

111TH CONGRESS  
1ST SESSION

# S. 2859

To reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2009

Mr. INOUE (for himself, Mr. ROCKEFELLER, Ms. SNOWE, Mr. NELSON of Florida, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To reauthorize the Coral Reef Conservation Act of 2000,  
and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Coral Reef Conservation Amendments Act of 2009”.

6 (b) TABLE OF CONTENTS.—The table of contents for  
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Coral Reef Conservation Act of 2000.
- Sec. 3. Purposes.
- Sec. 4. National coral reef action strategy.
- Sec. 5. Coral reef conservation program.

- Sec. 6. Coral reef conservation fund.
- Sec. 7. Agreements; redesignations.
- Sec. 8. Emergency assistance.
- Sec. 9. National program.
- Sec. 10. Study of trade in corals.
- Sec. 11. International coral reef conservation activities.
- Sec. 12. Community-based planning grants.
- Sec. 13. Vessel grounding inventory.
- Sec. 14. Prohibited activities.
- Sec. 15. Destruction of coral reefs.
- Sec. 16. Enforcement.
- Sec. 17. Permits.
- Sec. 18. Regional, State, and Territorial coordination.
- Sec. 19. Regulations.
- Sec. 20. Effectiveness and assessment report.
- Sec. 21. Authorization of appropriations.
- Sec. 22. Judicial review.
- Sec. 23. Definitions.

1 **SEC. 2. AMENDMENT OF CORAL REEF CONSERVATION ACT**  
 2 **OF 2000.**

3 Except as otherwise expressly provided, whenever in  
 4 this Act an amendment or repeal is expressed in terms  
 5 of an amendment to or repeal of a section or other provi-  
 6 sion, the reference shall be considered to be made to a  
 7 section or other provision of the Coral Reef Conservation  
 8 Act of 2000 (16 U.S.C. 6401 et seq.).

9 **SEC. 3. PURPOSES.**

10 Section 202 (16 U.S.C. 6401) is amended to read as  
 11 follows:

12 **“SEC. 202. PURPOSES.**

13 “The purposes of this Act are—

14 “(1) to preserve, sustain, and restore the condi-  
 15 tion of coral reef ecosystems;

1           “(2) to promote the wise management and sus-  
2           tainable use of coral reef ecosystems to benefit local  
3           communities, the Nation, and the world;

4           “(3) to develop sound scientific information on  
5           the condition of coral reef ecosystems and the  
6           threats to such ecosystems;

7           “(4) to assist in the preservation of coral reef  
8           ecosystems by supporting conservation programs, in-  
9           cluding projects that involve affected local commu-  
10          nities and nongovernmental organizations;

11          “(5) to provide financial resources for those  
12          programs and projects;

13          “(6) to establish a formal mechanism for col-  
14          lecting and allocating monetary donations from the  
15          private sector to be used for coral reef conservation  
16          projects; and

17          “(7) to provide mechanisms to prevent and  
18          minimize damage to coral reefs.”.

19 **SEC. 4. NATIONAL CORAL REEF ACTION STRATEGY.**

20          Section 203 (16 U.S.C. 6402) is amended to read as  
21 follows:

22          “(a) IN GENERAL.—Not later than 180 days after  
23 the date of the enactment of the Coral Reef Conservation  
24 Amendments Act of 2009, the Secretary shall submit to  
25 the Senate Committee on Commerce, Science, and Trans-

1 portation and to the House of Representatives Committee  
2 on Natural Resources and publish in the Federal Register  
3 a national coral reef ecosystem action strategy, consistent  
4 with the purposes of this title. The Secretary shall periodi-  
5 cally review and revise the strategy as necessary. In devel-  
6 oping this national strategy, the Secretary may consult the  
7 Coral Reef Task Force established under Executive Order  
8 13089 (June 11, 1998).

9       “(b) GOALS AND OBJECTIVES.—The action strategy  
10 shall include a statement of goals and objectives as well  
11 as an implementation plan, including a description of the  
12 funds obligated each fiscal year to advance coral reef con-  
13 servation. The action strategy and implementation plan  
14 shall include discussion of—

15               “(1) coastal uses and management, including  
16       land-based sources of pollution;

17               “(2) climate change;

18               “(3) water and air quality;

19               “(4) mapping and information management;

20               “(5) research, monitoring, and assessment;

21               “(6) international and regional issues;

22               “(7) outreach and education;

23               “(8) local strategies developed by the States or  
24       Federal agencies, including regional fishery manage-  
25       ment councils; and

1 “(9) conservation.”.

2 **SEC. 5. CORAL REEF CONSERVATION PROGRAM.**

3 (a) IN GENERAL.—Section 204 (16 U.S.C. 6403) is  
4 amended—

5 (1) by striking “Secretary, through the Admin-  
6 istrator and” in subsection (a) and inserting “Sec-  
7 retary,”;

8 (2) by striking subsection (c) and inserting the  
9 following:

10 “(c) ELIGIBILITY.—Any natural resource manage-  
11 ment authority of a State or other government authority  
12 with jurisdiction over coral reef ecosystems, or whose ac-  
13 tivities directly or indirectly affect coral reef ecosystems,  
14 or educational or nongovernmental institutions with dem-  
15 onstrated expertise in the conservation of coral reef eco-  
16 systems, may submit a coral conservation proposal to the  
17 Secretary under subsection (e).”;

18 (3) by striking “GEOGRAPHIC AND BIOLOGI-  
19 CAL” in the heading for subsection (d) and inserting  
20 “PROJECT”;

21 (4) by striking paragraph (3) of subsection (d)  
22 and inserting the following:

23 “(3) Remaining funds shall be awarded for—

24 “(A) projects (with priority given to com-  
25 munity-based local action strategies) that ad-

1 dress emerging priorities or threats, including  
2 international and territorial priorities, or  
3 threats identified by the Secretary; and

4 “(B) other appropriate projects, as deter-  
5 mined by the Secretary, including monitoring  
6 and assessment, research, pollution reduction,  
7 education, and technical support.”;

8 (5) by striking subsection (g) and inserting the  
9 following:

10 “(g) CRITERIA FOR APPROVAL.—The Secretary may  
11 not approve a project proposal under this section unless  
12 the project is consistent with the coral reef action strategy  
13 under section 203 and will enhance the conservation of  
14 coral reef ecosystems nationally or internationally by—

15 “(1) implementing coral conservation programs  
16 which promote sustainable development and ensure  
17 effective, long-term conservation of coral reef eco-  
18 systems and biodiversity;

19 “(2) addressing the conflicts arising from the  
20 use of environments near coral reef ecosystems or  
21 from the use of corals, species associated with coral  
22 reef ecosystems, and coral products;

23 “(3) enhancing compliance with laws that pro-  
24 hibit or regulate the taking of coral products or spe-

1       cies associated with coral reef ecosystems or regulate  
2       the use and management of coral reef ecosystems;

3               “(4) developing sound scientific information on  
4       the condition of coral reef ecosystems or the threats  
5       to such ecosystems and their biodiversity, including  
6       factors that cause coral disease, ocean acidification,  
7       and bleaching;

8               “(5) promoting and assisting the implementa-  
9       tion of cooperative coral reef ecosystem conservation  
10       projects that involve affected local communities, non-  
11       governmental organizations, or others in the private  
12       sector;

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

17               “(7) mapping the location, distribution, and  
18       biodiversity of coral reef ecosystems;

19               “(8) developing and implementing techniques to  
20       monitor and assess the status and condition of coral  
21       reef ecosystems and biodiversity;

22               “(9) developing and implementing cost-effective  
23       methods to restore degraded coral reef ecosystems  
24       and biodiversity;

1           “(10) responding to, or taking action to help  
2           mitigate the effects of, coral disease, ocean acidifica-  
3           tion, and bleaching events;

4           “(11) promoting activities designed to prevent  
5           or minimize damage to coral reef ecosystems, includ-  
6           ing the promotion of ecologically sound navigation  
7           and anchorages; or

8           “(12) promoting and assisting entities to work  
9           with local communities, and all appropriate govern-  
10          mental and nongovernmental organizations, to sup-  
11          port community-based planning and management  
12          initiatives for the protection of coral reef systems.”;  
13          and

14          (6) by striking “coral reefs” in subsection (j)  
15          and inserting “coral reef ecosystems”.

16          (b) CONFORMING AMENDMENTS.—Subsections (b),  
17          (d), (e), (f), (h), (i), and (j) of section 204 (16 U.S.C.  
18          6403) are each amended by striking “Administrator” each  
19          place it appears and inserting “Secretary”.

20          **SEC. 6. CORAL REEF CONSERVATION FUND.**

21          Section 205 (16 U.S.C. 6404) is amended—

22                 (1) by striking subsection (a) and inserting the  
23                 following:

24                 “(a) FUND.—The Secretary may enter into agree-  
25                 ments with nonprofit organizations promoting coral reef



1 ecosystem conservation by authorizing such organizations  
2 to receive, hold, and administer funds received pursuant  
3 to this section. Such organizations shall invest, reinvest,  
4 and otherwise administer the funds and maintain such  
5 funds and any interest or revenues earned in a separate  
6 interest-bearing account (referred to in section 219(a) as  
7 the Fund) established by such organizations solely to sup-  
8 port partnerships between the public and private sectors  
9 that further the purposes of this title and are consistent  
10 with the national coral reef action strategy under section  
11 203.”;

12           (2) by striking “the grant program” in sub-  
13 section (c) and inserting “any grant program”; and

14           (3) by striking “Administrator” in subsections  
15 (e) and (d) and inserting “Secretary”.

16 **SEC. 7. AGREEMENTS; REDESIGNATIONS.**

17 The Act (16 U.S.C. 6401 et seq.) is amended—

18           (1) by redesignating section 206 (16 U.S.C.  
19 6405) as section 207;

20           (2) by redesignating section 207 (16 U.S.C.  
21 6406) as section 208;

22           (3) by redesignating section 208 (16 U.S.C.  
23 6407) as section 218;

24           (4) by redesignating section 209 (16 U.S.C.  
25 6408) as section 219;

1           (5) by redesignating section 210 (16 U.S.C.  
2           6409) as section 221; and

3           (6) by inserting after section 205 (16 U.S.C.  
4           6404) the following:

5   **“SEC. 206. AGREEMENTS.**

6           “(a) IN GENERAL.—The Secretary may execute and  
7   perform such contracts, leases, grants, cooperative agree-  
8   ments, or other transactions as may be necessary to carry  
9   out the purposes of this title.

10          “(b) COOPERATIVE AGREEMENTS.—In addition to  
11   the general authority provided by subsection (a), the Sec-  
12   retary may enter into, extend, or renegotiate agreements  
13   with universities and research centers with national or re-  
14   gional coral reef research institutes to conduct ecological  
15   research and monitoring explicitly aimed at building ca-  
16   pacity for more effective resource management. Pursuant  
17   to any such agreements these institutes shall—

18           “(1) collaborate directly with governmental re-  
19   source management agencies, non-profit organiza-  
20   tions, and other research organizations;

21           “(2) build capacity within resource management  
22   agencies to establish research priorities, plan inter-  
23   disciplinary research projects and make effective use  
24   of research results; and

1           “(3) conduct public education and awareness  
2 programs for policy makers, resource managers, and  
3 the general public on coral reef ecosystems, best  
4 practices for coral reef and ecosystem management  
5 and conservation, their value, and threats to their  
6 sustainability.

7           “(c) USE OF OTHER AGENCIES’ RESOURCES.—For  
8 purposes related to the conservation, preservation, protec-  
9 tion, restoration, or replacement of coral reefs or coral reef  
10 ecosystems and the enforcement of this title, the Secretary  
11 is authorized to use, with their consent and with or with-  
12 out reimbursement, the land, services, equipment, per-  
13 sonnel, and facilities of any Department, agency, or in-  
14 strumentality of the United States, or of any State, local  
15 government, tribal government, Territory or possession, or  
16 of any political subdivision thereof, or of any foreign gov-  
17 ernment or international organization.

18           “(d) AUTHORITY TO UTILIZE GRANT FUNDS.—

19           “(1) Except as provided in paragraph (2), the  
20 Secretary may apply for, accept, and obligate re-  
21 search grant funding from any Federal source oper-  
22 ating competitive grant programs where such fund-  
23 ing furthers the purpose of this title.

24           “(2) The Secretary may not apply for, accept,  
25 or obligate any grant funding under paragraph (1)

1 for which the granting agency lacks authority to  
2 grant funds to Federal agencies, or for any purpose  
3 or subject to conditions that are prohibited by law  
4 or regulation.

5 “(3) Appropriated funds may be used to satisfy  
6 a requirement to match grant funds with recipient  
7 agency funds, except that no grant may be accepted  
8 that requires a commitment in advance of appropria-  
9 tions.

10 “(4) Funds received from grants shall be depos-  
11 ited in the National Oceanic and Atmospheric Ad-  
12 ministration account for the purpose for which the  
13 grant was awarded.

14 “(e) TRANSFER OF FUNDS.—Under an agreement  
15 entered into pursuant to subsection (a), and subject to the  
16 availability of funds, the Secretary may transfer funds to,  
17 and may accept transfers of funds from, Federal agencies,  
18 instrumentalities and laboratories, State and local govern-  
19 ments, Indian tribes (as defined in section 4 of the Indian  
20 Self-Determination and Educational Assistance Act (25  
21 U.S.C. 450(b)), organizations and associations rep-  
22 resenting Native Americans, native Hawaiians, and Native  
23 Pacific Islanders, educational institutions, nonprofit orga-  
24 nizations, commercial organizations, and other public and  
25 private persons or entities, except that no more than 5

1 percent of funds appropriated to carry out this section  
2 may be transferred. The 5 percent limitation shall not  
3 apply to section 204 or section 210.”.

4 **SEC. 8. EMERGENCY ASSISTANCE.**

5 Section 207 (formerly 16 U.S.C. 6405), as redesi-  
6 gnated by section 7 of this Act, is amended to read as fol-  
7 lows:

8 **“SEC. 207. EMERGENCY ASSISTANCE.**

9 “The Secretary, in cooperation with the Federal  
10 Emergency Management Agency, as appropriate, may pro-  
11 vide assistance to any State, local, or territorial govern-  
12 ment agency with jurisdiction over coral reef ecosystems  
13 to address any unforeseen or disaster-related circumstance  
14 pertaining to coral reef ecosystems.”.

15 **SEC. 9. NATIONAL PROGRAM.**

16 Section 208 (formerly 16 U.S.C. 6406), as redesi-  
17 gnated by section 7 of this Act, is amended to read as fol-  
18 lows:

19 **“SEC. 208. NATIONAL PROGRAM.**

20 “(a) IN GENERAL.—Subject to the availability of ap-  
21 propriations, the Secretary may conduct activities, includ-  
22 ing with local, State, regional, or international programs  
23 and partners, as appropriate, to conserve coral reef eco-  
24 systems, that are consistent with this title, the National  
25 Marine Sanctuaries Act, the Coastal Zone Management

1 Act of 1972, the Magnuson-Stevens Fishery Conservation  
2 and Management Act, the Endangered Species Act of  
3 1973, and the Marine Mammal Protection Act of 1972.

4 “(b) AUTHORIZED ACTIVITIES.—Activities author-  
5 ized under subsection (a) include—

6 “(1) mapping, monitoring, assessment, restora-  
7 tion, socioeconomic and scientific research that ben-  
8 efit the understanding, sustainable use, biodiversity,  
9 and long-term conservation of coral reef ecosystems;

10 “(2) enhancing public awareness, education, un-  
11 derstanding, and appreciation of coral reef eco-  
12 systems;

13 “(3) removing, and providing assistance to  
14 States in removing, abandoned fishing gear, marine  
15 debris, and abandoned vessels from coral reef eco-  
16 systems to conserve living marine resources;

17 “(4) responding to incidents and events that  
18 threaten and damage coral reef ecosystems;

19 “(5) conservation and management of coral reef  
20 ecosystems;

21 “(6) centrally archiving, managing, and distrib-  
22 uting data sets and providing coral reef ecosystem  
23 assessments and services to the general public with  
24 local, regional, or international programs and part-  
25 ners; and

1           “(7) activities designed to prevent or minimize  
2           damage to coral reef ecosystems, including those ac-  
3           tivities described in section 212 of this title.

4           “(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—  
5           The Secretary, in coordination with similar efforts at other  
6           Departments and agencies shall provide for the long-term  
7           stewardship of environmental data, products, and informa-  
8           tion via data processing, storage, and archive facilities  
9           pursuant to this title. The Secretary may—

10           “(1) archive environmental data collected by  
11           Federal, State, local agencies, and tribal organiza-  
12           tions and federally funded research;

13           “(2) promote widespread availability and dis-  
14           semination of environmental data and information  
15           through full and open access and exchange to the  
16           greatest extent possible, including in electronic for-  
17           mat on the Internet;

18           “(3) develop standards, protocols, and proce-  
19           dures for sharing Federal data with State and local  
20           government programs and the private sector or aca-  
21           demia; and

22           “(4) develop metadata standards for coral reef  
23           ecosystems in accordance with Federal Geographic  
24           Data Committee guidelines.

1       “(d) EMERGENCY RESPONSE, STABILIZATION, AND  
2 RESTORATION.—

3               “(1) ESTABLISHMENT OF ACCOUNT.—The Sec-  
4 retary shall establish an account (to be called the  
5 Emergency Response, Stabilization, and Restoration  
6 Account) in the Damage Assessment Restoration  
7 Revolving Fund established by the Department of  
8 Commerce Appropriations Act, 1991 (33 U.S.C.  
9 2706 note), for implementation of this subsection for  
10 emergency actions. Amounts appropriated for the  
11 Account under section 219, and funds authorized by  
12 sections 213(d)(1)(C)(ii) and 214(f)(3)(B), shall be  
13 deposited into the Account and made available for  
14 use by the Secretary as specified in sections 213 and  
15 214.

16               “(2) DEPOSIT AND INVESTMENT OF CERTAIN  
17 FUNDS.— Any amounts received by the United  
18 States pursuant to sections 213(d)(1)(C)(ii) and  
19 212(f)(3)(B) shall be deposited into the Emergency  
20 Response, Stabilization and Restoration Account es-  
21 tablished under paragraph (1). The Secretary of  
22 Commerce may request the Secretary of the Treas-  
23 ury to invest such portion of the Damage Assess-  
24 ment Restoration Revolving Fund as is not, in the  
25 judgment of the Secretary of Commerce, required to



1 meet the current needs of the fund. Such invest-  
2 ments shall be made by the Secretary of the Treas-  
3 ury in public debt securities, with maturities suitable  
4 to the needs of the fund, as determined by the Sec-  
5 retary of Commerce and bearing interest at rates de-  
6 termined by the Secretary of the Treasury, taking  
7 into consideration current market yields on out-  
8 standing marketable obligations of the United States  
9 of comparable maturity. Interest earned by such in-  
10 vestments shall be available for use by the Secretary  
11 without further appropriation and remain available  
12 until expended.”.

13 **SEC. 10. STUDY OF TRADE IN CORALS.**

14 (a) IN GENERAL.—The Secretary of Commerce, in  
15 consultation with the Secretary of the Interior, shall con-  
16 duct a study on the economic, social, and environmental  
17 values and impacts of the United States market in corals  
18 and coral products.

19 (b) CONTENTS.—The study shall—

20 (1) assess the economic and other values of the  
21 United States market in coral and coral products,  
22 including import and export trade;

23 (2) identify primary coral species used in the  
24 coral and coral product trade and locations of wild  
25 harvest;

1           (3) assess the environmental impacts associated  
2 with wild harvest of coral;

3           (4) assess the effectiveness of current public  
4 and private programs aimed at promoting conserva-  
5 tion in the coral and coral product trade;

6           (5) identify economic and other incentives for  
7 coral reef conservation as part of the coral and coral  
8 product trade; and

9           (6) identify additional actions, if necessary, to  
10 ensure that the United States market in coral and  
11 coral products does not contribute to the degrada-  
12 tion of coral reef ecosystems.

13       (c) REPORT.—Not later than 30 months after the  
14 date of enactment of this Act, the Secretary shall submit  
15 to the Senate Committee on Commerce, Science, and  
16 Transportation and the House of Representatives Com-  
17 mittee on Natural Resources a report of the study.

18       (d) AUTHORIZATION OF APPROPRIATIONS.—There  
19 are authorized to be appropriated to the Secretary to carry  
20 out this section \$100,000.

21 **SEC. 11. INTERNATIONAL CORAL REEF CONSERVATION AC-**  
22 **TIVITIES.**

23       The Act (16 U.S.C. 6401 et seq.) is amended by in-  
24 serting after section 208, as redesignated by section 7 of  
25 this Act, the following:

1 **“SEC. 209. INTERNATIONAL CORAL REEF CONSERVATION**  
2 **ACTIVITIES.**

3 “(a) INTERNATIONAL CORAL REEF CONSERVATION  
4 ACTIVITIES.—

5 “(1) IN GENERAL.—The Secretary shall carry  
6 out international coral reef conservation activities  
7 consistent with the purposes of this Act with respect  
8 to coral reef ecosystems in waters outside the United  
9 States jurisdiction. The Secretary shall develop and  
10 implement an international coral reef ecosystem  
11 strategy pursuant to subsection (b).

12 “(2) COORDINATION.—In carrying out this sub-  
13 section, the Secretary shall consult with the Sec-  
14 retary of State, the Administrator of the Agency for  
15 International Development, the Secretary of the In-  
16 terior, and other relevant Federal agencies, and rel-  
17 evant United States stakeholders, and shall take into  
18 account coral reef ecosystem conservation initiatives  
19 of other nations, international agreements, and  
20 intergovernmental and nongovernmental organiza-  
21 tions so as to provide effective cooperation and effi-  
22 ciencies in international coral reef conservation. The  
23 Secretary may consult with the Coral Reef Task  
24 Force in carrying out this subsection.

25 “(b) INTERNATIONAL CORAL REEF ECOSYSTEM  
26 STRATEGY.—

1           “(1) IN GENERAL.—Not later than 1 year after  
2 the date of enactment of the Coral Reef Conserva-  
3 tion Amendments Act of 2009, the Secretary shall  
4 submit to the Senate Committee on Commerce,  
5 Science, and Transportation and the House of Rep-  
6 resentatives Committee on Natural Resources, and  
7 publish in the Federal Register, an international  
8 coral reef ecosystem strategy, consistent with the  
9 purposes of this Act and the national strategy re-  
10 quired pursuant to section 203(a). The Secretary  
11 shall periodically review and revise this strategy as  
12 necessary.

13           “(2) CONTENTS.—The strategy developed by  
14 the Secretary under paragraph (1) shall—

15           “(A) identify coral reef ecosystems  
16 throughout the world that are of high value for  
17 United States marine resources, that support  
18 high-seas resources of importance to the United  
19 States such as fisheries, or that support other  
20 interests of the United States;

21           “(B) summarize existing activities by Fed-  
22 eral agencies and entities described in sub-  
23 section (a)(2) to address the conservation of  
24 coral reef ecosystems identified pursuant to  
25 subparagraph (A);

1           “(C) establish goals, objectives, and spe-  
2           cific targets for conservation of priority inter-  
3           national coral reef ecosystems;

4           “(D) describe appropriate activities to  
5           achieve the goals and targets for international  
6           coral reef conservation, in particular those that  
7           leverage activities already conducted under this  
8           Act;

9           “(E) develop a plan to coordinate imple-  
10          mentation of the strategy with entities de-  
11          scribed in subsection (a)(2) in order to leverage  
12          current activities under this Act and other con-  
13          servation efforts globally;

14          “(F) identify appropriate partnerships,  
15          grants, or other funding and technical assist-  
16          ance mechanisms to carry out the strategy; and

17          “(G) develop criteria for prioritizing part-  
18          nerships under subsection (c).

19          “(c) INTERNATIONAL CORAL REEF ECOSYSTEM  
20          PARTNERSHIPS.—

21                 “(1) IN GENERAL.—The Secretary shall estab-  
22                 lish an international coral reef ecosystem partner-  
23                 ship program to provide support, including funding  
24                 and technical assistance, for activities that imple-

1       ment the strategy developed pursuant to subsection  
2       (b).

3           “(2) MECHANISMS.—The Secretary shall pro-  
4       vide such support through existing authorities, work-  
5       ing in collaboration with the entities described in  
6       subsection (a)(2).

7           “(3) AGREEMENTS.—The Secretary may exe-  
8       cute and perform such contracts, leases, grants, co-  
9       operative agreements, or other transactions as may  
10      be necessary to carry out the purposes of this sec-  
11      tion.

12          “(4) TRANSFER OF FUNDS.—To implement this  
13      section and subject to the availability of funds, the  
14      Secretary may transfer funds to a foreign govern-  
15      ment or international organization, and may accept  
16      transfers of funds from such entities, except that no  
17      more than 5 percent of funds appropriated to carry  
18      out this section may be transferred.

19          “(5) CRITERIA FOR APPROVAL.—The Secretary  
20      may not approve a partnership proposal under this  
21      section unless the partnership is consistent with the  
22      international coral reef conservation strategy devel-  
23      oped pursuant to subsection (b), and meets the cri-  
24      teria specified in that strategy.”.

1 **SEC. 12. COMMUNITY-BASED PLANNING GRANTS.**

2 The Act (16 U.S.C. 6401 et seq.) is amended by in-  
 3 serting after section 209, as added by section 11 of this  
 4 Act, the following:

5 **“SEC. 210. COMMUNITY-BASED PLANNING GRANTS.**

6 “(a) IN GENERAL.—The Secretary may make grants  
 7 to entities that have received grants under section 204 to  
 8 provide additional funds to such entities to work with local  
 9 communities and through appropriate Federal and State  
 10 entities to prepare and implement plans for the increased  
 11 protection of coral reef areas identified by the community  
 12 and scientific experts as high priorities for focused atten-  
 13 tion. The plans shall—

14 “(1) support attainment of 1 or more of the cri-  
 15 teria described in section 204(g);

16 “(2) be developed at the community level;

17 “(3) utilize watershed-based approaches;

18 “(4) provide for coordination with Federal and  
 19 State experts and managers; and

20 “(5) build upon local approaches, strategies, or  
 21 models, including traditional or island-based re-  
 22 source management concepts.

23 “(b) TERMS AND CONDITIONS.—The provisions of  
 24 subsections (b), (d), (f), and (h) of section 204 apply to  
 25 grants under subsection (a), except that, for the purpose

1 of applying section 204(b)(1) to grants under this section,  
2 ‘75 percent’ shall be substituted for ‘50 percent’.”

3 **SEC. 13. VESSEL GROUNDING INVENTORY.**

4 The Act (16 U.S.C. 6401 et seq.) is amended by in-  
5 serting after section 210, as added by section 12 of this  
6 Act, the following:

7 **“SEC. 211. VESSEL GROUNDING INVENTORY.**

8 “(a) IN GENERAL.—The Secretary may maintain an  
9 inventory of all vessel grounding incidents involving coral  
10 reefs, including a description of—

11 “(1) the impacts to affected coral reef eco-  
12 systems;

13 “(2) vessel and ownership information, if avail-  
14 able;

15 “(3) the estimated cost of removal, mitigation,  
16 or restoration;

17 “(4) the response action taken by the owner,  
18 the Secretary, the Commandant of the Coast Guard,  
19 or other Federal or State agency representatives;

20 “(5) the status of the response action, including  
21 the dates of vessel removal and mitigation or res-  
22 toration and any actions taken to prevent future  
23 grounding incidents; and



1           “(6) recommendations for additional naviga-  
2           tional aids or other mechanisms for preventing fu-  
3           ture grounding incidents.

4           “(b) IDENTIFICATION OF AT-RISK REEFS.—The Sec-  
5           retary may—

6           “(1) use information from any inventory main-  
7           tained under subsection (a) or any other available  
8           information source to identify coral reef ecosystems  
9           that have a high incidence of vessel impacts, includ-  
10          ing groundings and anchor damage;

11          “(2) identify appropriate measures, including  
12          the acquisition and placement of aids to navigation,  
13          moorings, designated anchorage areas, fixed anchors  
14          and other devices, to reduce the likelihood of such  
15          impacts; and

16          “(3) develop a strategy and timetable to imple-  
17          ment such measures, including cooperative actions  
18          with other government agencies and non-govern-  
19          mental partners.”.

20       **SEC. 14. PROHIBITED ACTIVITIES.**

21          (a) IN GENERAL.—The Act (16 U.S.C. 6401 et seq.)  
22       is amended by inserting after section 211, as added by  
23       section 13 of this Act, the following:

1 **“SEC. 212. PROHIBITED ACTIVITIES AND SCOPE OF PROHI-**  
2 **BITIONS.**

3 “(a) PROVISIONS AS COMPLEMENTARY.—The provi-  
4 sions of this section are in addition to, and shall not affect  
5 the operation of, other Federal, State, or local laws or reg-  
6 ulations providing protection to coral reef ecosystems.

7 “(b) DESTRUCTION, LOSS, TAKING, OR INJURY.—

8 “(1) IN GENERAL.—Except as provided in para-  
9 graph (2), it is unlawful for any person to destroy,  
10 take, cause the loss of, or injure any coral reef or  
11 any component thereof.

12 “(2) EXCEPTIONS.—The destruction, loss, tak-  
13 ing, or injury of a coral reef or any component  
14 thereof is not unlawful if it—

15 “(A) was caused by the use of fishing gear  
16 used in a manner permitted under the Magnu-  
17 son-Stevens Fishery Conservation and Manage-  
18 ment Act (16 U.S.C. 1801 et seq.) or other  
19 Federal or State law;

20 “(B) was caused by an activity that is au-  
21 thorized or allowed by Federal or State law (in-  
22 cluding lawful discharges from vessels, such as  
23 graywater, cooling water, engine exhaust, bal-  
24 last water, or sewage from marine sanitation  
25 devices), unless the destruction, loss, or injury  
26 resulted from actions such as vessel groundings,

1 vessel scrapings, anchor damage, excavation not  
2 authorized by Federal or State permit, or other  
3 similar activities;

4 “(C) was the necessary result of bona fide  
5 marine scientific research (including marine sci-  
6 entific research activities approved by Federal,  
7 State, or local permits), other than excessive  
8 sampling or collecting, or actions such as vessel  
9 groundings, vessel scrapings, anchor damage,  
10 excavation, or other similar activities;

11 “(D) was caused by a Federal Government  
12 agency—

13 “(i) during—

14 “(I) an emergency that posed an  
15 unacceptable threat to human health  
16 or safety or to the marine environ-  
17 ment;

18 “(II) an emergency that posed a  
19 threat to national security; or

20 “(III) an activity necessary for  
21 law enforcement or search and rescue;  
22 and

23 could not reasonably be avoided; or

24 “(E) was caused by an action taken by the  
25 master of the vessel in an emergency situation

1           to ensure the safety of the vessel or to save a  
2           life at sea.

3           “(c) INTERFERENCE WITH ENFORCEMENT.—It is  
4 unlawful for any person to interfere with the enforcement  
5 of this title by—

6           “(1) refusing to permit any officer authorized  
7 to enforce this title to board a vessel (other than a  
8 vessel operated by the Department of Defense or  
9 United States Coast Guard) subject to such person’s  
10 control for the purposes of conducting any search or  
11 inspection in connection with the enforcement of this  
12 title;

13           “(2) resisting, opposing, impeding, intimidating,  
14 harassing, bribing, interfering with, or forcibly as-  
15 saulting any person authorized by the Secretary to  
16 implement this title or any such authorized officer in  
17 the conduct of any search or inspection performed  
18 under this title; or

19           “(3) submitting false information to the Sec-  
20 retary or any officer authorized to enforce this title  
21 in connection with any search or inspection con-  
22 ducted under this title.

23           “(d) VIOLATIONS OF TITLE, PERMIT, OR REGULA-  
24 TION.—It is unlawful for any person to violate any provi-

1 sion of this title, any permit issued pursuant to this title,  
 2 or any regulation promulgated pursuant to this title.

3 “(e) POSSESSION AND DISTRIBUTION.—It is unlaw-  
 4 ful for any person to possess, sell, deliver, carry, transport,  
 5 or ship by any means any coral taken in violation of this  
 6 title.”.

7 (b) EMERGENCY ACTION REGULATIONS.—The Sec-  
 8 retary of Commerce shall initiate a rulemaking proceeding  
 9 to prescribe the circumstances and conditions under which  
 10 the exception in section 212(b)(2)(E) of the Coral Reef  
 11 Conservation Act of 2000, as amended by subsection (a),  
 12 applies and shall issue a final rule pursuant to that rule-  
 13 making as soon as practicable but not later than 1 year  
 14 after the date of enactment of this Act. Nothing in this  
 15 subsection shall be construed to require the issuance of  
 16 such regulations before the exception provided by that sec-  
 17 tion is in effect.

18 **SEC. 15. DESTRUCTION OF CORAL REEFS.**

19 The Act (16 U.S.C. 6401 et seq.) is amended by in-  
 20 serting after section 212, as added by section 14 of this  
 21 Act, the following:

22 **“SEC. 213. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY**  
 23 **TO, CORAL REEFS.**

24 “(a) LIABILITY.—

1           “(1) LIABILITY TO THE UNITED STATES.—EX-  
2           cept as provided in subsection (f), all persons who  
3           engage in an activity that is prohibited under sub-  
4           sections (b) or (d) of section 212, or create an immi-  
5           nent risk thereof, are liable, jointly and severally, to  
6           the United States for an amount equal to the sum  
7           of—

8                   “(A) response costs and damages resulting  
9                   from the destruction, loss, taking, or injury, or  
10                  imminent risk thereof, including damages re-  
11                  sulting from the response actions;

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

15                  “(C) interest on that amount calculated in  
16                  the manner described in section 1005 of the Oil  
17                  Pollution Act of 1990 (33 U.S.C. 2705).

18           “(2) LIABILITY IN REM.—

19                   “(A) Any vessel used in an activity that is  
20                   prohibited under subsection (b) or (d) of section  
21                   212, or creates an imminent risk thereof, shall  
22                   be liable in rem to the United States for an  
23                   amount equal to the sum of—

24                           “(i) response costs and damages re-  
25                           sulting from such destruction, loss, or in-

1 jury, or imminent risk thereof, including  
2 damages resulting from the response ac-  
3 tions;

4 “(ii) costs of seizure, forfeiture, stor-  
5 age, and disposal arising from liability  
6 under this section; and

7 “(iii) interest on that amount cal-  
8 culated in the manner described in section  
9 1005 of the Oil Pollution Act of 1990 (33  
10 U.S.C. 2705).

11 “(B) The amount of liability shall con-  
12 stitute a maritime lien on the vessel and may  
13 be recovered in an action in rem in any district  
14 court of the United States that has jurisdiction  
15 over the vessel.

16 “(3) DEFENSES.—A person or vessel is not lia-  
17 ble under this subsection if that person or vessel es-  
18 tablishes that the destruction, loss, taking, or injury  
19 was caused solely by an act of God, an act of war,  
20 or an act or omission of a third party (other than  
21 an employee or agent of the defendant or one whose  
22 act or omission occurs in connection with a contrac-  
23 tual relationship, existing directly or indirectly with  
24 the defendant), and the person or master of the ves-  
25 sel acted with due care.

1           “(4) NO LIMIT TO LIABILITY.—Nothing in sec-  
2           tions 30501 through 30512 or section 30706 of title  
3           46, United States Code, shall limit liability to any  
4           person under this title.

5           “(b) RESPONSE ACTIONS AND DAMAGE ASSESS-  
6           MENT.—

7           “(1) RESPONSE ACTIONS.—The Secretary may  
8           undertake or authorize all necessary actions to pre-  
9           vent or minimize the destruction, loss, or taking of,  
10          or injury to, coral reefs, or components thereof, or  
11          to minimize the risk or imminent risk of such de-  
12          struction, loss, or injury.

13          “(2) DAMAGE ASSESSMENT.—

14                 “(A) The Secretary shall assess damages  
15                 (as defined in section 221(8)) to coral reefs and  
16                 shall consult with State officials regarding re-  
17                 sponse and damage assessment actions under-  
18                 taken for coral reefs within State waters.

19                 “(B) There shall be no double recovery  
20                 under this chapter for coral reef damages, in-  
21                 cluding the cost of damage assessment, for the  
22                 same incident.

23          “(c) COMMENCEMENT OF CIVIL ACTION FOR RE-  
24          SPONSE COSTS AND DAMAGES.—



1           “(1) COMMENCEMENT.—The Attorney General,  
2           upon the request of the Secretary, may commence a  
3           civil action against any person or vessel that may be  
4           liable under subsection (a) of this section for re-  
5           sponse costs, seizure, forfeiture, storage, or disposal  
6           costs, and damages, and interest on that amount  
7           calculated in the manner described in section 1005  
8           of the Oil Pollution Act of 1990 (33 U.S.C. 2705).  
9           The Secretary, acting as trustee for coral reefs for  
10          the United States, shall submit a request for such  
11          an action to the Attorney General whenever a person  
12          or vessel may be liable for such costs or damages.

13           “(2) VENUE IN CIVIL ACTIONS.—A civil action  
14          under this title may be brought in the United States  
15          district court for any district in which—

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

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

21                   “(C) the destruction, loss, or taking of, or  
22                   injury to a coral reef, or component thereof, oc-  
23                   curred or in which there is an imminent risk of  
24                   such destruction, loss, or injury; or

1           “(D) where some or all of the coral reef or  
2           component thereof that is the subject of the ac-  
3           tion is not within the territory covered by any  
4           United States district court, such action may be  
5           brought either in the United States district  
6           court for the district closest to the location  
7           where the destruction, loss, injury, or risk of in-  
8           jury occurred, or in the United States District  
9           Court for the District of Columbia.

10          “(d) USE OF RECOVERED AMOUNTS.—

11           “(1) IN GENERAL.—Any costs, including re-  
12           sponse costs and damages recovered by the Sec-  
13           retary under this section shall—

14           “(A) be deposited into an account or ac-  
15           counts in the Damage Assessment Restoration  
16           Revolving Fund established by the Department  
17           of Commerce Appropriations Act, 1991 (33  
18           U.S.C. 2706 note), or the Natural Resource  
19           Damage Assessment and Restoration Fund es-  
20           tablished by the Department of the Interior and  
21           Related Agencies Appropriations Act, 1992 (43  
22           U.S.C. 1474b), as appropriate given the loca-  
23           tion of the violation;

1           “(B) be available for use by the Secretary  
2 without further appropriation and remain avail-  
3 able until expended; and

4           “(C) be for use, as the Secretary considers  
5 appropriate—

6           “(i) to reimburse the Secretary or any  
7 other Federal or State agency that con-  
8 ducted activities under subsection (a) or  
9 (b) of this section for costs incurred in  
10 conducting the activity;

11           “(ii) to be transferred to the Emer-  
12 gency Response, Stabilization and Restora-  
13 tion Account established under section  
14 208(d) to reimburse that account for  
15 amounts used for authorized emergency ac-  
16 tions; and

17           “(iii) after reimbursement of such  
18 costs, to restore, replace, or acquire the  
19 equivalent of any coral reefs, or compo-  
20 nents thereof, including the reasonable  
21 costs of monitoring, or to minimize or pre-  
22 vent threats of equivalent injury to, or de-  
23 struction of coral reefs, or components  
24 thereof.

1           “(2) RESTORATION CONSIDERATIONS.—In de-  
2           velopment of restoration alternatives under para-  
3           graph (1)(C), the Secretary shall consider State and  
4           territorial preferences and, if appropriate, shall  
5           prioritize restoration projects with geographic and  
6           ecological linkages to the injured resources.

7           “(e) STATUTE OF LIMITATIONS.—An action for re-  
8           sponse costs or damages under subsection (c) shall be  
9           barred unless the complaint is filed within 3 years after  
10          the date on which the Secretary completes a damage as-  
11          sessment and restoration plan for the coral reefs, or com-  
12          ponents thereof, to which the action relates.

13          “(f) FEDERAL GOVERNMENT ACTIVITIES.—In the  
14          event of threatened or actual destruction of, loss of, or  
15          injury to a coral reef or component thereof resulting from  
16          an incident caused by a component of any Department or  
17          agency of the United States Government, the cognizant  
18          Department or agency shall satisfy its obligations under  
19          this section by promptly, in coordination with the Sec-  
20          retary, taking appropriate actions to respond to and miti-  
21          gate the harm and restoring or replacing the coral reef  
22          or components thereof and reimbursing the Secretary for  
23          all assessment costs.

24          “(g) UNIFORMED SERVICE OFFICERS AND EMPLOY-  
25          EES.—No officer or employee of a uniformed service (as

1 defined in section 101 of title 10, United States Code)  
2 shall be held liable under this section, either in such offi-  
3 cer's or employee's personal or official capacity, for any  
4 violation of section 212 occurring during the performance  
5 of the officer's or employee's official governmental duties.

6       “(h) CONTRACT EMPLOYEES.—No contract employee  
7 of a uniformed service (as so defined), serving as vessel  
8 master or crew member, shall be liable under this section  
9 for any violation of section 212 if that contract em-  
10 ployee—

11           “(1) is acting as a contract employee of a uni-  
12 formed service under the terms of an operating con-  
13 tract for a vessel owned by a uniformed service, or  
14 a time charter for pre-positioned vessels, special mis-  
15 sion vessels, or vessels exclusively transporting mili-  
16 tary supplies and materials; and

17           “(2) is engaged in an action or actions over  
18 which such employee has been given no discretion  
19 (e.g., anchoring or mooring at one or more des-  
20 ignated anchorages or buoys, or executing specific  
21 operational elements of a special mission activity), as  
22 determined by the uniformed service controlling the  
23 contract.”.

1 **SEC. 16. ENFORCEMENT.**

2       The Act (16 U.S.C. 6401 et seq.) is amended by in-  
3 serting after section 213, as added by section 15 of this  
4 Act, the following:

5 **“SEC. 214. ENFORCEMENT.**

6       “(a) IN GENERAL.—The Secretary shall conduct en-  
7 forcement activities to carry out this title.

8       “(b) POWERS OF AUTHORIZED OFFICERS.—

9               “(1) IN GENERAL.—Any person who is author-  
10 ized to enforce this title may—

11                       “(A) board, search, inspect, and seize any  
12 vessel or other conveyance suspected of being  
13 used to violate this title, any regulation promul-  
14 gated under this title, or any permit issued  
15 under this title, and any equipment, stores, and  
16 cargo of such vessel, except that such authority  
17 shall not exist with respect to vessels owned or  
18 time chartered by a uniformed service (as de-  
19 fined in section 101 of title 10, United States  
20 Code) as warships or naval auxiliaries;

21                       “(B) seize wherever found any component  
22 of coral reef taken or retained in violation of  
23 this title, any regulation promulgated under  
24 this title, or any permit issued under this title;

1           “(C) seize any evidence of a violation of  
2           this title, any regulation promulgated under  
3           this title, or any permit issued under this title;

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

6           “(E) exercise any other lawful authority;  
7           and

8           “(F) arrest any person, if there is reason-  
9           able cause to believe that such person has com-  
10          mitted an act prohibited by section 212.

11          “(2) NAVAL AUXILIARY DEFINED.—In this sub-  
12          section, the term ‘naval auxiliary’ means a vessel,  
13          other than a warship, that is owned by or under the  
14          exclusive control of a uniformed service and used at  
15          the time of the destruction, take, loss or injury for  
16          government, non-commercial service, including com-  
17          bat logistics force vessels, pre-positioned vessels, spe-  
18          cial mission vessels, or vessels exclusively used to  
19          transport military supplies and materials.

20          “(c) CIVIL ENFORCEMENT AND PERMIT SANC-  
21          TIONS.—

22          “(1) CIVIL ADMINISTRATIVE PENALTY.—Any  
23          person subject to the jurisdiction of the United  
24          States who violates this title or any regulation pro-  
25          mulgated or permit issued hereunder, shall be liable

1 to the United States for a civil administrative pen-  
2 alty of not more than \$200,000 for each such viola-  
3 tion, to be assessed by the Secretary. Each day of  
4 a continuing violation shall constitute a separate vio-  
5 lation. In determining the amount of civil adminis-  
6 trative penalty, the Secretary shall take into account  
7 the nature, circumstances, extent, and gravity of the  
8 prohibited acts committed and, with respect to the  
9 violator, the degree of culpability, and any history of  
10 prior violations, and such other matters as justice  
11 may require. In assessing such penalty, the Sec-  
12 retary may also consider information related to the  
13 ability of the violator to pay.

14 “(2) PERMIT SANCTIONS.—For any person sub-  
15 ject to the jurisdiction of the United States who has  
16 been issued or has applied for a permit under this  
17 title, and who violates this title or any regulation or  
18 permit issued under this title, the Secretary may  
19 deny, suspend, amend, or revoke in whole or in part  
20 any such permit. For any person who has failed to  
21 pay or defaulted on a payment agreement of any  
22 civil penalty or criminal fine or liability assessed  
23 pursuant to any natural resource law administered  
24 by the Secretary, the Secretary may deny, suspend,



1 amend or revoke in whole or in part any permit  
2 issued or applied for under this title.

3 “(3) IMPOSITION OF CIVIL JUDICIAL PEN-  
4 ALTIES.—Any person who violates any provision of  
5 this title, any regulation promulgated or permit  
6 issued thereunder, shall be subject to a civil judicial  
7 penalty not to exceed \$250,000 for each such viola-  
8 tion. Each day of a continuing violation shall con-  
9 stitute a separate violation. The Attorney General,  
10 upon the request of the Secretary, may commence a  
11 civil action in an appropriate district court of the  
12 United States, and such court shall have jurisdiction  
13 to award civil penalties and such other relief as jus-  
14 tice may require. In determining the amount of a  
15 civil penalty, the court shall take into account the  
16 nature, circumstances, extent, and gravity of the  
17 prohibited acts committed and, with respect to the  
18 violator, the degree of culpability, any history of  
19 prior violations, and such other matters as justice  
20 may require. In imposing such penalty, the district  
21 court may also consider information related to the  
22 ability of the violator to pay.

23 “(4) NOTICE.—No penalty or permit sanction  
24 shall be assessed under this subsection until after

1 the person charged has been given notice and an op-  
2 portunity for a hearing.

3 “(5) IN REM JURISDICTION.—A vessel used in  
4 violating this title, any regulation promulgated under  
5 this title, or any permit issued under this title, shall  
6 be liable in rem for any civil penalty assessed for  
7 such violation. Such penalty shall constitute a mari-  
8 time lien on the vessel and may be recovered in an  
9 action in rem in the district court of the United  
10 States having jurisdiction over the vessel.

11 “(6) COLLECTION OF PENALTIES.—If any per-  
12 son fails to pay an assessment of a civil penalty  
13 under this section after it has become a final and  
14 unappealable order, or after the appropriate court  
15 has entered final judgment in favor of the Secretary,  
16 the Secretary shall refer the matter to the Attorney  
17 General, who shall recover the amount assessed in  
18 any appropriate district court of the United States  
19 (plus interest at current prevailing rates from the  
20 date of the final order). In such action, the validity  
21 and appropriateness of the final order imposing the  
22 civil penalty shall not be subject to review. Any per-  
23 son who fails to pay, on a timely basis, the amount  
24 of an assessment of a civil penalty shall be required  
25 to pay, in addition to such amount and interest, at-

1       torney’s fees and costs for collection proceedings and  
2       a quarterly nonpayment penalty for each quarter  
3       during which such failure to pay persists. Such non-  
4       payment penalty shall be in an amount equal to 20  
5       percent of the aggregate amount of such person’s  
6       penalties and nonpayment penalties that are unpaid  
7       as of the beginning of such quarter.

8               “(7) COMPROMISE OR OTHER ACTION BY SEC-  
9       RETARY.—The Secretary may compromise, modify,  
10       or remit, with or without conditions, any civil admin-  
11       istrative penalty or permit sanction which is or may  
12       be imposed under this section and that has not been  
13       referred to the Attorney General for further enforce-  
14       ment action.

15               “(8) JURISDICTION.—The several district  
16       courts of the United States shall have jurisdiction  
17       over any actions brought by the United States aris-  
18       ing under this section. For the purpose of this sec-  
19       tion, American Samoa shall be included within the  
20       judicial district of the District Court of the United  
21       States for the District of Hawaii. Each violation  
22       shall be a separate offense and the offense shall be  
23       deemed to have been committed not only in the dis-  
24       trict where the violation first occurred, but also in  
25       any other district as authorized by law.

1 “(d) FORFEITURE.—

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

5 “(A) any property, real or personal, consti-  
6 tuting or traceable to the gross proceeds taken,  
7 obtained, or retained, in connection with or as  
8 a result of the offense, including, without limi-  
9 tation, any coral reef or coral reef component  
10 (or the fair market value thereof); and

11 “(B) any property, real or personal, used  
12 or intended to be used, in any manner, to com-  
13 mit or facilitate the commission of the offense,  
14 including, without limitation, any vessel (includ-  
15 ing the vessel’s equipment, stores, catch and  
16 cargo), vehicle, aircraft, or other means of  
17 transportation.

18 Pursuant to section 2461(e) of title 28, United  
19 States Code, the provisions of section 413 of the  
20 Controlled Substances Act (21 U.S.C. 853) other  
21 than subsection (d) thereof shall apply to criminal  
22 forfeitures under this section.

23 “(2) CIVIL FORFEITURE.—The property set  
24 forth below shall be subject to forfeiture to the  
25 United States in accordance with the provisions of

1 chapter 46 of title 18, United States Code, and no  
2 property right shall exist in it:

3 “(A) Any property, real or personal, con-  
4 stituting or traceable to the gross proceeds  
5 taken, obtained, or retained, in connection with  
6 or as a result of a violation of this title, includ-  
7 ing, without limitation, any coral reef or coral  
8 reef component (or the fair market value there-  
9 of).

10 “(B) Any property, real or personal, used  
11 or intended to be used, in any manner, to com-  
12 mit or facilitate the commission of a violation of  
13 this title, including, without limitation, any ves-  
14 sel (including the vessel’s equipment, stores,  
15 catch and cargo), vehicle, aircraft, or other  
16 means of transportation.

17 “(3) APPLICATION OF THE CUSTOMS LAWS.—  
18 All provisions of law relating to seizure, summary  
19 judgment, and judicial forfeiture and condemnation  
20 for violation of the customs laws, the disposition of  
21 the property forfeited or condemned or the proceeds  
22 from the sale thereof, the remission or mitigation of  
23 such forfeitures, and the compromise of claims shall  
24 apply to seizures and forfeitures incurred, or alleged  
25 to have been incurred, under the provisions of this

1 title, insofar as applicable and not inconsistent with  
2 the provisions hereof. For seizures and forfeitures of  
3 property under this section by the Secretary, such  
4 duties as are imposed upon the customs officer or  
5 any other person with respect to the seizure and for-  
6 feiture of property under the customs law may be  
7 performed by such officers as are designated by the  
8 Secretary or, upon request of the Secretary, by any  
9 other agency that has authority to manage and dis-  
10 pose of seized property.

11 “(4) PRESUMPTION.—For the purposes of this  
12 section there is a rebuttable presumption that all  
13 coral reefs, or components thereof, found on board  
14 a vessel that is used or seized in connection with a  
15 violation of this title or of any regulation promul-  
16 gated under this title were taken, obtained, or re-  
17 tained in violation of this title or of a regulation pro-  
18 mulgated under this title.

19 “(e) PAYMENT OF STORAGE, CARE, AND OTHER  
20 COSTS.—Any person assessed a civil penalty for a viola-  
21 tion of this title or of any regulation promulgated under  
22 this title and any claimant in a forfeiture action brought  
23 for such a violation, shall be liable for the reasonable costs  
24 incurred by the Secretary in storage, care, and mainte-

1 nance of any property seized in connection with the viola-  
2 tion.

3 “(f) EXPENDITURES.—

4 “(1) Notwithstanding section 3302 of title 31,  
5 United States Code, or section 311 of the Magnu-  
6 son-Stevens Fishery Conservation and Management  
7 Act (16 U.S.C. 1861), amounts received by the  
8 United States as civil penalties under subsection (c)  
9 of this section, forfeitures of property under sub-  
10 section (d) of this section, and costs imposed under  
11 subsection (e) of this section, shall—

12 “(A) be placed into an account;

13 “(B) be available for use by the Secretary  
14 without further appropriation; and

15 “(C) remain available until expended.

16 “(2) Amounts received under this section for  
17 forfeitures under subsection (d) and costs imposed  
18 under subsection (e) shall be used to pay the reason-  
19 able and necessary costs incurred by the Secretary  
20 to provide temporary storage, care, maintenance,  
21 and disposal of any property seized in connection  
22 with a violation of this title or any regulation pro-  
23 mulgated under this title.

24 “(3) Amounts received under this section as  
25 civil penalties under subsection (c) of this section

1 and any amounts remaining after the operation of  
2 paragraph (2) of this subsection shall—

3 “(A) be used to stabilize, restore, or other-  
4 wise manage the coral reef with respect to  
5 which the violation occurred that resulted in the  
6 penalty or forfeiture;

7 “(B) be transferred to the Emergency Re-  
8 sponse, Stabilization, and Restoration Account  
9 established under section 208(d) or an account  
10 described in section 213(d)(1) of this title, to  
11 reimburse such account for amounts used for  
12 authorized emergency actions;

13 “(C) be used to conduct monitoring and  
14 enforcement activities;

15 “(D) be used to conduct research on tech-  
16 niques to stabilize and restore coral reefs;

17 “(E) be used to conduct activities that pre-  
18 vent or reduce the likelihood of future damage  
19 to coral reefs;

20 “(F) be used to stabilize, restore or other-  
21 wise manage any other coral reef; or

22 “(G) be used to pay a reward to any per-  
23 son who furnishes information leading to an as-  
24 sessment of a civil penalty, or to a forfeiture of



1           property, for a violation of this title or any reg-  
2           ulation promulgated under this title.

3           “(g) CRIMINAL ENFORCEMENT.—

4           “(1) Any person (other than a foreign govern-  
5           ment or any entity of such government) who know-  
6           ingly commits any act prohibited by section 212(c)  
7           of this title shall be imprisoned for not more than  
8           5 years and shall be fined not more than \$500,000  
9           for individuals or \$1,000,000 for an organization;  
10          except that if in the commission of any such offense  
11          the individual uses a dangerous weapon, engages in  
12          conduct that causes bodily injury to any officer au-  
13          thorized to enforce the provisions of this title, or  
14          places any such officer in fear of imminent bodily in-  
15          jury, the maximum term of imprisonment is not  
16          more than 10 years.

17          “(2) Any person (other than a foreign govern-  
18          ment or any entity of such government) who know-  
19          ingly violates subsection (b), (d), or (e) of section  
20          212 shall be fined under title 18, United States  
21          Code, or imprisoned not more than 5 years or both.

22          “(3) Any person (other than a foreign govern-  
23          ment or any entity of such government) who violates  
24          subsection (b), (d), or (e) of section 212, and who,  
25          in the exercise of due care should know that such

1 person's conduct violates subsection (b), (d), or (e)  
2 of section 212, shall be fined under title 18, United  
3 States Code, or imprisoned not more than 1 year, or  
4 both.

5 “(4) The several district courts of the United  
6 States shall have jurisdiction over any actions  
7 brought by the United States arising under this sub-  
8 section. For the purpose of this subsection, Amer-  
9 ican Samoa shall be included within the judicial dis-  
10 trict of the District Court of the United States for  
11 the District of Hawaii. Each violation shall be a sep-  
12 arate offense and the offense shall be deemed to  
13 have been committed not only in the district where  
14 the violation first occurred, but also in any other  
15 district as authorized by law. Any offenses not com-  
16 mitted in any district are subject to the venue provi-  
17 sions of section 3238 of title 18, United States  
18 Code.

19 “(h) SUBPOENAS.—In the case of any investigation  
20 or hearing under this section or any other natural resource  
21 statute administered by the National Oceanic and Atmos-  
22 pheric Administration which is determined on the record  
23 in accordance with the procedures provided for under sec-  
24 tion 554 of title 5, United States Code, the Secretary may  
25 issue subpoenas for the attendance and testimony of wit-

1 nesses and the production of relevant papers, books, elec-  
2 tronic files, and documents, and may administer oaths.

3 “(i) COAST GUARD AUTHORITY NOT LIMITED.—  
4 Nothing in this section shall be considered to limit the au-  
5 thority of the Coast Guard to enforce this or any other  
6 Federal law under section 89 of title 14, United States  
7 Code.

8 “(j) INJUNCTIVE RELIEF.—

9 “(1) If the Secretary determines that there is  
10 an imminent risk of destruction or loss of or injury  
11 to a coral reef, or that there has been actual de-  
12 struction or loss of, or injury to, a coral reef which  
13 may give rise to liability under section 213 of this  
14 title, the Attorney General, upon request of the Sec-  
15 retary, shall seek to obtain such relief as may be  
16 necessary to abate such risk or actual destruction,  
17 loss, or injury, or to restore or replace the coral reef,  
18 or both. The district courts of the United States  
19 shall have jurisdiction in such a case to order such  
20 relief as the public interest and the equities of the  
21 case may require.

22 “(2) Upon the request of the Secretary, the At-  
23 torney General may seek to enjoin any person who  
24 is alleged to be in violation of any provision of this  
25 title, or any regulation or permit issued under this

1 title, and the district courts shall have jurisdiction to  
2 grant such relief.

3 “(k) AREA OF APPLICATION AND ENFORCE-  
4 ABILITY.—The area of application and enforceability of  
5 this title includes the internal waters of the United States,  
6 the territorial sea of the United States, as described in  
7 Presidential Proclamation 5928 of December 27, 1988,  
8 the Exclusive Economic Zone of the United States as de-  
9 scribed in Presidential Proclamation 5030 of March 10,  
10 1983, and the continental shelf, consistent with inter-  
11 national law.

12 “(l) NATIONWIDE SERVICE OF PROCESS.—In any ac-  
13 tion by the United States under this title, process may  
14 be served in any district where the defendant is found,  
15 resides, transacts business, or has appointed an agent for  
16 the service of process, and for civil cases may also be  
17 served in a place not within the United States in accord-  
18 ance with rule 4 of the Federal Rules of Civil Procedure.

19 “(m) VENUE IN CIVIL ACTIONS.—A civil action  
20 under this title may be brought in the United States dis-  
21 trict court for any district in which—

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

1           “(2) the vessel is located, in the case of an ac-  
2           tion against a vessel;

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

7           “(4) where some or all of the coral reef or com-  
8           ponent thereof that is the subject of the action is not  
9           within the territory covered by any United States  
10          district court, such action may be brought either in  
11          the United States district court for the district clos-  
12          est to the location where the destruction, loss, in-  
13          jury, or risk of injury occurred, or in the United  
14          States District Court for the District of Columbia.

15          “(n) UNIFORMED SERVICE OFFICERS AND EMPLOY-  
16          EES.—No officer or employee of a uniformed service (as  
17          defined in section 101 of title 10, United States Code)  
18          shall be held liable under this section, either in such offi-  
19          cer’s or employee’s personal or official capacity, for any  
20          violation of section 212 occurring during the performance  
21          of the officer’s or employee’s official governmental duties.

22          “(o) CONTRACT EMPLOYEES.—No contract employee  
23          of a uniformed service (as so defined), serving as vessel  
24          master or crew member, shall be liable under this section

1 for any violation of section 212 if that contract em-  
2 ployee—

3 “(1) is acting as a contract employee of a uni-  
4 formed service under the terms of an operating con-  
5 tract for a vessel owned by a uniformed service, or  
6 a time charter for pre-positioned vessels, special mis-  
7 sion vessels, or vessels exclusively transporting mili-  
8 tary supplies and materials; and

9 “(2) is engaged in an action or actions over  
10 which such employee has been given no discretion  
11 (e.g., anchoring or mooring at one or more des-  
12 ignated anchorages or buoys, or executing specific  
13 operational elements of a special mission activity), as  
14 determined by the uniformed service controlling the  
15 contract.”.

16 **SEC. 17. PERMITS.**

17 The Act (16 U.S.C. 6401 et seq.) is amended by in-  
18 serting after section 214, as added by section 16 of this  
19 Act, the following:

20 **“SEC. 215. PERMITS.**

21 “(a) IN GENERAL.—The Secretary may allow for the  
22 conduct of—

23 “(1) bona fide research, and

24 “(2) activities that would otherwise be prohib-  
25 ited by this title or regulations issued thereunder,

1 through issuance of coral reef conservation permits in ac-  
2 cordance with regulations issued under this title.

3 “(b) LIMITATION OF NON-RESEARCH ACTIVITIES.—

4 The Secretary may not issue a permit for activities other  
5 than for bona fide research unless the Secretary finds—

6 “(1) the activity proposed to be conducted is  
7 compatible with one or more of the purposes in sec-  
8 tion 202(b) of this title;

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

12 “(3) there is no practicable alternative to con-  
13 ducting the activity in a manner that destroys,  
14 causes the loss of, or injures any coral reef or any  
15 component thereof.

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

19 “(d) FEES.—

20 “(1) ASSESSMENT AND COLLECTION.—Subject  
21 to regulations issued under this title, the Secretary  
22 may assess and collect fees as specified in this sub-  
23 section.

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

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

4           “(B) if the permit is approved, all costs in-  
5 curred, or expected to be incurred, by the Sec-  
6 retary as a direct result of the conduct of the  
7 activity for which the permit is issued, including  
8 costs of monitoring the conduct of the activity  
9 and educating the public about the activity and  
10 coral reef resources related to the activity.

11           “(3) USE OF FEES.—Amounts collected by the  
12 Secretary in the form of fees under this section shall  
13 be collected and available for use only to the extent  
14 provided in advance in appropriations Acts and may  
15 be used by the Secretary for issuing and admin-  
16 istering permits under this section.

17           “(4) WAIVER OR REDUCTION OF FEES.—For  
18 any fee assessed under paragraph (2) of this sub-  
19 section, the Secretary may—

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

22           “(B) waive or reduce the fee.

23           “(e) FISHING.—Nothing in this section shall be con-  
24 sidered to require a person to obtain a permit under this



1 section for the conduct of any fishing activities not prohib-  
2 ited by this title or regulations issued thereunder.”.

3 **SEC. 18. REGIONAL, STATE, AND TERRITORIAL COORDINA-**  
4 **TION.**

5 The Act (16 U.S.C. 6401 et seq.) is amended by in-  
6 serting after section 215, as added by section 17 of this  
7 Act, the following:

8 **“SEC. 216. REGIONAL, STATE, AND TERRITORIAL COORDI-**  
9 **NATION.**

10 “(a) REGIONAL COORDINATION.—The Secretary and  
11 other Federal members of the Coral Reef Task Force shall  
12 work in coordination and collaboration with other Federal  
13 agencies, States, and United States territorial govern-  
14 ments to implement the strategies developed under section  
15 203, including regional and local strategies, to address  
16 multiple threats to coral reefs and coral reef ecosystems.

17 “(b) RESPONSE AND RESTORATION ACTIVITIES.—  
18 The Secretary shall enter into written agreements with  
19 any States in which coral reefs are located regarding the  
20 manner in which response and restoration activities will  
21 be conducted within the affected State’s waters. Nothing  
22 in this subsection shall be construed to limit Federal re-  
23 sponse and restoration activity authority before any such  
24 agreement is final.

1       “(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—  
2 All cooperative enforcement agreements in place between  
3 the Secretary and States affected by this title shall be up-  
4 dated to include enforcement of this title where appro-  
5 priate.”.

6 **SEC. 19. REGULATIONS.**

7       The Act (16 U.S.C. 6401 et seq.) is amended by in-  
8 serting after section 216, as added by section 18, the fol-  
9 lowing:

10 **“SEC. 217. REGULATIONS.**

11       “The Secretary may issue such regulations as are  
12 necessary and appropriate to carry out the purposes of  
13 this title. This title and any regulations promulgated  
14 under this title shall be applied in accordance with inter-  
15 national law. No restrictions shall apply to or be enforced  
16 against a person who is not a citizen, national, or resident  
17 alien of the United States (including foreign flag vessels)  
18 unless in accordance with international law.”.

19 **SEC. 20. EFFECTIVENESS AND ASSESSMENT REPORT.**

20       Section 218 (formerly 16 U.S.C. 6407), as redesign-  
21 nated by section 7 of this Act, is amended to read as fol-  
22 lows:

23 **“SEC. 218. EFFECTIVENESS AND ASSESSMENT REPORT.**

24       “(a) EFFECTIVENESS REPORT.—Not later than  
25 March 1, 2010, and every 3 years thereafter, the Secretary

1 shall submit to the Senate Committee on Commerce,  
2 Science, and Transportation and the House of Represent-  
3 atives Committee on Natural Resources a report describ-  
4 ing all activities undertaken to implement the strategy, in-  
5 cluding—

6           “(1) a description of the funds obligated by  
7           each participating Federal agency to advance coral  
8           reef conservation during each of the 3 fiscal years  
9           next preceding the fiscal year in which the report is  
10          submitted;

11           “(2) a description of Federal interagency and  
12          cooperative efforts with States and United States  
13          territories to prevent or address overharvesting,  
14          coastal runoff, or other anthropogenic impacts on  
15          coral reefs, including projects undertaken with the  
16          Department of Interior, Department of Agriculture,  
17          the Environmental Protection Agency, and the  
18          United States Army Corps of Engineers;

19           “(3) a summary of the information contained in  
20          the vessel grounding inventory established under sec-  
21          tion 210, including additional authorization or fund-  
22          ing, needed for response and removal of such vessels;  
23          and

24           “(4) a description of Federal disaster response  
25          actions taken pursuant to the National Response

1 Plan to address damage to coral reefs and coral reef  
2 ecosystems.

3 “(b) ASSESSMENT REPORT.—Not later than March  
4 1, 2013, and every 5 years thereafter, the Secretary will  
5 submit to the Senate Committee on Commerce, Science,  
6 and Transportation and the House of Representatives  
7 Committee on Natural Resources an assessment of the  
8 conditions of U.S. coral reefs, accomplishments under this  
9 Act, and the effectiveness of management actions to ad-  
10 dress threats to coral reefs.”.

11 **SEC. 21. AUTHORIZATION OF APPROPRIATIONS.**

12 Section 219 (formerly 16 U.S.C. 6408), as redesignig-  
13 nated by section 7 of this Act, is amended—

14 (1) by striking “\$16,000,000 for each of fiscal  
15 years 2001, 2002, 2003, and 2004,” in subsection  
16 (a) and inserting “\$34,000,000 for fiscal year 2010,  
17 \$36,000,000 for fiscal year 2011, \$38,000,000 for  
18 fiscal year 2012, and \$40,000,000 for each of fiscal  
19 years 2013 through 2014, of which no less than 24  
20 percent per year (for each of fiscal years 2010  
21 through 2014) shall be used for the grant program  
22 under section 204, no less than 6 percent shall be  
23 used for Fishery Management Councils, and up to  
24 10 percent per year shall be used for the Fund es-  
25 tablished under section 205(a),”;

1           (2) by striking “\$1,000,000” in subsection (b)  
2           and inserting “\$2,000,000”;

3           (3) by striking subsection (c) and inserting the  
4           following:

5           “(c) COMMUNITY-BASED PLANNING GRANTS.—  
6           There are authorized to be appropriated to the Secretary  
7           to carry out section 210 \$10,000,000 for fiscal years 2010  
8           through 2014, to remain available until expended.”; and

9           (4) by striking subsection (d) and inserting the  
10          following:

11          “(d) INTERNATIONAL CORAL REEF CONSERVATION  
12          PROGRAM.—There are authorized to be appropriated to  
13          the Secretary to carry out section 209 \$8,000,000 for each  
14          of fiscal years 2010 through 2014, to remain available  
15          until expended.”.

16          **SEC. 22. JUDICIAL REVIEW.**

17          The Act (16 U.S.C. 6401 et seq.) is amended by in-  
18          serting after section 219, as redesignated by section 7 of  
19          this Act, the following:

20          **“SEC. 220. JUDICIAL REVIEW.**

21          “(a) IN GENERAL.—Chapter 7 of title 5, United  
22          States Code, is not applicable to any action taken by the  
23          Secretary under this title, except that—

24                  “(1) review of any final agency action of the  
25          Secretary taken pursuant to sections 214(c)(1) and

1       214(c)(2) may be had only by the filing of a com-  
2       plaint by an interested person in the United States  
3       District Court for the appropriate district; any such  
4       complaint must be filed within 30 days of the date  
5       such final agency action is taken; and

6               “(2) review of any final agency action of the  
7       Secretary taken pursuant to section 215 may be had  
8       by the filing of a petition for review by an interested  
9       person in the Circuit Court of Appeals of the United  
10      States for the federal judicial district in which such  
11      person resides or transact business which is directly  
12      affected by the action taken; such petition shall be  
13      filed within 120 days from the date such final agen-  
14      cy action is taken.

15      “(b) NO REVIEW IN ENFORCEMENT PRO-  
16      CEEDINGS.—Final agency action with respect to which re-  
17      view could have been obtained under subsection (a)(2)  
18      shall not be subject to judicial review in any civil or crimi-  
19      nal proceeding for enforcement.

20      “(c) COST OF LITIGATION.—In any judicial pro-  
21      ceeding under subsection (a), the court may award costs  
22      of litigation (including reasonable attorney and expert wit-  
23      ness fees) to any prevailing party whenever it determines  
24      that such award is appropriate.”.

1 **SEC. 23. DEFINITIONS.**

2 Section 221 (formerly 16 U.S.C. 6409), as redesignig-  
 3 nated by section 7 of this Act, is amended to read as fol-  
 4 lows:

5 **“SEC. 221. DEFINITIONS.**

6 “In this title:

7 “(1) BIODIVERSITY.—The term ‘biodiversity’  
 8 means the variability among living organisms from  
 9 all sources including, inter alia, terrestrial, marine,  
 10 and other aquatic ecosystems and the ecological  
 11 complexes of which they are part, including diversity  
 12 within species, between species, and of ecosystems.

13 “(2) BONA FIDE RESEARCH.—The term ‘bona  
 14 fide research’ means scientific research on corals,  
 15 the results of which are likely—

16 “(A) to be eligible for publication in a re-  
 17 ferred scientific journal;

18 “(B) to contribute to the basic knowledge  
 19 of coral biology or ecology; or

20 “(C) to identify, evaluate, or resolve con-  
 21 servation problems.

22 “(3) CORAL.—The term ‘coral’ means species  
 23 of the phylum Cnidaria, including—

24 “(A) all species of the orders Antipatharia  
 25 (black corals), Scleractinia (stony corals),  
 26 Gorgonacea (horny corals), Stolonifera

1 (organpipe corals and others), Alcyonacea (soft  
2 corals), and Helioporacea (blue coral) of the  
3 class Anthozoa; and

4 “(B) all species of the families Milleporidea  
5 (fire corals) and Stylasteridae (stylasterid  
6 hydrocorals) of the class Hydrozoa.

7 “(4) CORAL REEF.—The term ‘coral reef’  
8 means limestone structures composed in whole or in  
9 part of living corals, as described in paragraph (3),  
10 their skeletal remains, or both, and including other  
11 corals, associated sessile invertebrates and plants,  
12 and associated seagrasses.

13 “(5) CORAL REEF COMPONENT.—The term  
14 ‘coral reef component’ means any part of a coral  
15 reef, including individual living or dead corals, asso-  
16 ciated sessile invertebrates and plants, and any adja-  
17 cent or associated seagrasses.

18 “(6) CORAL REEF ECOSYSTEM.—The term  
19 ‘coral reef ecosystem’ means the system of coral  
20 reefs and geographically associated species, habitats,  
21 and environment, including any adjacent or associ-  
22 ated mangroves and seagrass habitats, and the proc-  
23 esses that control its dynamics.

24 “(7) CORAL PRODUCTS.—The term ‘coral prod-  
25 ucts’ means any living or dead specimens, parts, or



1 derivatives, or any product containing specimens,  
2 parts, or derivatives, of any species referred to in  
3 paragraph (3).

4 “(8) DAMAGES.—The term ‘damages’ in-  
5 cludes—

6 “(A) compensation for—

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

10 “(ii) the lost services of, or the value  
11 of the lost use of, the coral reef or compo-  
12 nent thereof, or the cost of activities to  
13 minimize or prevent threats of, equivalent  
14 injury to, or destruction of coral reefs or  
15 components thereof, pending restoration or  
16 replacement or the acquisition of an equiv-  
17 alent coral reef or component thereof;

18 “(B) the reasonable cost of damage assess-  
19 ments under section 213;

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

22 “(D) the reasonable cost of monitoring ap-  
23 propriate to the injured, restored, or replaced  
24 resources;

1           “(E) the reasonable cost of curation, con-  
2           servation and loss of contextual information of  
3           any coral encrusted archaeological, historical,  
4           and cultural resource;

5           “(F) the cost of legal actions under section  
6           213, undertaken by the United States, associ-  
7           ated with the destruction or loss of, or injury  
8           to, a coral reef or component thereof, including  
9           the costs of attorney time and expert witness  
10          fees; and

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

14          “(9) EMERGENCY ACTIONS.—The term ‘emer-  
15          gency actions’ means all necessary actions to prevent  
16          or minimize the additional destruction or loss of, or  
17          injury to, coral reefs or components thereof, or to  
18          minimize the risk of such additional destruction,  
19          loss, or injury.

20          “(10) EXCLUSIVE ECONOMIC ZONE.—The term  
21          ‘Exclusive Economic Zone’ means the waters of the  
22          Exclusive Economic Zone of the United States under  
23          Presidential Proclamation 5030, dated March 10,  
24          1983.

1           “(11) PERSON.—The term ‘person’ means any  
2 individual, private or public corporation, partnership,  
3 trust, institution, association, or any other public or  
4 private entity, whether foreign or domestic, private  
5 person or entity, or any officer, employee, agent, De-  
6 partment, agency, or instrumentality of the Federal  
7 Government, of any State or local unit of govern-  
8 ment, or of any foreign government.

9           “(12) RESPONSE COSTS.—The term ‘response  
10 costs’ means the costs of actions taken or authorized  
11 by the Secretary to minimize destruction or loss of,  
12 or injury to, a coral reef, or component thereof, or  
13 to minimize the imminent risks of such destruction,  
14 loss, or injury, including costs related to seizure, for-  
15 feiture, storage, or disposal arising from liability  
16 under section 213.

17           “(13) SECRETARY.—The term ‘Secretary’  
18 means—

19           “(A) for purposes of sections 201 through  
20 211, sections 218 through 220 (except as other-  
21 wise provided in subparagraph (B)), and the  
22 other paragraphs of this section, the Secretary  
23 of Commerce, acting through the Administrator  
24 of the National Oceanic and Atmospheric Ad-  
25 ministration; and

1           “(B) for purposes of sections 212 through  
2           220—

3           “(i) the Secretary of the Interior for  
4           any coral reef or component thereof located  
5           in (I) the National Wildlife Refuge System,  
6           (II) the National Park System, and (III)  
7           the waters surrounding Wake Island under  
8           the jurisdiction of the Secretary of the In-  
9           terior, as set forth in Executive Order  
10          11048 (27 Fed. Reg. 8851 (September 4,  
11          1962)); or

12          “(ii) the Secretary of Commerce for  
13          any coral reef or component thereof located  
14          in any area not described in clause (i).

15          “(14) SERVICE.—The term ‘service’ means  
16          functions, ecological or otherwise, performed by a  
17          coral reef or component thereof.

18          “(15) STATE.—The term ‘State’ means any  
19          State of the United States that contains a coral reef  
20          ecosystem within its seaward boundaries, American  
21          Samoa, Guam, the Northern Mariana Islands, Puer-  
22          to Rico, and the Virgin Islands, and any other terri-  
23          tory or possession of the United States, or separate  
24          sovereign in free association with the United States,

1       that contains a coral reef ecosystem within its sea-  
2       ward boundaries.

3               “(16) TERRITORIAL SEA.—The term ‘Terri-  
4       torial Sea’ means the waters of the Territorial Sea  
5       of the United States under Presidential Proclama-  
6       tion 5928, dated December 27, 1988.”.

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