prevent their loss. Several federal agencies have jurisdiction for managing different aspects of coral and coral reefs. Congressional action is needed to ensure the effective coordination of federal management activities and to provide assistance to carry out coral reef conservation projects.

Corals are found in all oceans of the world from the tropics to the polar regions, but not all coral species are reef builders. Reef-building (or stony) corals are of the order Scleractinia in the class Anthozoa of the phylum Cnidaria. Approximately 6,000 species of Anthozoans exist in the marine environment. Coral reefs are formed by tiny colonial animals (called coral polyps) that secrete a hard calcium carbonate skeleton as they grow. Living coral is found only on the surface of the skeletal structure, and actually consists of two distinct organisms, formed by a symbiotic relationship between an animal (coral polyp) and a plant (algae). These intertwined organisms require warm, nutrient poor water that is free of sediments to flourish. Coral reefs are widely distributed in relatively shallow tropical and equatorial waters around the globe, typically occurring between 30 degrees North and South latitude. Although corals can be found from the water's surface to depths of 19,700 feet, reef-building corals are generally found at depths of less than 150 feet where sunlight penetrates. The United States has jurisdiction over coral reef ecosystems covering over 17,000 square kilometers within the boundary of the 200-mile exclusive economic zone (EEZ). Approximately 90 percent of these reefs are located in the Western Pacific Ocean, including marine areas surrounding American Samoa, Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands. Coral reefs are also well-developed in the coastal waters surrounding Florida, Puerto Rico and the U.S. Virgin Islands.

Coral reefs throughout the world suffer from anthropogenic and natural disturbances. Human activities including destructive fishing practices (such as the use of explosives and poisons), nutrient enrichment (eutrophication), increasing tourism pressure, and the physical destruction of reefs by vessel groundings contribute to the deterioration of coral reef ecosystems. Dramatic natural events such as hurricanes can also damage coral reefs. Coral reefs are biologically complex yet delicate ecosystems that are sensitive to

changes in temperature, salinity, sediment deposition, and nutrients. Scientists believe that changes in natural conditions coupled with anthropogenic factors can place severe biological stress on the coral organisms, making them more susceptible to diseases such as white plague and black band. In 1998, coral reefs worldwide displayed wide spread "bleaching", which scientists believe was caused in part by warmer than normal sea surface temperature due to a strong El Nino event. Bleaching occurs when the algae living within the coral die or are ejected and is an indicator of biological stress. Bleaching, coral disease, and the physical destruction of coral reefs are all manifestations of declining coral health.

Healthy coral reefs are vital to coastal economies and serve as the economic base for many coastal communities throughout the United States. Coral reef related tourism is important in the Florida Keys, Hawaii, and many other U.S. Insular Areas. Coral reefs also support nearly one-half of the federally-managed species of fish that are important in recreational, commercial, and subsistence fisheries. Coral reefs are home to many marine organisms that are becoming increasingly valued by the biomedical and pharmaceutical industries. For example, a chemical compound derived from Caribbean reef sponges is the active ingredient in medicines widely used in cancer chemotherapy treatment. Finally, coral reefs provide natural protection to the U.S. coastline by reducing the energy from incoming waves from hurricanes and storm surges by up to 97 percent. This reduction in wave energy translates into a savings of both human lives as well as dollars from property that was spared destruction from severe storms.

Three years ago, the international community of scientists, policy makers, natural resource managers and coral reef advocates were successful in having the United Nation designate 1997 as the International Year of the Reef (IYOR). The goal of IYOR was to promote research on and public awareness of issues pertaining to coral reef ecosystems, including the need for improved monitoring of coral reef health and increased financial assistance for coral reef conservation at the local level. The House of Representatives passed H.R. 2233 on November 13, 1997, which was introduced by the Chairman of the Subcommittee on Fisheries Conservation, Wildlife and Oceans, Jim Saxton (R-NJ), to create an assistance fund for coral reef conservation and restoration projects. The Senate did not act on this legislation during the 105th Congress. On June 11, 1998, the President signed Executive Order 13089 which established a U.S. Coral Reef Task Force to coordinate federal agency activities and to develop a comprehensive plan for the protection, restoration and sustainable use of U.S. coral reefs.

Effective conservation of coral reefs requires the cooperation of several federal agencies as well as State and Territorial governments. Several federal agencies, including the National Oceanic and Atmospheric Administration (NOAA) and the Department of the Interior, the States and Territories, and local governments all have various levels of responsibility for managing coral reef ecosystems. NOAA is the primary federal steward for marine and coastal resources, and is responsible for carrying out mapping, monitoring and research important for understanding coral reefs and managing marine ecosystems. NOAA, in cooperation with the Regional Fishery Management Councils, is also the agency des-

ignated to manage marine fisheries in the EEZ, including coral reefs under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.). The Department of the Interior manages coral reefs within the boundaries of National Parks, National Seashores, National Wildlife Refuges, and other public lands. Unfortunately, the lack of coordination among the responsible government agencies has hindered coral reef conservation efforts. Further, there is a scarcity of monitoring data and knowledge about the status of many of the world's reefs. This information is important for tracking the health of coral reefs, and addressing the needs of the most critical coral reef areas.

Summary of legislation

H.R. 3919, the Coral Reef Conservation and Restoration Partnership Act, builds upon earlier coral reef conservation efforts and addresses the need for greater coordination and cooperation among the relevant authorities. H.R. 3919 combines provisions from two earlier coral reef bills introduced during the 106th Congress: H.R. 2903, introduced by Congressman Jim Saxton (R-NJ), and H.R. 3133, introduced by Congressman Eni Faleomavaega (D-AS). H.R. 3919 represents a bi-partisan effort to establish a comprehensive coral reef conservation program. H.R. 3919 authorizes a total of \$64 million over fiscal years 2001 through 2004 to support the Coral Reef Task Force, establish a coral reef conservation grant program, and fund NOAA's ongoing management activities under a national coral reef program, including a national coral reef disease center.

H.R. 3919 provides a statutory framework for a permanent Coral Reef Task Force (CRTF). Initially created by Executive Order 13089, the Task Force is co-chaired by the Secretary of Commerce and the Secretary of the Interior, and includes the Governors of the States and Territories, and other federal agency and department heads with significant interest in coral reef management. The Committee intends that the CRTF continue to coordinate federal, State and Insular Area activities related to coral reef management, avoid duplication of management efforts, and develop comprehensive solutions and policies for conserving coral reefs. The CRTF is directed to submit to Congress a coral reef action strategy. The Committee expects that the CRTF will rely on the National Action Plan to Conserve Coral Reefs adopted at the March 2, 2000, CRTF meeting to prepare this strategy. The CRTF is also directed to prepare a comprehensive mapping, monitoring and assessment plan. The CRTF has already completed much of the preliminary work for this effort, and this information should be incorporated into the comprehensive plan. Once the national strategy is finalized, all federal agencies are required to comply with the strategy to the maximum extent practicable. The Committee does not intend that the CRTF have the authority to review federal agency actions that may impact coral reefs, nor does it intend that this provision place additional regulatory burden on any federal agency above and beyond existing statutory requirements. The Committee expects that each agency will use its existing authorities to carry out the national coral reef action strategy.

The primary focus of H.R. 3919 is to establish a coral reef conservation and restoration grant program. The grant program is in-

tended to improve the conservation, understanding, and sustainable use of coral reef ecosystems. This program will compliment existing restoration plans and foster greater local, State, and Territorial involvement in coral reef conservation. Assistance provided under this bill should be used for on-the-ground conservation projects, as defined in the bill, and not for additional planning or administrative expenses. Eligible grantees include States, Territories, local governments, educational institutions, and nongovernmental organizations (NGOs) with demonstrated experience in coral reef conservation. H.R. 3919 requires non-federal sponsors to provide up to 50 percent of the cost of the project, and allows the Secretary of Commerce to waive the match requirement in certain instances. NGOs are not eligible for the reduced match grants. The Committee believes that it is important for nongovernmental partners to provide the full financial match because the grants are not intended to replace other fund-raising activities carried out by NGOs.

H.R. 3919 is focused on providing assistance to conserve the biogeographic features of coral reef ecosystems. Funds provided under this bill should not be used for non-reef building coral species that are not commonly considered to be coral reefs by scientists. Further, grants under H.R. 3919 are not intended to develop new federal mechanisms to regulate the harvest and trade of coral species, but such grants may be used by non-federal partners to improve compliance with existing laws designed to protect coral reefs. The Secretary has discretion in determining which projects will receive funding, but the Secretary is required to consult with the Regional Fishery Management Councils, States, local governments, and the scientific community to determine if a project merits funding. The Committee expects that the Secretary will establish a procedure for providing scientific peer-review of project proposals. Restoration of natural systems is an emerging science, and the Committee anticipates that many of these projects will be new and innovative. Therefore, the Committee encourages the Secretary to require applicants to include long-term monitoring components with their restoration projects to provide data for evaluating project success or failure. This information should be shared with the scientific community to improve future projects.

Finally, H.R. 3919 authorizes the Secretary of Commerce to undertake coral reef conservation activities directly related to NOAA's authorities as the primary federal steward of marine resources, including the Magnuson-Stevens Fishery Conservation and Management Act, the National Marine Sanctuary Act, the Coastal Zone Management Act, and other laws. The Committee expects that these activities will be carried out under existing programs to the maximum extent possible, provide long-range benefits to the nation's coral reefs, and result in improved understanding of the nation's coral reef ecosystems. The Committee feels that sound scientific information regarding the status of coral reefs is lacking, and encourages NOAA and the CRTF to focus their resources on mapping and monitoring to develop an adequate baseline of coral reef data. The Committee expects that the Secretary of Commerce will use existing programs within NOAA, such as the National Ocean Service's Office of Response and Restoration and the Na-

tional Marine Fisheries Service's Restoration Center, to carry out the provisions of this bill.

The Committee is authorizing \$1 million to support the start-up and annual operation costs of a "virtual center" for the coordination of coral reef disease research efforts throughout the United States and for the establishment of adequate facilities for field research in the U.S. Virgin Islands. The Committee expects that the Secretary will use the Institute of Caribbean Marine Studies (ICMS) and other interagency agreements to carry out this provision. The ICMS features interagency partnerships with the Department of the Interior, NOAA, and the Consortium of Caribbean Marine Studies. The Consortium consists of the University of the Virgin Islands, the University of North Carolina-Wilmington, the University of South Carolina, and Rutgers. The coral disease center will promote coordination of coral reef research and monitoring efforts, particularly related to coral health and coral diseases which are devastating reefs throughout the Caribbean and the Pacific.

Fishery management

The Committee supports efforts to maximize government efficiency in managing coral reefs and intends that each member of the Task Force use its existing authorities and expertise to accomplish the purposes of this bill. The Committee is concerned that the Administration has been unable to reconcile the existing authorities of the Secretary of Commerce and the Secretary of the Interior as they pertain to fisheries management in coral reef ecosystems. In particular, the Committee is concerned with the perception that the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA, 16 U.S.C. 1801 et seq.) does not have equal weight with other natural resources management laws. The Committee does not share this view, and expects that the CRTF will continue to follow the provisions of the MSFCMA in developing its strategies and implementing coral reef conservation initiatives. The provisions of the MSFCMA, as they pertain to fisheries management in the federal waters of the U.S. EEZ, are clear.

Paragraph 2(b)(1) of the MSFCMA states that it is the purpose of the Congress "to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purpose of exploring, exploiting, conserving and managing *all fish within the exclusive economic zone * * **" (emphasis added). Further, paragraph 2(c)(7) of the MSFCMA states that it is the policy of Congress that "fishery resources adjacent to a Pacific Insular Area, *including resident or migratory stocks within the exclusive economic zone adjacent to such areas*, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States." (emphasis added). Congress clearly intended that the MSFCMA apply to corals and coral reef fisheries. Section 3(11) defines the term "fish" to mean "finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds." Further, coral species are included in the term "Continental Shelf fishery resources" under paragraph (7) of that section.

Article IV of the Constitution gives Congress the power to “dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States * * *,” The term “Property” as it is used in this context includes submerged lands and natural resources, such as fisheries. In many cases, Congress has delegated its property management authority to the President. The authority to carry out the MSFCMA is delegated to the Secretary of Commerce (16 U.S.C. 1802(34)). In practice, the MSFCMA establishes regional fishery management councils to develop fishery management plans (16 U.S.C. 1852(h)). The regional councils are required to prepare and submit to the Secretary fishery management plans for each fishery under their jurisdiction that “are necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery.” (16 U.S.C. 1853 (a)(1)(A)).

In the case of the Western Pacific Ocean, the Western Pacific Regional Fishery Management Council has “authority over the fisheries (and coral reef species) in the Pacific Ocean seaward of [Hawaii, American Samoa, Guam, and the Northern Mariana Islands].” (16 U.S.C. 1852(a)(1)(H)). Further, the MSFCMA defines “Pacific Insular Area” to include “all islands and reefs appurtenant to such island, reef, or atoll.” This term cannot be read to exclude wildlife refuges which extend into the marine environment and were designated prior to the 1996 MSFCMA amendments (Public Law 104–297) because Congress intentionally included these marine areas into the definition. Clearly, Congress intended that the regional fishery management councils develop fishery management plans for corals and coral reef species that occur in the federal waters of the EEZ. The MSFCMA does not preclude conservation of coral species or the establishment of the no-take marine reserves. Rather, the MSFCMA establishes a public process, based on sound science, to determine the best way to protect, restore, and promote the long term health of these species.

The Committee does not disagree that Congress has delegated authority to the Secretary of the Interior to manage certain federal lands, including national wildlife refuges, under other statutes. In particular, the National Wildlife Refuge System Administration Act (NWRSA, 16 U.S.C. 668dd et seq.) gives the Secretary of the Interior broad authority to manage national wildlife refuges to fulfill the stated mission of the System: the conservation, management, and restoration of fish, wildlife and plant resources of the United States. In recognition of this role, the Committee has designated the Secretary of the Interior as a co-chair of the CRTF. It is the Committee’s understanding that there are 11 wildlife refuges with boundaries that extend seaward of State or Territorial seas into the federal waters of the EEZ. By regulation, commercial fishing is prohibited in all, and recreational fishing is prohibited in seven, of these refuges. The Secretary of the Interior relies on the broad authorities granted under the NWRSA to control access to and establish regulations regarding the natural resources found within a refuge boundary. In the case of refuges extending into the federal waters of the EEZ, the Secretary of the Interior has claimed that these regulations override fishery management plans and required

no consultation with the relevant regional fishery management council.

The Committee does not believe that fishing activities in the federal waters of the EEZ should be prohibited without the advice and input of the appropriate regional fishery management council under the procedures established in the MSFCMA. The Committee disagrees that the MSFCMA is subservient to the NWRSA. Nowhere in the MSFCMA is there a stated exclusion of applicability for areas in the EEZ that are managed by another federal agency. Likewise, the NWRSA does not automatically trump other natural resources management laws. In fact, the NWRSA states that "Nothing in this Act shall be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System. Regulations permitting hunting or fishing of fish and resident wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws, regulations, and management plans." (16 U.S.C. 688dd(m)). Since the States do not have authority to control or regulate fishing in the federal waters of the EEZ, Congress has delegated this authority to the Secretary of Commerce.

The Committee believes that Congress did not intend the NWRSA to apply to marine refuges in the federal waters of the EEZ, and questions whether the Department of the Interior has the authority to establish wildlife refuges in these waters. H.R. 3919 does not address this issue but rather clarifies how coral reef fisheries in the federal waters of the EEZ should be managed. Regardless of existing authority to establish such refuges, the NWRSA clearly states that the System shall be administered in a manner that will complement the efforts of States and other federal agencies to conserve fish and wildlife and their habitats. Specifically, the Secretary of the Interior is directed to "continue, consistent with existing laws and interagency agreements, authorized or permitted uses of units of the System by other Federal agencies * * *" (16 U.S.C. 668dd(a)(4)(L)). Further, the determination of whether a use such as commercial fishing in the federal waters of the EEZ is compatible with the purpose of the refuge does not apply to "activities authorized, funded, or conducted by a Federal agency (other than the United States Fish and Wildlife Service) which has primary jurisdiction over a refuge or a portion of a refuge, if the management of those activities is in accordance with a memorandum of understanding between the Secretary or the Director and the head of the Federal agency with primary jurisdiction over the refuge governing the use of the refuge." (16 U.S.C. 668dd(d)(4)(B)).

Congress has given primary authority for fishery management in the federal waters of the exclusive economic zone to the Secretary of Commerce through the MSFCMA. If the Secretary of the Interior establishes a wildlife refuge in the federal waters of the EEZ, this refuge must be managed consistent with other laws, including the MSFCMA. The implementation of these two statutes is not mutually exclusive. To assist in the implementation of the coral reef action strategy and to improve cooperation among the two federal agencies in question, H.R. 3919 clarifies that the Secretary of Commerce retains the authority for managing coral reef ecosystem fish-

eries in the federal waters of the exclusive economic zone under the MSFCMA.

H.R. 3919 does not limit the Secretary of the Interior's authority to establish or manage national wildlife refuges under the NWRSA. Instead, H.R. 3919 sets up a process for allowing the two agencies to work together to further the goal of coral reef conservation. The Committee envisions a situation similar to the one that occurs in other "overlay" refuges where the Secretary of the Interior and the Secretary of Defense share management responsibilities for federal lands. Where a wildlife refuge has been established in the EEZ, the Secretary of the Interior and the Secretary of Commerce should enter into a memorandum of understanding on how the corals and fish within the refuge will be managed. Under H.R. 3919, if a wildlife refuge is established in an area currently regulated under a fishery management plan pursuant to the MSFCMA, the Secretary of the Interior is required to prepare comprehensive refuge management plan consistent with this fishery management plan. If a refuge is established in an area where no fishery management plan exists, the Secretary of Commerce is required to consult with the Secretary of the Interior on the development and implementation of any new fishery management plan. H.R. 3919 allows the Secretary of Commerce to delegate the authority to manage fish in a refuge in the federal waters of the EEZ to another federal official, including the Secretary of the Interior, in cases where such delegation is appropriate. If the relevant regional fishery management council determines that the policies and purposes of MSFCMA could be best accomplished under the Secretary of the Interior's refuge regulations, the council can prepare a fishery management plan or plan amendment that will delegate this authority to the Secretary of the Interior.

It is the Committee's interpretation that section 4(c) of H.R. 3919 is consistent with all provisions of current law, including the NWRSA and the MSFCMA. This provision does not grant any new authority to the Secretary of Commerce or eliminate any of the Secretary of the Interior's current authority. This provision simply ensures that the coordination provisions required under the NWRSA will be implemented in a manner consistent with the MSFCMA and in such a manner as to ensure public input. This provision also helps to ensure that the national action strategy will be consistent with existing fishery management plans developed by the regional fishery management councils and approved by the Secretary of Commerce.

COMMITTEE ACTION

H.R. 3919 was introduced on March 14, 2000, by Congressman Jim Saxton (R-NJ). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife, and Oceans. On October 21, 1999, the Subcommittee held a hearing on a related bill, H.R. 2903. On March 23, 2000, the Subcommittee met to mark up H.R. 3919. No amendments were offered and the bill was ordered favorably reported to the Full Committee by voice vote. On June 20, 2000, the full Resources Committee met to consider the bill. Chairman Don Young (R-AK) offered an amendment in the nature of substitute that made a number of technical and clarifying corrections, re-

quired all federal agencies to minimize actions that degrade coral reefs, established a process for managing coral reef fisheries in the exclusive economic zone according to the provisions of the MSFCMA, required the CRTF to submit a report on implementation of the bill within two years, allowed NOAA to provide assistance to States to implement coral reef conservation measures, and increased the authorization by an additional \$1 million a year to establish a coral disease center in the U.S. Virgin Islands. Congressman Neil Abercrombie (D–HI) offered an amendment to the Young substitute amendment that expanded the definitions of “coral” and “coral reefs” to include other coral species that are found in Hawaii. The amendment was approved by voice vote. Congressman Eni Faleomavaega (D–AS) offered an amendment to the Young substitute amendment that replaced the language pertaining to coral reef fisheries management. The amendment was defeated by voice vote.

The amendment in the nature of a substitute, as amended, was then approved by voice vote. The bill as amended was then ordered favorably reported by voice vote to the House of Representatives.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title is the “Coral Reef Conservation and Restoration Partnership Act of 2000.”

Section 2. Purposes

The purposes of the bill are: to maintain and restore the health of coral reef ecosystems; to promote the wise management and long-term sustainable use of coral reef ecosystems to benefit local communities and the nation; to promote cooperative coral reef conservation projects that involve affected local communities and non-governmental organizations; to address conflicts between coral reef uses; to enhance compliance with laws that prohibit or regulate the taking of corals, species associated with coral reefs, and coral products, or laws that regulate the use and management of coral reef ecosystems; to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems; and to coordinate activities and programs related to coral reefs that are conducted, funded, or authorized by the federal government, including coral reef conservation, research, mapping, monitoring, assessment, and restoration.

Section 3. Definitions

Section 3 defines the following terms: coral, coral reef, coral reef conservation, coral products, coral reef ecosystem, Coral Reef Task Force, Secretary, and State. The term “coral” includes a list of coral species of the phylum Cnidaria from a variety of orders, including the reef-building order Scleractinia and other corals of the orders Antipatharia, Alcyonacea, Gorgonacea, Stolinefera, Coenothecalia, Hydrocorallina, and Zoanthidae. The term “coral reef” is limited to those biogeographic features that are created by living coral, and means any reef or shoal comprised primarily of the skeletal material of species of one or more of the orders Scleractinia (hard or stony corals), Antipatharia (black corals), Gorgonacea (horny cor-

als), and Zoanthidae (gold corals). The term “State” includes any State, Territory, Insular Area, or freely associated State of the United States that contains coral reef ecosystems within its boundaries, including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands, and the Marshall Islands.

Section 4. Coordination of Federal agencies

Section 4 gives statutory authority to the Coral Reef Task Force (CRTF), which was originally established by the President in Executive Order 13089. Section 4 does not establish a new task force, but recognizes the ongoing efforts of the CRTF and authorizes CRTF activities. The Task Force is co-chaired by the Secretary of the Interior and the Secretary of Commerce (acting through NOAA). Other members include the Administrator of Environmental Protection Agency, Attorney General, Secretary of Agriculture, Secretary of Defense, Secretary of State, Secretary of Transportation, Director of the National Science Foundation, Administrator of the Agency for International Development, and the Administrator of the National Aeronautics and Space Administration. The co-chairs may jointly designate the head of any other federal agency or the Governor of any State or Territory to serve on the Task Force.

The duties of the Coral Reef Task Force are: to coordinate all federal activities related to coral reefs, and facilitate the resolution of interagency and intergovernmental conflicts associated with the use and conservation of coral reefs; to develop and coordinate consistent national policies, strategies, plans, programs, projects, activities, and priorities for the conservation and protection of United States coral reefs and coral reef ecosystems; to develop and coordinate a research program to identify the major causes and consequences of degradation of coral reef ecosystems, improve the understanding of coral reef health and diseases, and identify solutions and procedures to repair and restore coral reefs; to develop and promote strategies and actions for the conservation and sustainable use of coral reef resources worldwide, including the sharing of information, collaborative research, and monitoring efforts; and to develop and recommend solutions to reduce or eliminate unsustainable fishing practices on coral reefs worldwide.

In carrying out its duties, the CRTF may consult with the scientific community and local governments on coral reef conservation issues, and may establish advisory committees and workgroups as necessary to assist with its duties. To the extent that such organizations exist, the CRTF is directed to use existing advisory groups that include a broad range of private and public interests. The CRTF may also consult with the regional fishery management councils established under the Magnuson-Stevens Fishery Conservation and Management Act on issues that affect the management of coral reef fisheries in the EEZ. The co-chairs are authorized to provide administrative support to the CRTF as necessary to carry out its duties. Section 4 directs that all federal agencies ensure that their activities support and implement the national coral reef action strategy developed by the CRTF. To the maximum extent practicable, these agencies are directed to make sure that their actions will not degrade coral reef ecosystems. Exceptions may be allowed during time of war, national emergency, for rea-

sons of national security, or in a situation that constitutes a danger to human life or a real threat to vessels, aircraft, platforms or other man-made structures.

Section 4 requires the CRTF to submit several reports and plans to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. The CRTF is directed to submit a national coral reef action strategy for the conservation of coral reef ecosystems within 180 days. The CRTF may periodically review and revise this strategic plan, but revisions must also be sent to the Committees. The CRTF is required to submit a biennial report to the Committees describing federal agency activities to implement the strategy. These “state of the coral reefs” reports must describe of all federal activities and expenditures undertaken to implement the strategy. Section 4 also requires the CRTF to submit to Congress a plan to implement a coordinated United States coral reef mapping, monitoring, and assessment program. The plan is due no later than one year from the date of enactment of the bill. The plan shall include a description of existing federal mapping efforts, estimated costs to the federal government, processes to incorporate data from multiple sources and ensure data quality, and a pilot project to implement a national mapping, monitoring and assessment program.

Finally, section 4 clarifies that coral reef ecosystem fish in federal waters of the U.S. EEZ outside of State and Territorial seas will continue to be managed under the MSFCMA. Section 4 clarifies that the Secretary of Commerce retains the exclusive authority in the federal government for the management of fisheries in the EEZ. The Secretary of Commerce may delegate this authority to any other federal official by a memorandum of understanding where appropriate and necessary. Section 4 does not prohibit the Secretary of the Interior from establishing national wildlife refuges pursuant to existing authorities in the National Wildlife Refuge System Administration Act of 1966, but it also does not give the Secretary of the Interior any new authority to designate a national wildlife refuge. In cases where existing wildlife refuges overlap with federal waters in the EEZ, the Secretary of the Interior must manage the refuge consistent with existing fishery management plans. If no fishery management plan exists, the Secretary of Commerce must consult with the Secretary of the Interior to develop and implement any fishery management plan that will apply to federal waters in the EEZ that are included within the boundary of a wildlife refuge. Section 4 does not require the Secretary of Commerce to develop a fishery management plan for wildlife refuges in the EEZ. Rather, section 4 clarifies that if such a plan is developed, the Secretary of the Interior must be consulted. The Committee intends that nothing in this legislation would affect State and Territorial waters or National Parks or National Wildlife Refuges within State or Territorial waters.

Section 5. Coral reef conservation assistance

Section 5 establishes a matching grant program for local coral reef conservation projects. The grant program is administered by the Secretary of Commerce. Eligible project partners must contribute at least 50 percent of the total cost of the project. Eligible project partners include State and local governments with jurisdic-

tion over coral reefs, and nongovernmental (NGO) or educational organizations with demonstrated expertise in the conservation or restoration of coral reefs. Eligible project partners submit project proposals to the Secretary for review and approval. Project proposals must include a description of the qualifications of the persons responsible for the project, a description of the project, an estimate of the project's costs, information regarding the source of matching funds, and any other information required by the Secretary. If the applicant is an NGO or educational organization, the project proposal must also include evidence of support for the project by the State in which the project will be conducted. Projects proposed by eligible partners must meet at least one of the following objectives:

1. Implement measures to protect and restore coral reef ecosystems;
2. Develop and implement cost-effective methods to restore degraded coral reef ecosystems;
3. Map the location and distribution of coral reefs;
4. Develop and implement techniques to monitor and assess the status and condition of coral reefs;
5. Research factors that cause coral disease and the loss of coral reefs;
6. Support State and local community law enforcement efforts related to coral reefs;
7. Assist with conflict resolution and local community outreach related to coral reefs; or
8. Promote ecologically sound navigation and anchorages near coral reefs.

Section 5 establishes a process for reviewing project proposals. Before approving any project, the Secretary shall request and consider written comments from each State or Territory that will be affected by the project or that has jurisdiction over the area within which the project will be conducted. The Secretary must also provide the opportunity for peer scientific review of coral reef conservation projects. Finally, the Secretary must consider the proportion of non-federal matching funds that will be used for the project in order to maximize the federal grants for the greatest number of meritorious projects.

The Secretary may approve a project only if the grantee demonstrates that at least 50 percent of the total project costs will be paid with non-federal funds. The Secretary may approve a project where the grantee proposes in-kind contributions of goods and services in lieu of cash payments to match the federal grant dollars. The Secretary may reserve up to five percent of the amounts appropriated for coral reef conservation grants under this bill for small, flexible match projects carried out by local or State governments. Under this provision, the Secretary may provide up to 100 percent of the cost of the project. Projects eligible for the flexible match must be proposed by and carried out by a local or State government, each grant cannot exceed a total cost of \$20,000, and the grantee must demonstrate an inability to provide the full 50 percent of the project's costs. NGOs are not eligible for flexible match grants. Existing provisions of law provide for flexibility in the matching requirements for coral reef conservation assistance provided to Insular Areas. Under 48 U.S.C. 1469a, the Secretary has

the discretion to waive the matching and reporting requirements for grants-in-aid made to an Insular Area of the United States (including the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands).

The Secretary is required to provide written notification of project approval or disapproval to the applicant within six months of receiving a project proposal. If a project is approved, the Secretary must also provide notification of the project in the Federal Register. Grantees may be required to submit periodic reports to the Secretary to document and evaluate the success of coral reef conservation projects. Not later than three years from the date of enactment of this bill, the Secretary is required to submit a report to Congress that documents the effectiveness of the grant program in implementing the national coral reef action strategy established by the CRTF. This report will include a State-by-State summary of projects funded under this section.

Section 6. Conservation activities by Secretary of Commerce

Section 6 authorizes the Secretary of Commerce to establish a national coral reef conservation program and conduct activities to conserve coral reefs and coral reef ecosystems to the extent that these activities are consistent with the Coastal Zone Management Act, National Marine Sanctuaries Act, the Magnuson-Stevens Fishery Conservation and Management Act, other relevant statutes, and the national strategy developed by the CRTF. Section 6 authorizes NOAA to implement mapping, monitoring, assessment, research and education programs that benefit the understanding and long-term sustainable use of coral reefs and coral reef ecosystems. Section 6 also authorizes the Secretary to provide assistance to the States (and Insular Areas) to implement conservation measures and to remove abandoned fishing gear, marine debris, and abandoned vessels from coral reefs when such activities are necessary to conserve living marine resources. This section clarifies the Secretary's existing authorities, and provides direction to assist the Secretary in implementing the strategies and policies developed by the CRTF.

Section 7. Authorization of appropriations

Section 7 authorizes a total of \$64 million for coral reef conservation over four years. For each of fiscal years 2001 through 2004, there are authorized to be appropriated \$14 million to the Secretary of Commerce for coral reef conservation assistance. Of this amount, no more than 10 percent of the amounts appropriated (up to a maximum of \$1 million) can be used for program administration and no more than 25 percent of the amounts appropriated can be used by the Secretary for national program activities under Section 6. Section 7 requires that the grants be distributed so that no less than 40 percent of the total grants available are awarded for projects in the Atlantic and Caribbean, and no less than 40 percent are awarded for projects in the Pacific. The Secretary has the discretion to allocate the remaining 20 percent of the grant funds. Section 7 also authorizes \$1,000,000 in each of fiscal years 2001 through 2004 to administer the Coral Reef Task Force and carry out its functions under Section 4. Of this amount, \$500,000 each

is appropriated to the Secretary of Commerce and the Secretary of the Interior to support their roles as co-chairs of the CRTF. Finally, Section 7 authorizes \$1 million for the Secretary of Commerce for each of fiscal years 2001 through 2004 to establish a national “virtual coral reef disease center” with facilities in the U.S. Virgin Islands to coordinate scientific efforts throughout the U.S. to characterize, understand, and control coral disease.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

FEDERAL ADVISORY COMMITTEE STATEMENT

This bill codifies an existing advisory committee established under Executive Order.

CONSTITUTIONAL AUTHORITY STATEMENT

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

COMPLIANCE WITH HOUSE RULE XIII

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

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

3. **Government Reform Oversight Findings.** Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 6, 2000.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3919, the Coral Reef Conservation and Restoration Partnership Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs) and Victoria Heid Hall (for state and local impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3919—Coral Reef Conservation and Restoration Partnership Act of 2000

Summary: H.R. 3919 would provide for a coordinated national strategy to protect and conserve coral reefs. For this purpose, the bill would:

- Establish a permanent Coral Reef Task Force, composed of the Secretaries of Commerce and the Interior (co-chairs), heads of several other federal agencies, and the governors of states designated by the co-chairs. The task force would coordinate federal programs, national policies, research, and other activities related to coral reefs. The group would have six months to publish a strategy to protect coral reefs. It also would develop a plan for mapping, monitoring, and assessing U.S. coral reefs.
- Create a grant program for conservation projects carried out by state or local agencies, educational institutes, or nonprofit organizations.
- Authorize the National Oceanic and Atmospheric Administration (NOAA) to carry out conservation activities such as mapping and monitoring, developing public awareness and education programs, and providing assistance to states in implementing conservation measures and removing abandoned vessels and other debris from reefs.
- Codify a requirement in a 1998 executive order (pertaining to coral reef protection) that federal agencies whose actions may affect a reef ecosystem must, to the maximum extent practicable, ensure that its activities will not degrade the condition of the reef.

The bill would authorize the appropriation of \$16 million for each of fiscal years 2001 through 2004 to carry out these purposes. Of this amount, \$0.5 million annually would be earmarked for each of the two agencies co-chairing the task force and \$1 million annually would be used to establish the Coral Disease Center in the U.S. Virgin Islands. The balance would fund conservation, research, and enforcement measures taken by NOAA or its grantees.

H.R. 3919 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 3919 would cost the federal government \$64 million through fiscal year 2005. The costs of this legislation fall within budget function 300 (natural resources and environment). The estimated budgetary impact of H.R. 3919 is shown in the following table.

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
Coral reef protection spending under current law:						
Budget authority ¹	6	0	0	0	0	0
Estimated outlays	5	1	0	0	0	0
Proposed changes:						
Authorization level	0	16	16	16	16	0
Estimated outlays	0	8	15	15	16	10
Coral reef spending under H.R. 3919:						
Authorization level	6	16	16	16	16	0
Estimated outlays	5	9	15	15	16	10

¹ The 2000 level is the amount appropriated for that year.

Basis of estimate: The bill would provide statutory authority for the activities of the coral reef protection task force, and other activities such as coral reef mapping and monitoring, and conservation grants—all of which are currently being carried out under Executive Order 13089 (June 11, 1998). For these activities, NOAA received an appropriation of \$6 million for fiscal year 2000.

For this estimate, CBO assumes that H.R. 3919 will be enacted during fiscal year 2000 and that the entire amounts authorized will be appropriated for each year. Outlays are based on historical spending patterns for similar NOAA programs.

Pay-as-you-go considerations: None.

Estimate impact on state, local, and tribal governments: H.R. 3919 contains no intergovernmental mandates as defined in UMRA. The bill could benefit state and local governments that receive federal assistance to implement coral reef conservation measures or that choose to apply for a federal matching grant for coral reef projects. Any costs incurred would be voluntary on the part of state or local governments.

Estimate impact on the private sector: The bill contains no new private-sector mandates as defined in UMRA.

Estimated prepared by: Federal costs: Deborah Reis; impact on State, local, and tribal governments: Victoria Heid Hall; impact on the private sector: Sarah Sitarek.

Estimated approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

ADDITIONAL VIEWS

In general, the Coral Reef Conservation and Restoration Partnership Act of 2000 is constructive legislation which we support. We agree that the estimated 4,200,000 acres of U.S. coral reef resources in the U.S. Exclusive Economic Zone (EEZ) and territorial waters are at risk and in dire need of enhanced protection, research and management. H.R. 3919 would create a much needed comprehensive mechanism to protect the Nation's coral reefs and as well support the activities of the U.S. Coral Reef Task Force (CRTF) and other stakeholders. However, one remaining controversial provision needs to be modified before this bill is scheduled for consideration on the House floor.

The Department of the Interior (DOI) has raised significant concerns regarding section 4(c) of the bill. According to DOI, the language of section 4(c) would restrict, or even prohibit, the Secretary of the Interior from using existing statutory authorities to designate new protective management areas for coral reef resources under the Department's territorial jurisdiction. DOI also claims that section 4(c) would undermine its management authority in existing coral reef holdings. Such a significant change is undesirable. It was our understanding that the primary goal of H.R. 3919 was to create a comprehensive strategy for the long-term protection of coral reef resources. The maximum utilization of all existing Federal programs was considered essential to ensure successful implementation of this strategy. This bill was never meant to diminish the abilities of any of the eleven agencies from fully participating on the CRTF now, or in the future. Unfortunately, section 4(c) would do just that. Consequently, DOI informs us that it will advise the Administration to oppose this otherwise worthwhile legislation.

During the Committee's consideration of the bill, Majority members offered allegations of inappropriate jurisdictional creep into the marine environment by DOI as their rationale for including section 4(c). The Majority also asserted that section 4(c) simply restates existing authority vested in the Secretary of Commerce, who, through the National Oceanic and Atmospheric Administration (NOAA), acts as the principal Federal agency responsible for the observation of the ocean environment and management of living marine resources. We do not disagree that NOAA has a very important role to play in the management of coral reefs, but we also believe that DOI has been, and should remain, a productive partner. As a result, we share DOI's broad concern, and further, we are compelled to explain our reservations.

First, under current law both the Commerce and Interior Departments administer programs to manage coral reef resources. These programs are authorized under several different enabling statutes. However, section 4(c) would grant exclusive authority in the Fed-

eral government for the management of coral reef ecosystem fish in the EEZ to the Secretary of Commerce under the Magnuson-Stevens Fishery Conservation and Management Act (P.L. 94-265). By granting exclusive authority to the Commerce Department for coral reef fish, section 4(c) would allow NOAA or the Regional Fishery Management Councils to supersede current DOI regulations in two National Parks and several National Wildlife Refuges. Moreover, the language of 4(c) would likely preempt DOI from playing a meaningful role in the future management of coral reef resources found either inside the EEZ or straddling it. This represents a substantive change in Federal policy. In addition, valuable scientific and management contributions presently made by DOI agencies, notably the National Park Service, the Fish and Wildlife Service, the U.S. Geological Survey, and the Office of Insular Affairs would be curtailed or caught in bureaucratic entanglements. Considering the vast scope of coral reef resources in the EEZ (e.g., an estimated 17,000 square kilometers), diminishing the future contributions of these agencies is inconsistent with our purpose to establish a comprehensive Federal coral reef program.

Secondly, we also are concerned that section 4(c) might subjugate the management of marine protected areas within the EEZ established by NOAA under the National Marine Sanctuary Act (16 U.S.C. 1431 et seq.) to this exclusive Magnuson-Stevens Act authority. As stated in the Magnuson-Stevens Act, “the promotion of domestic commercial and recreational fishing, * * * and the preparation and implementation of fishery management plans which will achieve * * * the optimum yield from each fishery” are expressed purposes. Section 4(c) would thus enshrine “optimal yield” as the operative management philosophy within NOAA for coral reef resources which could, in certain instances, conflict with the need for more stringent, non-consumptive coral reef protections. The language of section 4(c) can reasonably be interpreted to compromise the authority of the National Marine Sanctuary Program to establish “no take” ecological reserves within existing marine sanctuaries, or for sanctuaries designated in the future that include coral reef resources. Also, adherence to an “optimal yield” policy might only frustrate future efforts to establish “no-take” areas for 20 percent of all coral reef resources in the EEZ as specified in the National Coral Reef Action Plan endorsed by the CRTF.

Third, we consider section 4(c) to be unnecessary considering the recent pattern of successful collaboration within the CRTF, and in particular, between the Departments of Commerce and Interior. The cooperative efforts to develop the management plans for the Florida Keys and Flower Garden Banks National Marine Sanctuaries, the public scoping process to develop the Tortugas Ecological Reserve, development of the National Coral Reef Action Plan, and the most recent effort to develop a comprehensive management plan for the coral reef resources of the Northwest Hawaiian Islands, all demonstrate that effective cooperation is not only possible, but a reality. We fear that section 4(c) will encourage the worst in bureaucratic tendencies and spark unproductive jurisdictional turf fights among the participating Federal agencies. Such an outcome would be ironic considering that this legislation would codify the very CRTF mechanism established by the Administra-

tion through Executive Order #13089 to harmonize management activities and overcome this “stove pipe” mentality. Congress should remain extremely cautious to avoid disrupting what appears to be a successful cooperative dynamic within the CRTF.

In closing, we are disappointed that we were unable to reach agreement on acceptable alternative language for section 4(c) before this bill was ordered reported by the Committee. This legislation is important. We believe it vital that the future management of our Nation’s widespread and complex coral reef resources incorporate the ingenuity, creativity and resources of all Federal agencies, States, Insular Areas and other non-Federal stakeholders. To resolve this impasse, section 4(c) should be struck or amended to return the focus of coral reef management to its most appropriate forum: the CRTF. The CRTF process allows for participation by all relevant Federal agencies, ensures the collaboration of other public and private stakeholders, and best ensures that future decisions regarding coral reef management options are conducted in an open, publicly accessible forum. If the majority finds it necessary to either strengthen or weaken the statutory authorities of either the Secretaries of Commerce or Interior in regards coral reef management, we contend that this bill is not the appropriate vehicle.

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