

Calendar No. 506

112TH CONGRESS }
2d Session }

SENATE

{ REPORT
112-210

CORAL REEF CONSERVATION AMENDMENTS
ACT OF 2011

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 46



SEPTEMBER 12, 2012.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

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CORAL REEF CONSERVATION AMENDMENTS ACT OF 2011

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Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, submitted the following

R E P O R T

[To accompany S. 46]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 46) to reauthorize the Coral Reef Conservation Act of 2000, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 46, the Coral Reef Conservation Amendments Act of 2011, is to strengthen and reauthorize the Coral Reef Conservation Act of 2000, which expired in 2004. The bill, as reported, would reauthorize and strengthen the authorities of the Secretary of Commerce to address threats to coral reefs and coral reef ecosystems in U.S. waters.

BACKGROUND AND NEEDS

Coral reefs are among the oldest and most diverse ecosystems on the planet. Covering less than one percent of the Earth's surface, these ecosystems provide goods and services worth billions of dollars each year to the U.S. economy and economies worldwide. Coral reef resources provide economic and environmental benefits in the form of food, jobs, natural products, pharmaceuticals, and shoreline protection. A recent estimate placed the total net benefit of the world's coral reef ecosystems at \$29.8 billion per year.

In the United States, coral reefs are found in the waters of the Western Atlantic and Caribbean (Florida, Puerto Rico, and the U.S. Virgin Islands) and the Pacific Islands (Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

Hawaii's coral reef ecosystems are home to over 5,000 known species of marine plants and animals, of which about 25 percent are endemic. The economic value of Hawaii's coral reefs was estimated to have a direct economic benefit of \$360 million per year. The waters off the peninsula of Florida are home to thousands of miles of coral reef ecosystems. The most extensive living coral reef in the United States is adjacent to the 126-mile island chain of the Florida Keys. The presence of these unique ecosystems helps generate \$3.9 billion in economic activity in South Florida and 71,000 jobs.

While coral reef ecosystems have survived for millions of years despite an abundance of natural disturbances, at present, overfishing, warming ocean temperatures, ocean acidification, pollution, and vessel groundings are causing a significant decline in coral reef health. A 2008 report on the status of coral reefs found that 19 percent of the world's reefs have been effectively destroyed, another 15 percent are under threat of loss in 20 to 40 years, and a further 20 percent are under a longer term threat of collapse.

In 2000, Congress recognized the need to preserve, sustain, and restore the condition of coral reef ecosystems by enacting the Coral Reef Conservation Act of 2000 (CRCA)(16 U.S.C. 6401 et seq.), which called for the creation of a national strategy and program to address the threats to coral reef communities. CRCA directed the National Oceanic and Atmospheric Administration (NOAA) to carry out a number of activities to promote the wise management and sustainable use of coral reef ecosystems, to develop sound scientific information on the condition of these ecosystems, and to assist in the preservation of coral reefs by supporting external conservation programs. CRCA created a Coral Reef Conservation grant program within NOAA, as well as a Coral Reef Conservation Fund to support public-private matching funds and partnerships to further the purposes of CRCA.

Authorizations for CRCA expired at the end of fiscal year (FY) 2004. While the program has been very successful, changes and expansions of authority have been suggested. The U.S. Commission on Ocean Policy recognized the need for more comprehensive coral reef protection and management legislation to address research, protection, and restoration of coral reef ecosystems. It also recommended a strengthened Federal-State coordination mechanism to help lead Federal efforts, as well as increased attention to coral reef issues at the international level. Witnesses at a hearing before the Committee in 2005 urged increased funding, mechanisms for addressing vessel impacts, and implementation of local strategies.

In 2007, the Bush Administration proposed a bill that would prohibit damages to coral reefs in U.S. waters. The proposed provisions would address the inconsistencies between coral reefs that are located within sanctuaries established by the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and those outside such boundaries. The proposed bill also included liability and enforcement provisions and a mechanism for funding restoration activities.

CRCA authorized appropriations of \$16 million annually for the program through FY 2004, of which \$8 million was for the grant program, and the lesser of \$1 million or 10 percent was for administrative costs. Since enactment of CRCA, NOAA appropriations for

CRCA activities have exceeded authorized amounts, rising to \$29 million for FY 2010.

SUMMARY OF PROVISIONS

The Coral Reef Conservation Amendments Act of 2011 would reauthorize CRCA and strengthen the authorities of the Secretary of Commerce to address threats to coral reef ecosystems in U.S. waters. For example, it would allow the Secretary to more comprehensively address the threat of marine debris to coral reef ecosystems by removing abandoned fishing gear, other discarded objects, and abandoned vessels from coral reefs. The bill would also provide the Secretary the authority to respond to vessel groundings on coral reefs, maintain a vessel grounding inventory, identify at-risk reefs, and recommend preventative measures, such as navigational aids and fixed anchors.

The bill would expand the authority under the current grants program to address emerging threats to coral reefs, such as coral bleaching, disease, and acidification. The bill also would establish consistent practices for maintaining data, products, and information, and promote widespread availability and dissemination of environmental data and information.

The bill includes provisions that would prohibit damage to coral reefs. These provisions are similar to current authorities included in the National Marine Sanctuaries Act for coral reefs and other resources located within National Marine Sanctuaries. These provisions include specific exemptions that would allow activities such as research, the use of fishing gear permitted under Federal or State laws, and other activities authorized by Federal or State laws. Certain safety and emergency exemptions also would be permitted.

The bill also would establish liability and civil and criminal penalties for damage to coral reefs resulting from prohibited activities, and would specifically prohibit interference with enforcement activities. The bill also includes provisions that would provide forfeiture for vessels and other property connected to a violation of the Act.

The bill would provide a mechanism for both the Secretary of Commerce and the Secretary of the Interior to recoup response costs and damages from responsible parties and apply such funds to restoration of coral reefs in areas under their jurisdictions. Other new provisions would establish a permitting program for necessary or advantageous activities in coral reef areas, such as research, and would improve coordination among States and territories to address threats to coral reefs. Finally, the bill would encourage Federal, State, and local coordination and would streamline the 3-year reporting requirement to Congress on the status of coral reefs and achievements under the Act.

LEGISLATIVE HISTORY

During the 109th Congress, S. 1390, legislation to reauthorize CRCA, passed the Senate on December 15, 2005. A similar reauthorization bill, S. 1580, was introduced in the 110th Congress, but not considered. The Committee reported a bill reauthorizing CRCA in the 111th Congress, S. 2859. The current bill (S. 46) was intro-

duced by Senator Inouye on January 25, 2011, and is cosponsored by Senators Snowe, Rockefeller, Bill Nelson, and Kerry. The text of S. 46 is similar to the Committee-reported bill from the 111th Congress. At its Executive Session on May 5, 2011, the Committee voted to report the bill favorably without amendment.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 46—Coral Reef Conservation Amendments Act of 2011

Summary: S. 46 would reauthorize and expand a National Oceanic and Atmospheric Administration (NOAA) program to protect coral reefs. Assuming appropriation of the authorized amounts, CBO estimates that implementing the legislation would increase discretionary spending by \$211 million over the 2012–2016 period and \$26 million after 2016. CBO also estimates that enacting S. 46 would increase direct spending by \$16 million over the 2012–2021 period and would increase revenues by \$2 million over that period; therefore, pay-as-you-go procedures apply.

By establishing new protections for coral reefs, S. 46 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of complying with those mandates would fall below the annual thresholds established in UMRA (\$71 million for intergovernmental mandates and \$142 million for private-sector mandates, in 2011, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 46 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

	By fiscal year, in billions of dollars—											
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012– 2016	2012– 2021
CHANGES IN SPENDING SUBJECT TO APPROPRIATION												
NOAA Coral Reef Conservation Program:												
Authorization Level ^a	34	36	38	40	40	0	0	0	0	0	0	188
Estimated Outlays	22	30	36	39	39	14	6	1	0	0	0	166
187												
International Coral Reef Conservation Program:												
Authorization Level	8	8	8	8	8	0	0	0	0	0	0	40
Estimated Outlays	5	7	8	8	8	3	1	0	0	0	0	36
40												
Community Planning Grants:												
Estimated Authorization Level	2	2	2	2	2	0	0	0	0	0	0	10
Estimated Outlays	1	2	2	2	2	1	0	0	0	0	0	9
10												
Study of U.S. Market for Coral Products:												
Estimated Authorization Level	*	0	0	0	0	0	0	0	0	0	0	*
Estimated Outlays	*	*	*	0	0	0	0	0	0	0	0	*
*												
Total Changes:												
Estimated Authorization Level	44	46	48	50	50	0	0	0	0	0	0	238
Estimated Outlays	28	39	46	49	49	18	7	1	0	0	0	211
237												
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	1	1	1	1	1	2	2	2	2	2	2	6
Estimated Outlays	1	1	1	1	1	2	2	2	2	2	2	6
16												
CHANGES IN REVENUES												
Estimated Revenues	*	*	*	*	*	*	*	*	*	*	*	1
2												

Notes: NOAA = National Oceanic and Atmospheric Administration.
* = less than \$500,000.

^aOf amounts appropriated to NOAA in fiscal year 2010, the agency allocated \$30 million to carry out this program. The agency has not completed its allocation of fiscal year 2011 appropriations for the program.

Basis of estimate: For this estimate, CBO assumes that S. 46 will be enacted by the end of 2011 and that the authorized and necessary amounts will be appropriated for each fiscal year. Estimated outlays are based on historical spending patterns for similar NOAA programs.

Spending Subject to Appropriation

CBO estimates that S. 46 would authorize appropriations totaling \$238 million over the 2012–2016 period for federal activities and grants to protect coral reefs. The authorization includes up to \$40 million annually for NOAA’s current domestic program and \$8 million annually for new international programs. The bill also would authorize the appropriation of \$10 million over the 2012–2016 period for NOAA’s community planning grants to states. CBO expects that the \$10 million would be appropriated evenly over the five-year period. Finally, the bill would authorize the appropriation of \$100,000 to study the U.S. market for coral products. CBO expects that those funds would be appropriated in fiscal year 2012 and would be spent over the 2012–2014 period. In total, CBO estimates that implementing those programs would cost \$211 million over the 2012–2016 period and \$26 million after 2016.

Direct Spending and Revenues

CBO estimates that enacting S. 46 would increase direct spending by \$16 million over the 2012–2021 period and would increase revenues by \$2 million over that period.

S. 46 would require the Secretary of the Treasury to invest amounts in the Damage Assessment Restoration Revolving Fund (including civil penalties) in interest-bearing obligations of the United States. Interest earned on amounts in the fund would be available without further appropriation to NOAA for activities such as repairing and restoring damaged reefs. Based on information from NOAA regarding historical balances in the fund, CBO estimates that the expenditure of interest earned on those amounts would increase direct spending by \$14 million over the 2012–2021 period.

S. 46 also would prohibit certain actions that damage or destroy coral reefs. The bill would extend legal protection to reefs in all U.S. waters (under current law, only reefs in national marine sanctuaries or national parks are protected), establish enforcement mechanisms such as penalties and asset forfeitures, and make violators liable for damages and the costs of federal responses to accidents that harm coral. Based on information provided by NOAA on recent accidents that damaged coral reefs in national marine sanctuaries, CBO estimates that collecting penalties, damages, and cost reimbursements from those who damage reefs in other U.S. waters would increase revenues by \$2 million over the 2012–2021 period. Because those amounts could be spent by NOAA and the Department of Justice without further appropriation, CBO also estimates that implementing those provisions would increase direct spending by \$2 million over the 10-year period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net

changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 46, THE CORAL REEF CONSERVATION AMENDMENTS ACT OF 2011, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON MAY 5, 2011

	By fiscal year, in millions of dollars—												
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2011–2016	2011–2021
NET INCREASE OR DECREASE (-) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact	0	1	1	1	1	1	1	2	2	2	2	5	14
Memorandum:													
Changes in Outlays	0	1	1	1	1	2	2	2	2	2	2	6	16
Changes in Revenues	0	0	0	0	0	0	0	0	0	0	0	1	2

Intergovernmental and private-sector impact: S. 46 contains intergovernmental and private-sector mandates as defined in UMRA, but CBO estimates that the costs of those mandates would fall below the annual thresholds established in UMRA (\$71 million for intergovernmental mandates and \$142 million for private-sector mandates, in 2011, adjusted annually for inflation).

S. 46 would authorize the Secretary of Commerce to issue permits for activities that could affect coral reefs. If the Secretary establishes a permit program that requires entities, such as researchers at universities and other institutions (public and private), to obtain a permit to conduct research or other activities, that requirement would be an intergovernmental and private-sector mandate. CBO expects that few activities would likely be subject to the new permitting requirements and that the costs associated with obtaining a permit would be low.

The bill also would impose a private-sector mandate by making it unlawful for any person to destroy, cause the loss of, or injure any coral reef that is subject to the jurisdiction of the United States. In addition, persons that damage coral reefs would be liable for the restoration of damages and the costs of federal responses to incidents that harm coral. Currently, only those coral reefs protected under separate legal authorities, such as coral reefs located within national marine sanctuaries, receive such protection. Based on information from NOAA, CBO estimates that the cost of the mandate would not be substantial.

Estimate prepared by: Federal Costs: Jeff LaFave; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 46 would make it unlawful for any person to destroy, cause the loss of, or injure any coral reef that is subject to the jurisdiction of the United States, except as allowed in section 212(b)(2). Currently, only those coral reefs protected under separate legal authorities receive such protection. Also, the bill would authorize the Secretary of Commerce to issue permits for activities that could affect coral reefs.

ECONOMIC IMPACT

The bill would authorize \$34 million in FY 2012, \$36 million in FY 2011, \$38 million in FY 2013, and \$40 million for each of FY 2015 and FY 2016 for Federal activities and grants to protect coral reefs. The bill would authorize a total of \$10 million for FY 2012 through FY 2016, to remain available until expended, for community-based planning grants to focus on implementation of community-based protection plans. At least 25 percent of authorized funds would be directed to the general grants program, and at least 6 percent of the grant funds would be permitted to go to Fishery Management Councils. Finally, the bill would authorize \$8 million for each FY from 2012 through 2016 for international coral reef conservation. These funding levels are relatively modest, and are not expected to have an inflationary impact on the nation's economy.

PRIVACY

The reported bill would not have any adverse impact on the personal privacy of individuals.

PAPERWORK

The Committee does not anticipate a major increase in paperwork burdens resulting from the passage of this legislation. S. 46 would authorize the Secretary of Commerce to issue permits for research and other activities that could affect coral reefs. This provision would require additional paperwork; however, the Committee expects that few activities would likely be subject to the permitting requirements. The provision is necessary for the management of U.S. coral reefs.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

This section provides the short title of the bill, the Coral Reef Conservation Amendments Act of 2011.

Section 2. Amendment of Coral Reef Conservation Act of 2000

This section states that an amendment or repeal of a section or other provision shall be considered to be made to the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 et seq).

Section 3. Purposes

The section states the purposes of the Act, including preservation, protection, management, research, and restoration of coral reef ecosystems. A new purpose is added to clarify the focus of the program on preventing and minimizing damage to coral reefs.

Section 4. National Coral Reef Action Strategy

This section would require the Secretary of Commerce, within 180 days of enactment of the Act, to submit to Congress a new national coral reef action strategy. The section would request the Secretary include in the action strategy discussions about impacts from climate change, coastal uses and management, including land-based sources of pollution, and water and air quality on corals and coral reef ecosystems.

Section 5. Coral Reef Conservation Program

This section would amend the existing grants program to include additional criteria for the Secretary of Commerce in approving grants to include projects that prevent or respond to damage to coral reef ecosystems, as well as projects that improve scientific information on threats such as coral disease and bleaching. The section would make technical amendments to refer consistently to the defined term “coral reef ecosystems”. Projects would be required to be consistent with the national coral reef action strategy.

Section 6. Coral Reef Conservation Fund

This section would amend section 205(a) of CRCA, which establishes the Coral Reef Conservation Fund, to clarify that the Secretary of Commerce may enter into agreements with one or more nonprofit organizations to receive, hold, and administer funds, including use of interest-bearing accounts for activities consistent with the national coral reef action strategy. This authority would increase the Secretary’s flexibility in working with external partners and strengthen those partnerships for the purposes of promoting coral reef ecosystem conservation.

Section 7. Agreements; Redesignations

This section would authorize the Secretary of Commerce to execute and perform contracts, leases, grants, or cooperative agreements necessary to carry out the provisions of the Act. It would also allow the Secretary of Commerce to enter into agreements with universities and research centers to conduct activities including research and public outreach. The section would also allow the Secretary of Commerce to use grant funding and the resources of other departments, agencies, State governments, tribes, and international organizations to carry out the provisions of the Act, with the consent of such other party. This section would also allow the Secretary to transfer funds to, and accept the transfer of funds from, Federal agencies, State and local governments, and others to carry out the provisions of the Act.

Section 8. Emergency Assistance

This section would amend section 207 of CRCA, as redesignated, to allow the Secretary of Commerce, in cooperation with the Federal Emergency Management Agency, as appropriate, to provide emergency disaster-related assistance to State, territorial, and local agencies with jurisdiction over coral reef ecosystems. This provision is important because grants are not an efficient funding mechanism for emergency response due to the time required for the processing and awarding of grants.

Section 9. National Program

This section would amend section 208 of CRCA, as redesignated, to clarify the scope and geographic focus of NOAA's coral reef program and to provide a mechanism for funding emergency response, stabilization, and restoration activities. Section 208(a) would allow the Secretary of Commerce to conduct coral reef conservation activities with appropriate local, regional, and international programs. Section 208(b) would authorize additional coral reef conservation actions including removal, either directly or through assistance to States, of abandoned vessels, marine debris, and abandoned fishing gear, and responding to incidents and events that threaten and damage coral reef ecosystems. New section 208(c) would include specific guidelines to the Secretary of Commerce for long-term stewardship of environmental data, reports, and other information. Section 208(d) would require the Secretary of Commerce to develop, within the existing Damage Assessment Restoration Revolving Fund, an Emergency Response, Stabilization, and Restoration Account for implementation of emergency actions.

Section 10. Study of Trade in Corals

This section would require the Administrator of NOAA, in consultation with the Secretary of Interior, to conduct a study on the economic, social, and environmental values and impacts of the U.S. market in corals and coral products.

Section 11. International Coral Reef Conservation Activities

This section would create a new section 209 in CRCA that would direct the Secretary of Commerce to undertake international coral reef conservation activities and provide a strategic plan to Congress to address coral reefs important to U.S. interests, consistent with the national strategy. It also would provide grant-making authority to support partnerships in implementing the strategy. This is important because of the worldwide decline in coral reefs and the importance of those reefs for ecosystem health. Some coral reefs located outside the United States are important for U.S. marine resources and interests, including domestic coral reefs and fisheries.

Section 12. Community-Based Planning Grants

This section would create a new section 210 in CRCA that would authorize the Secretary of Commerce to award grants to entities which have already received general Coral Reef Conservation grants to allow them to develop and implement community-based coral reef protection plans, in coordination with appropriate Federal and State authorities. These plans, which would be based on watershed approaches and incorporating local approaches or mod-

els, should encourage comprehensive planning programs and provide for more effective conservation of coral reefs. The section would also provide that the non-Federal matching requirement for such grants would be 25 percent, rather than the 50 percent match required for the grants provided under section 5 of the bill, in recognition of the limited resources available to many local communities.

Section 13. Vessel Grounding Inventory

This section would create a new section 211 in CRCA that would authorize the Secretary of Commerce to create and maintain an inventory of all vessel grounding incidents involving coral reef resources. For each incident, the inventory would contain information related to: (1) grounding impacts; (2) vessel identity; (3) estimated costs of removal, mitigation, or restoration; (4) summary of any incident response; (5) status of response action; and (6) recommendations for preventing similar incidents. The section would also direct the Secretary of Commerce to identify coral reef areas that have a high incidence of vessel impacts, including groundings and anchor damage, and to identify and develop measures and strategies to prevent or mitigate these impacts. The section would also direct the Secretary of Commerce to develop a timetable and strategy for implementation of prevention and mitigation measures, including cooperative actions with other government agencies and non-governmental partners.

Section 14. Prohibited Activities

This section would create a new section 212 in CRCA that would establish prohibited activities pertaining to coral reefs, similar to authorities that pertain to coral reefs and other natural resources located within a national marine sanctuary. The new section 212 would define the scope of prohibited actions including making it illegal to destroy, take, cause the loss of, or injure any coral reef or any component thereof. The section would provide exceptions in the case of fishing allowed under Federal or State laws, other activities authorized under Federal or State laws, bona fide marine scientific research, and injuries caused by Federal agencies that occurred during law enforcement, search and rescue, a threat to national security, or other emergency events. The section would also provide an exception for actions taken by the master of a vessel to ensure the safety of the vessel or to save a life at sea. The section would make it unlawful to interfere with enforcement of this title, violate permits or regulations promulgated pursuant to this title, or to possess, transport, or distribute coral taken in violation of this title. The prohibitions in this section, as well as the remedies in sections 14 and 15 of the bill extend to coral reefs managed by the Secretary of Commerce or the Secretary of the Interior, corresponding to the areas managed by each.

Section 15. Destruction of Coral Reefs

This section would create a new section 213 in CRCA which would establish liability for damage to coral reefs from prohibited activities. This section would provide a mechanism to recover response costs and damages from parties responsible for damages to coral reef ecosystems in order to assess the damages and undertake

restoration activities. New section 213(a) would describe the elements of liability for the destruction, loss, taking of, or injury to coral reefs. A person or vessel in violation of the Act would be liable for response costs, natural resource damages, cost of seizure and forfeiture actions, and interest, storage, and disposal costs. The subsection provides specific defenses from liability, including injuries that are solely the result of an act of God, an act of war, or an act or omission of a third party. New section 213(b) would provide authority for response actions and damage assessment, including actions to prevent or minimize the destruction, loss of, or injury to coral reefs or the risk of these impacts. The subsection would require consultation with States regarding damage assessment within State waters and stipulates that there will be no double recovery for the same incident. New section 213(c) would allow for civil judicial actions to recover response costs and damages and would specify venue. New section 213(d) specifies the management and use of recovered amounts. Amounts recovered would be held in the existing Department of Commerce Damage Assessment and Restoration Revolving Fund, or the existing Department of the Interior Natural Resources Damage Assessment and Restoration Fund, consistent with existing areas managed by each Department, and used for response costs and damages. These amounts would be used to reimburse the relevant Secretary,¹ or any State or Federal agency that conducted response actions, seizure, forfeiture, storage, or disposal, and secondly for restoration and monitoring of coral reefs or to minimize or prevent threats of equivalent injury. New section 213(e) would set the statute of limitations for claims as three years from the completion of the damage assessment and restoration plan. New section 213(f) would require that Federal agencies responsible for injuries to coral reefs take appropriate actions to respond and restore the affected reef, in coordination with the relevant Secretary, and reimburse the Secretary for all assessment costs. New section 213(g) would provide an exception for an officer or employee of a uniformed service for any violation of section 212 under this Act that occurs during the performance of his or her official governmental duties. New section 213(h) would provide an exception for any contract employee of a uniformed service for any violation of section 212 under this Act that is operating a vessel or engaged in actions under the direction of the uniformed service controlling the contract.

Section 16. Enforcement

This section would create a new section 214 in CRCA to provide for the enforcement of title II and would give the relevant Secretary specific enforcement authorities, including the ability to board and inspect vessels suspected of being in violation of the Act, the ability to seize evidence, and the ability to execute warrants, issue subpoenas, make arrests, and exercise other lawful enforcement activities. This section would exclude Government-owned vessels and certain chartered vessels used exclusively for national defense purposes from boarding, search, inspection, and seizure. The section would provide for injunctive relief in the event of an immi-

¹“Relevant Secretary” may refer to the Secretary of Commerce or the Secretary of the Interior, depending on in whose jurisdiction the coral reef is located.

ment threat to coral reefs. The section would outline both civil and criminal enforcement provisions, including administrative and judicial penalties, and would permit sanctions and claims against vessels. The section would specify procedures for collection of penalties and the appropriate venues for bringing actions. The section would authorize criminal and civil forfeiture of property obtained or used in violation of the Act and would allow the Secretary to recover reasonable costs in the storage and maintenance of any seized property. The section would specify that civil penalties and costs imposed under this section would be placed into an account to be available until expended, and would specify the uses of such funds.

Section 17. Permits

This section would create a new section 215 in CRCA that would allow the Secretary to issue permits for legitimate research and allow other necessary actions that may result in coral reef injury. This section would require that the activity to be conducted is compatible with the purposes in section 202(b) of the Act, the activity conforms to the provisions of all other laws and regulations, and that the injury to coral reefs cannot be practicably avoided. Each Secretary would be authorized to assess and collect appropriate fees, including the cost of processing and administering the permit and the cost of monitoring the permitted activity. The section would allow each Secretary the discretion to waive the fee and specifically would exempt lawful fishing activities from requiring permits.

Section 18. Regional, State, and Territorial Coordination

This section would create a new section 216 in CRCA that would require the Secretary of Commerce and the Secretary of the Interior to coordinate and collaborate with other Federal, State, and territorial governments in implementing the national coral reef action strategy. The Secretaries would be required to work with appropriate States in conducting response and restoration activities within State waters and to develop cooperative enforcement agreements.

Section 19. Regulations

This section would create a new section 217 in CRCA that would authorize the relevant Secretary to issue necessary and appropriate regulations to carry out the purposes of the Act.

Section 20. Effectiveness Report

This section would amend section 218 of CRCA, as redesignated, to require the Secretary of Commerce to submit to Congress, starting in 2010² and every three years thereafter, an effectiveness report to summarize activities undertaken to implement the national coral reef action strategy, including use of funds, cooperative efforts, and a description of efforts to protect and manage coral reefs, including projects undertaken by other Federal agencies. The report would also include a summary of the vessel grounding inventory and a description of Federal disaster response actions. The section would also require an assessment report every five years

²The year 2010 in the reported bill is an apparent error.

describing the condition of U.S. coral reefs, accomplishments under the Act, and effectiveness of management actions to address threats to coral reefs.

Section 21. Authorization of Appropriations

This section would amend section 219 of CRCA, as redesignated, to increase the total authorized appropriations to the Secretary of Commerce to implement the Act from \$16 million per year to \$34 million for FY 2012, \$36 million for FY 2013, \$38 million for FY 2014, and \$40 million for each of FY 2015 and FY 2016. The higher level of authorized appropriations would allow NOAA to undertake the increased level of coordination required by this bill and allow for funding of local action strategies. The new section 219 would direct at least 24 percent of the authorized funds to the general grants program, and would permit at least 6 percent of the grant funds to go to Fishery Management Councils. This section would also set aside up to 10 percent of appropriations for the Coral Reef Conservation Fund. The section would authorize a total of \$10 million for FY 2012 through FY 2016, to remain available until expended, for the Community Based Planning Grants to provide long-term funding for implementation of community-based plans. The section would also authorize \$8 million for each of FYs 2012 through 2016, and such sums to remain available until expended, for the International Coral Reef Conservation Program.

Section 22. Judicial Review

This section would create a new section 220 in CRCA that would allow standard provisions for judicial review of actions taken by either the Secretary of Commerce or the Secretary of the Interior except for actions taken pursuant to sections 214(c)(1) and 214(c)(2) regarding interference with enforcement, which may only be had by filing a complaint in the U.S. District Court within 30 days of final agency action. The section would allow courts to award costs of litigation to any prevailing party when appropriate.

Section 23. Definitions

This section would amend section 221 of CRCA, as redesignated, to define biodiversity, bona fide research, coral, coral reef, coral reef component, coral reef ecosystem, coral products, damages, emergency actions, and other key terms in the Act. For purposes of sections 212 through 217 and section 220 of CRCA, as redesignated, the intent is to define Secretary as either the Secretary of Commerce or the Secretary of the Interior, corresponding to areas managed by each Department.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

CORAL REEF CONSERVATION ACT OF 2000

ISEC. 202. PURPOSES.

[16 U.S.C. 6401]

【The purposes of this title are—

【(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

【(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities and the Nation;

【(3) to develop sound scientific information on the condition of coral reef ecosystems and the threats to such ecosystems;

【(4) to assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

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

【(6) to establish a formal mechanism for collecting and allocating monetary donations from the private sector to be used for coral reef conservation projects.】

SEC. 202. PURPOSES.

The purposes of this Act are—

(1) to preserve, sustain, and restore the condition of coral reef ecosystems;

(2) to promote the wise management and sustainable use of coral reef ecosystems to benefit local communities, the Nation, and the world;

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

(4) to assist in the preservation of coral reef ecosystems by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations;

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

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

(7) to provide mechanisms to prevent and minimize damage to coral reefs.

SEC. 203. NATIONAL CORAL REEF ACTION STRATEGY.

[16 U.S.C. 6402]

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

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

- [(1) coastal uses and management;
- [(2) water and air quality;
- [(3) mapping and information management;
- [(4) research, monitoring, and assessment;
- [(5) international and regional issues;
- [(6) outreach and education;
- [(7) local strategies developed by the States or Federal agencies, including regional fishery management councils; and
- [(8) conservation, including how the use of marine protected areas to serve as replenishment zones will be developed consistent with local practices and traditions.]

(a) *IN GENERAL.*—Not later than 180 days after the date of the enactment of the Coral Reef Conservation Amendments Act of 2011, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and to the House of Representatives Committee on Natural Resources and publish in the Federal Register a national coral reef ecosystem action strategy, consistent with the purposes of this title. The Secretary shall periodically review and revise the strategy as necessary. In developing this national strategy, the Secretary may consult the Coral Reef Task Force established under Executive Order 13089 (June 11, 1998).

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

- (1) coastal uses and management, including land-based sources of pollution;
- (2) climate change;
- (3) water and air quality;
- (4) mapping and information management;
- (5) research, monitoring, and assessment;
- (6) international and regional issues;
- (7) outreach and education;
- (8) local strategies developed by the States or Federal agencies, including regional fishery management councils; and
- (9) conservation.

SEC. 204. CORAL REEF CONSERVATION PROGRAM.

[16 U.S.C. 6403]

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

(b) *MATCHING REQUIREMENTS.*—

- (1) *FIFTY PERCENT.*—Except as provided in paragraph (2), Federal funds for any coral conservation project under this section may not exceed 50 percent of the total cost of such project. For purposes of this paragraph, the non-Federal share of

project costs may be provided by in-kind contributions and other noncash support.

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

[(c) ELIGIBILITY.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reefs or whose activities directly or indirectly affect coral reefs, or coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reefs, may submit to the Administrator a coral conservation proposal under subsection (e).**]**

(c) ELIGIBILITY.—Any natural resource management authority of a State or other government authority with jurisdiction over coral reef ecosystems, or whose activities directly or indirectly affect coral reef ecosystems, or educational or nongovernmental institutions with demonstrated expertise in the conservation of coral reef ecosystems, may submit a coral conservation proposal to the Secretary under subsection (e).

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

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

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

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

(3) Remaining funds shall be awarded for—

(A) projects (with priority given to community-based local action strategies) that address emerging priorities or threats, including international and territorial priorities, or threats identified by the Secretary; and

(B) other appropriate projects, as determined by the Secretary, including monitoring and assessment, research, pollution reduction, education, and technical support.

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

(1) The name of the individual or entity responsible for conducting the project.

(2) A description of the qualifications of the individuals who will conduct the project.

(3) A succinct statement of the purposes of the project.

(4) An estimate of the funds and time required to complete the project.

(5) Evidence of support for the project by appropriate representatives of States or other government jurisdictions in which the project will be conducted.

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

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

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

(f) PROJECT REVIEW AND APPROVAL.—

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

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

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

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

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

(D) provide written notification of that approval or disapproval to the person who submitted the proposal, and each of those States and other government jurisdictions that provided comments under subparagraph (A).

[(g) CRITERIA FOR APPROVAL.—The Administrator may not approve a project proposal under this section unless the project is consistent with the coral reef action strategy under section 203 and will enhance the conservation of coral reefs by—

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

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

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

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

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

[(6) increasing public knowledge and awareness of coral reef ecosystems and issues regarding their long term conservation;

[(7) mapping the location and distribution of coral reefs;

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

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

[(10) promoting ecologically sound navigation and anchorages near coral reefs.]

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

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

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

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

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

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

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

(7) *mapping the location, distribution, and biodiversity of coral reef ecosystems;*

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

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

(10) *responding to, or taking action to help mitigate the effects of, coral disease, ocean acidification, and bleaching events;*

(11) *promoting activities designed to prevent or minimize damage to coral reef ecosystems, including the promotion of ecologically sound navigation and anchorages; or*

(12) promoting and assisting entities to work with local communities, and all appropriate governmental and nongovernmental organizations, to support community-based planning and management initiatives for the protection of coral reef systems.

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

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

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

SEC. 205. CORAL REEF CONSERVATION FUND.

[16 U.S.C. 6404]

[(a) FUND.—The Administrator may enter into an agreement with a nonprofit organization that promotes coral reef conservation authorizing such organization to receive, hold, and administer funds received pursuant to this section. The organization shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest bearing account, hereafter referred to as the Fund, established by such organization solely to support partnerships between the public and private sectors that further the purposes of this Act and are consistent with the national coral reef action strategy under section 203.]

(a) FUND.—*The Secretary may enter into agreements with nonprofit organizations promoting coral reef ecosystem conservation by authorizing such organizations to receive, hold, and administer funds received pursuant to this section. Such organizations shall invest, reinvest, and otherwise administer the funds and maintain such funds and any interest or revenues earned in a separate interest-bearing account (referred to in section 219(a) as the Fund) established by such organizations solely to support partnerships between the public and private sectors that further the purposes of this title and are consistent with the national coral reef action strategy under section 203.*

(b) **AUTHORIZATION TO SOLICIT DONATIONS.**—Pursuant to an agreement entered into under subsection (a) of this section, an organization may accept, receive, solicit, hold, administer, and use any gift to further the purposes of this title. Any moneys received as a gift shall be deposited and maintained in the Fund established by the organization under subsection (a).

(c) **REVIEW OF PERFORMANCE.**—The **[Administrator] Secretary** shall conduct a continuing review of **[the grant program] any grant program** administered by an organization under this section. Each review shall include a written assessment concerning the ex-

tent to which that organization has implemented the goals and requirements of this section and the national coral reef action strategy under section 203.

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

[SEC. 206. EMERGENCY ASSISTANCE.

[16 U.S.C. 6405]

[The Administrator may make grants to any State, local, or territorial government agency with jurisdiction over coral reefs for emergencies to address unforeseen or disaster-related circumstance pertaining to coral reefs or coral reef ecosystems.]

SEC. 206. AGREEMENTS.

(a) *IN GENERAL.*—*The Secretary may execute and perform such contracts, leases, grants, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this title.*

(b) *COOPERATIVE AGREEMENTS.*—*In addition to the general authority provided by subsection (a), the Secretary may enter into, extend, or renegotiate agreements with universities and research centers with national or regional coral reef research institutes to conduct ecological research and monitoring explicitly aimed at building capacity for more effective resource management. Pursuant to any such agreements these institutes shall—*

(1) collaborate directly with governmental resource management agencies, non-profit organizations, and other research organizations;

(2) build capacity within resource management agencies to establish research priorities, plan interdisciplinary research projects and make effective use of research results; and

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

(c) *USE OF OTHER AGENCIES' RESOURCES.*—*For purposes related to the conservation, preservation, protection, restoration, or replacement of coral reefs or coral reef ecosystems and the enforcement of this title, the Secretary is authorized to use, with their consent and with or without reimbursement, the land, services, equipment, personnel, and facilities of any Department, agency, or instrumentality of the United States, or of any State, local government, tribal government, Territory or possession, or of any political subdivision thereof, or of any foreign government or international organization.*

(d) *AUTHORITY TO UTILIZE GRANT FUNDS.*—

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

(2) The Secretary may not apply for, accept, or obligate any grant funding under paragraph (1) for which the granting

agency lacks authority to grant funds to Federal agencies, or for any purpose or subject to conditions that are prohibited by law or regulation.

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

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

(e) **TRANSFER OF FUNDS.**—Under an agreement entered into pursuant to subsection (a), and subject to the availability of funds, the Secretary may transfer funds to, and may accept transfers of funds from, Federal agencies, instrumentalities and laboratories, State and local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450(b)), organizations and associations representing Native Americans, native Hawaiians, and Native Pacific Islanders, educational institutions, nonprofit organizations, commercial organizations, and other public and private persons or entities, except that no more than 5 percent of funds appropriated to carry out this section may be transferred. The 5 percent limitation shall not apply to section 204 or section 210.

[SEC. 207. NATIONAL PROGRAM.

[16 U.S.C. 6406]

[(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 title, the National Marine Sanctuaries Act, the Coastal Zone Management Act of 1972, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act of 1973, and the Marine Mammal Protection Act of 1972.

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

[(1) mapping, monitoring, assessment, restoration, and scientific research that benefit 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;

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

[(4) cooperative conservation and management of coral reefs and coral reef ecosystems with local, regional, or international programs and partners.]

SEC. 207. EMERGENCY ASSISTANCE.

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

SEC. 208. NATIONAL PROGRAM.

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

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

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

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

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

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

(5) conservation and management of coral reef ecosystems;

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

(7) activities designed to prevent or minimize damage to coral reef ecosystems, including those activities described in section 212 of this title.

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

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

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

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

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

(d) *EMERGENCY RESPONSE, STABILIZATION, AND RESTORATION.*—

(1) *ESTABLISHMENT OF ACCOUNT.*—The Secretary shall establish an account (to be called the Emergency Response, Stabilization, and Restoration Account) in the Damage Assessment Restoration Revolving Fund established by the Department of

Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), for implementation of this subsection for emergency actions. Amounts appropriated for the Account under section 219, and funds authorized by sections 213(d)(1)(C)(ii) and 214(f)(3)(B), shall be deposited into the Account and made available for use by the Secretary as specified in sections 213 and 214.

(2) *DEPOSIT AND INVESTMENT OF CERTAIN FUNDS.*—Any amounts received by the United States pursuant to sections 213(d)(1)(C)(ii) and 214(f)(3)(B) shall be deposited into the Emergency Response, Stabilization and Restoration Account established under paragraph (1). The Secretary of Commerce may request the Secretary of the Treasury to invest such portion of the Damage Assessment Restoration Revolving Fund as is not, in the judgment of the Secretary of Commerce, required to meet the current needs of the fund. Such investments shall be made by the Secretary of the Treasury in public debt securities, with maturities suitable to the needs of the fund, as determined by the Secretary of Commerce and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity. Interest earned by such investments shall be available for use by the Secretary without further appropriation and remain available until expended.

SEC. 209. INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.

(a) *INTERNATIONAL CORAL REEF CONSERVATION ACTIVITIES.*—

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

(2) *COORDINATION.*—In carrying out this subsection, the Secretary shall consult with the Secretary of State, the Administrator of the Agency for International Development, the Secretary of the Interior, and other relevant Federal agencies, and relevant United States stakeholders, and shall take into account coral reef ecosystem conservation initiatives of other nations, international agreements, and intergovernmental and non-governmental organizations so as to provide effective cooperation and efficiencies in international coral reef conservation. The Secretary may consult with the Coral Reef Task Force in carrying out this subsection.

(b) *INTERNATIONAL CORAL REEF ECOSYSTEM STRATEGY.*—

(1) *IN GENERAL.*—Not later than 1 year after the date of enactment of the Coral Reef Conservation Amendments Act of 2011, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources, and publish in the Federal Register, an international coral reef ecosystem strategy, consistent with the purposes of this Act and the national strategy required pursuant to section 203(a). The Secretary shall periodically review and revise this strategy as necessary.

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

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

(B) summarize existing activities by Federal agencies and entities described in subsection (a)(2) to address the conservation of coral reef ecosystems identified pursuant to subparagraph (A);

(C) establish goals, objectives, and specific targets for conservation of priority international coral reef ecosystems;

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

(E) develop a plan to coordinate implementation of the strategy with entities described in subsection (a)(2) in order to leverage current activities under this Act and other conservation efforts globally;

(F) identify appropriate partnerships, grants, or other funding and technical assistance mechanisms to carry out the strategy; and

(G) develop criteria for prioritizing partnerships under subsection (c).

(c) INTERNATIONAL CORAL REEF ECOSYSTEM PARTNERSHIPS.—

(1) **IN GENERAL.**—The Secretary shall establish an international coral reef ecosystem partnership program to provide support, including funding and technical assistance, for activities that implement the strategy developed pursuant to subsection (b).

(2) **MECHANISMS.**—The Secretary shall provide such support through existing authorities, working in collaboration with the entities described in subsection (a)(2).

(3) **AGREEMENTS.**—The Secretary may execute and perform such contracts, leases, grants, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this section.

(4) **TRANSFER OF FUNDS.**—To implement this section and subject to the availability of funds, the Secretary may transfer funds to a foreign government or international organization, and may accept transfers of funds from such entities, except that no more than 5 percent of funds appropriated to carry out this section may be transferred.

(5) **CRITERIA FOR APPROVAL.**—The Secretary may not approve a partnership proposal under this section unless the partnership is consistent with the international coral reef conservation strategy developed pursuant to subsection (b), and meets the criteria specified in that strategy.

SEC. 210. COMMUNITY-BASED PLANNING GRANTS.

(a) **IN GENERAL.**—The Secretary may make grants to entities that have received grants under section 204 to provide additional funds to such entities to work with local communities and through appropriate Federal and State entities to prepare and implement plans for the increased protection of coral reef areas identified by

the community and scientific experts as high priorities for focused attention. The plans shall—

- (1) support attainment of 1 or more of the criteria described in section 204(g);
- (2) be developed at the community level;
- (3) utilize watershed-based approaches;
- (4) provide for coordination with Federal and State experts and managers; and
- (5) build upon local approaches, strategies, or models, including traditional or island-based resource management concepts.

(b) **TERMS AND CONDITIONS.**—The provisions of subsections (b), (d), (f), and (h) of section 204 apply to grants under subsection (a), except that, for the purpose of applying section 204(b)(1) to grants under this section, “75 percent” shall be substituted for “50 percent”.

SEC. 211. VESSEL GROUNDING INVENTORY.

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

- (1) the impacts to affected coral reef ecosystems;
- (2) vessel and ownership information, if available;
- (3) the estimated cost of removal, mitigation, or restoration;
- (4) the response action taken by the owner, the Secretary, the Commandant of the Coast Guard, or other Federal or State agency representatives;
- (5) the status of the response action, including the dates of vessel removal and mitigation or restoration and any actions taken to prevent future grounding incidents; and
- (6) recommendations for additional navigational aids or other mechanisms for preventing future grounding incidents.

(b) **IDENTIFICATION OF AT-RISK REEFS.**—The Secretary may—

- (1) use information from any inventory maintained under subsection (a) or any other available information source to identify coral reef ecosystems that have a high incidence of vessel impacts, including groundings and anchor damage;
- (2) identify appropriate measures, including the acquisition and placement of aids to navigation, moorings, designated anchorage areas, fixed anchors and other devices, to reduce the likelihood of such impacts; and
- (3) develop a strategy and timetable to implement such measures, including cooperative actions with other government agencies and non-governmental partners.

SEC. 212. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

(a) **PROVISIONS AS COMPLEMENTARY.**—The provisions of this section are in addition to, and shall not affect the operation of, other Federal, State, or local laws or regulations providing protection to coral reef ecosystems.

(b) **DESTRUCTION, LOSS, TAKING, OR INJURY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), it is unlawful for any person to destroy, take, cause the loss of, or injure any coral reef or any component thereof.

(2) **EXCEPTIONS.**—The destruction, loss, taking, or injury of a coral reef or any component thereof is not unlawful if it—

(A) was caused by the use of fishing gear used in a manner permitted under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) or other Federal or State law;

(B) was caused by an activity that is authorized or allowed by Federal or State law (including lawful discharges from vessels, such as graywater, cooling water, engine exhaust, ballast water, or sewage from marine sanitation devices), unless the destruction, loss, or injury resulted from actions such as vessel groundings, vessel scrapings, anchor damage, excavation not authorized by Federal or State permit, or other similar activities;

(C) was the necessary result of bona fide marine scientific research (including marine scientific research activities approved by Federal, State, or local permits), other than excessive sampling or collecting, or actions such as vessel groundings, vessel scrapings, anchor damage, excavation, or other similar activities;

(D) was caused by a Federal Government agency—

(i) during—

(I) an emergency that posed an unacceptable threat to human health or safety or to the marine environment;

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

(III) an activity necessary for law enforcement or search and rescue; and

could not reasonably be avoided; or

(E) was caused by an action taken by the master of the vessel in an emergency situation to ensure the safety of the vessel or to save a life at sea.

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

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

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

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

(d) **VIOLATIONS OF TITLE, PERMIT, OR REGULATION.**—It is unlawful for any person to violate any provision of this title, any permit issued pursuant to this title, or any regulation promulgated pursuant to this title.

(e) **POSSESSION AND DISTRIBUTION.**—It is unlawful for any person to possess, sell, deliver, carry, transport, or ship by any means any coral taken in violation of this title.

SEC. 213. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY TO, CORAL REEFS.

(a) LIABILITY.—

(1) LIABILITY TO THE UNITED STATES.—Except as provided in subsection (f), all persons who engage in an activity that is prohibited under subsections (b) or (d) of section 212, or create an imminent risk thereof, are liable, jointly and severally, to the United States for an amount equal to the sum of—

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

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

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

(2) LIABILITY IN REM.—

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

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

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

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

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

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

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

(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

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

(2) DAMAGE ASSESSMENT.—

(A) The Secretary shall assess damages (as defined in section 221(8)) to coral reefs and shall consult with State officials regarding response and damage assessment actions undertaken for coral reefs within State waters.

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

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

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

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

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

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

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

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

(d) **USE OF RECOVERED AMOUNTS.—**

(1) **IN GENERAL.**—*Any costs, including response costs and damages recovered by the Secretary under this section shall—*

(A) *be deposited into an account or accounts in the Damage Assessment Restoration Revolving Fund established by the Department of Commerce Appropriations Act, 1991 (33 U.S.C. 2706 note), or the Natural Resource Damage Assessment and Restoration Fund established by the Department of the Interior and Related Agencies Appropriations Act, 1992 (43 U.S.C. 1474b), as appropriate given the location of the violation;*

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

(C) *be for use, as the Secretary considers appropriate—*

(i) *to reimburse the Secretary or any other Federal or State agency that conducted activities under subsection (a) or (b) of this section for costs incurred in conducting the activity;*

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

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

(2) **RESTORATION CONSIDERATIONS.**—In development of restoration alternatives under paragraph (1)(C), the Secretary shall consider State and territorial preferences and, if appropriate, shall prioritize restoration projects with geographic and ecological linkages to the injured resources.

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

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

(g) **UNIFORMED SERVICE OFFICERS AND EMPLOYEES.**—No officer or employee of a uniformed service (as defined in section 101 of title 10, United States Code) shall be held liable under this section, either in such officer's or employee's personal or official capacity, for any violation of section 212 occurring during the performance of the officer's or employee's official governmental duties.

(h) **CONTRACT EMPLOYEES.**—No contract employee of a uniformed service (as so defined), serving as vessel master or crew member, shall be liable under this section for any violation of section 212 if that contract employee—

(1) is acting as a contract employee of a uniformed service under the terms of an operating contract for a vessel owned by a uniformed service, or a time charter for pre-positioned vessels, special mission vessels, or vessels exclusively transporting military supplies and materials; and

(2) is engaged in an action or actions over which such employee has been given no discretion (e.g., anchoring or mooring at one or more designated anchorages or buoys, or executing specific operational elements of a special mission activity), as determined by the uniformed service controlling the contract.

SEC. 214. ENFORCEMENT.

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

(b) **POWERS OF AUTHORIZED OFFICERS.**—

(1) **IN GENERAL.**—Any person who is authorized to enforce this title may—

(A) board, search, inspect, and seize any vessel or other conveyance suspected of being used to violate this title, any regulation promulgated under this title, or any permit issued under this title, and any equipment, stores, and

cargo of such vessel, except that such authority shall not exist with respect to vessels owned or time chartered by a uniformed service (as defined in section 101 of title 10, United States Code) as warships or naval auxiliaries;

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

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

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

(E) exercise any other lawful authority; and

(F) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 212.

(2) NAVAL AUXILIARY DEFINED.—In this subsection, the term “naval auxiliary” means a vessel, other than a warship, that is owned by or under the exclusive control of a uniformed service and used at the time of the destruction, take, loss or injury for government, non-commercial service, including combat logistics force vessels, pre-positioned vessels, special mission vessels, or vessels exclusively used to transport military supplies and materials.

(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

(1) CIVIL ADMINISTRATIVE PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation promulgated or permit issued hereunder, shall be liable to the United States for a civil administrative penalty of not more than \$200,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation. In determining the amount of civil administrative penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, and any history of prior violations, and such other matters as justice may require. In assessing such penalty, the Secretary may also consider information related to the ability of the violator to pay.

(2) PERMIT SANCTIONS.—For any person subject to the jurisdiction of the United States who has been issued or has applied for a permit under this title, and who violates this title or any regulation or permit issued under this title, the Secretary may deny, suspend, amend, or revoke in whole or in part any such permit. For any person who has failed to pay or defaulted on a payment agreement of any civil penalty or criminal fine or liability assessed pursuant to any natural resource law administered by the Secretary, the Secretary may deny, suspend, amend or revoke in whole or in part any permit issued or applied for under this title.

(3) IMPOSITION OF CIVIL JUDICIAL PENALTIES.—Any person who violates any provision of this title, any regulation promulgated or permit issued thereunder, shall be subject to a civil judicial penalty not to exceed \$250,000 for each such violation.

Each day of a continuing violation shall constitute a separate violation. The Attorney General, upon the request of the Secretary, may commence a civil action in an appropriate district court of the United States, and such court shall have jurisdiction to award civil penalties and such other relief as justice may require. In determining the amount of a civil penalty, the court shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require. In imposing such penalty, the district court may also consider information related to the ability of the violator to pay.

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

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

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

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

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

(d) FORFEITURE.—

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

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

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

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

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

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

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

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

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

violation of this title or of a regulation promulgated under this title.

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

(f) *EXPENDITURES.*—

(1) *Notwithstanding section 3302 of title 31, United States Code, or section 311 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861), amounts received by the United States as civil penalties under subsection (c) of this section, forfeitures of property under subsection (d) of this section, and costs imposed under subsection (e) of this section, shall—*

(A) *be placed into an account;*

(B) *be available for use by the Secretary without further appropriation; and*

(C) *remain available until expended.*

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

(3) *Amounts received under this section as civil penalties under subsection (c) of this section and any amounts remaining after the operation of paragraph (2) of this subsection shall—*

(A) *be used to stabilize, restore, or otherwise manage the coral reef with respect to which the violation occurred that resulted in the penalty or forfeiture;*

(B) *be transferred to the Emergency Response, Stabilization, and Restoration Account established under section 208(d) or an account described in section 213(d)(1) of this title, to reimburse such account for amounts used for authorized emergency actions;*

(C) *be used to conduct monitoring and enforcement activities;*

(D) *be used to conduct research on techniques to stabilize and restore coral reefs;*

(E) *be used to conduct activities that prevent or reduce the likelihood of future damage to coral reefs;*

(F) *be used to stabilize, restore or otherwise manage any other coral reef; or*

(G) *be used to pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation promulgated under this title.*

(g) *CRIMINAL ENFORCEMENT.*—

(1) *Any person (other than a foreign government or any entity of such government) who knowingly commits any act prohibited by section 212(c) of this title shall be imprisoned for not more than 5 years and shall be fined not more than \$500,000*

for individuals or \$1,000,000 for an organization; except that if in the commission of any such offense the individual uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or places any such officer in fear of imminent bodily injury, the maximum term of imprisonment is not more than 10 years.

(2) Any person (other than a foreign government or any entity of such government) who knowingly violates subsection (b), (d), or (e) of section 212 shall be fined under title 18, United States Code, or imprisoned not more than 5 years or both.

(3) Any person (other than a foreign government or any entity of such government) who violates subsection (b), (d), or (e) of section 212, and who, in the exercise of due care should know that such person's conduct violates subsection (b), (d), or (e) of section 212, shall be fined under title 18, United States Code, or imprisoned not more than 1 year, or both.

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

(h) SUBPOENAS.—In the case of any investigation or hearing under this section or any other natural resource statute administered by the National Oceanic and Atmospheric Administration which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

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

(j) INJUNCTIVE RELIEF.—

(1) If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a coral reef, or that there has been actual destruction or loss of, or injury to, a coral reef which may give rise to liability under section 213 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the coral reef, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

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

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

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

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

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

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

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

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

(n) *UNIFORMED SERVICE OFFICERS AND EMPLOYEES.*—No officer or employee of a uniformed service (as defined in section 101 of title 10, United States Code) shall be held liable under this section, either in such officer's or employee's personal or official capacity, for any violation of section 212 occurring during the performance of the officer's or employee's official governmental duties.

(o) *CONTRACT EMPLOYEES.*—No contract employee of a uniformed service (as so defined), serving as vessel master or crew member, shall be liable under this section for any violation of section 212 if that contract employee—

(1) is acting as a contract employee of a uniformed service under the terms of an operating contract for a vessel owned by a uniformed service, or a time charter for pre-positioned vessels, special mission vessels, or vessels exclusively transporting military supplies and materials; and

(2) is engaged in an action or actions over which such employee has been given no discretion (e.g., anchoring or mooring at one or more designated anchorages or buoys, or executing specific operational elements of a special mission activity), as determined by the uniformed service controlling the contract.

SEC. 215. PERMITS.

(a) *IN GENERAL.*—The Secretary may allow for the conduct of—

(1) bona fide research, and

(2) activities that would otherwise be prohibited by this title or regulations issued thereunder, through issuance of coral reef

conservation permits in accordance with regulations issued under this title.

(b) *LIMITATION OF NON-RESEARCH ACTIVITIES.*—The Secretary may not issue a permit for activities other than for bona fide research unless the Secretary finds—

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

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

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

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

(d) *FEES.*—

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

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

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

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

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

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

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

(B) waive or reduce the fee.

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

SEC. 216. REGIONAL, STATE, AND TERRITORIAL COORDINATION.

(a) *REGIONAL COORDINATION.*—The Secretary and other Federal members of the Coral Reef Task Force shall work in coordination and collaboration with other Federal agencies, States, and United States territorial governments to implement the strategies developed under section 203, including regional and local strategies, to address multiple threats to coral reefs and coral reef ecosystems.

(b) *RESPONSE AND RESTORATION ACTIVITIES.*—The Secretary shall enter into written agreements with any States in which coral reefs are located regarding the manner in which response and restoration activities will be conducted within the affected State's

waters. Nothing in this subsection shall be construed to limit Federal response and restoration activity authority before any such agreement is final.

(c) *COOPERATIVE ENFORCEMENT AGREEMENTS.*—All cooperative enforcement agreements in place between the Secretary and States affected by this title shall be updated to include enforcement of this title where appropriate.

SEC. 217. REGULATIONS.

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

[SEC. 208. EFFECTIVENESS REPORTS.

[16 U.S.C. 6407]

[(a) *GRANT PROGRAM.*—Not later than 3 years after the date of the enactment of this Act, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report that documents the effectiveness of the grant program under section 204 in meeting the purposes of this title. The report shall include a State-by-State summary of Federal and non-Federal contributions toward the costs of each project.

[(b) *NATIONAL PROGRAM.*—Not later than 2 years after the date on which the Administrator publishes the national coral reef strategy under section 203 and every 2 years thereafter, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing all activities undertaken to implement that strategy, under section 203, including a description of the funds obligated each fiscal year to advance coral reef conservation.]

SEC. 218. EFFECTIVENESS AND ASSESSMENT REPORT.

(a) *EFFECTIVENESS REPORT.*—Not later than March 1, 2010, and every 3 years thereafter, the Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources a report describing all activities undertaken to implement the strategy, including—

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

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

(3) a summary of the information contained in the vessel grounding inventory established under section 210, including

additional authorization or funding, needed for response and removal of such vessels; and

(4) a description of Federal disaster response actions taken pursuant to the National Response Plan to address damage to coral reefs and coral reef ecosystems.

(b) ASSESSMENT REPORT.—Not later than March 1, 2013, and every 5 years thereafter, the Secretary will submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources an assessment of the conditions of U.S. coral reefs, accomplishments under this Act, and the effectiveness of management actions to address threats to coral reefs.

[SEC. 209.] SEC. 219. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title ~~[\$16,000,000 for each of fiscal years 2001, 2002, 2003, and 2004,]~~ \$34,000,000 for fiscal year 2012, \$36,000,000 for fiscal year 2013, \$38,000,000 for fiscal year 2014, and \$40,000,000 for each of fiscal years 2015 through 2016, of which no less than 24 percent per year (for each of fiscal years 2012 through 2016) shall be used for the grant program under section 204, no less than 6 percent shall be used for Fishery Management Councils, and up to 10 percent per year shall be used for the Fund established under section 205(a), which may remain available until expended.

(b) ADMINISTRATION.—Of the amounts appropriated under subsection (a), not more than the lesser of ~~[\$1,000,000]~~ \$2,000,000 or 10 percent of the amounts appropriated, may be used for program administration or for overhead costs incurred by the National Oceanic and Atmospheric Administration or the Department of Commerce and assessed as an administrative charge.

[(c) CORAL REEF CONSERVATION PROGRAM.—From the amounts appropriated under subsection (a), there shall be made available to the Secretary \$ 8,000,000 for each of fiscal years 2001, 2002, 2003, and 2004 for coral reef conservation activities under section 204.]

(c) COMMUNITY-BASED PLANNING GRANTS.—There are authorized to be appropriated to the Secretary to carry out section 210 \$10,000,000 for fiscal years 2012 through 2016, to remain available until expended.

[(d) NATIONAL CORAL REEF ACTIVITIES.—From the amounts appropriated under subsection (a), there shall be made available to the Secretary \$8,000,000 for each of fiscal years 2001, 2002, 2003, and 2004 for activities under section 207.]

(d) INTERNATIONAL CORAL REEF CONSERVATION PROGRAM.—There are authorized to be appropriated to the Secretary to carry out section 209 \$8,000,000 for each of fiscal years 2012 through 2016, to remain available until expended.

SEC. 220. JUDICIAL REVIEW.

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

(1) review of any final agency action of the Secretary taken pursuant to sections 214(c)(1) and 214(c)(2) may be had only by the filing of a complaint by an interested person in the United States District Court for the appropriate district; any such com-

plaint must be filed within 30 days of the date such final agency action is taken; and

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

(b) NO REVIEW IN ENFORCEMENT PROCEEDINGS.—Final agency action with respect to which review could have been obtained under subsection (a)(2) shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

(c) COST OF LITIGATION.—In any judicial proceeding under subsection (a), the court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party whenever it determines that such award is appropriate.

[SEC. 210. DEFINITIONS.

[16 U.S.C. 6409]

[In this title:

[(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

[(2) CONSERVATION.—The term “conservation” means the use of methods and procedures necessary to preserve or sustain corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management, such as assessment, conservation, protection, restoration, sustainable use, and management of habitat; mapping; habitat monitoring; assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); law enforcement; conflict resolution initiatives; community outreach and education; and that promote safe and ecologically sound navigation.

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

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

[(B) all species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

[(4) CORAL REEF.—The term “coral reef” means any reefs or shoals composed primarily of corals.

[(5) CORAL REEF ECOSYSTEM.—The term “coral reef ecosystem” means coral and other species of reef organisms (including reef plants) 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 PRODUCTS.—The term “coral products” means any living or dead specimens, parts, or derivatives, or any

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

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

【(8) STATE.—The term “State” means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.】

SEC. 221. DEFINITIONS.

In this title:

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

(2) *BONA FIDE RESEARCH.*—The term “bona fide research” means scientific research on corals, the results of which are likely—

(A) to be eligible for publication in a referred scientific journal;

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

(C) to identify, evaluate, or resolve conservation problems.

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

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

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

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

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

(6) *CORAL REEF ECOSYSTEM.*—The term “coral reef ecosystem” means the system of coral reefs and geographically associated species, habitats, and environment, including any adjacent or associated mangroves and seagrass habitats, and the processes that control its dynamics.

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

- (8) *DAMAGES.*—The term “damages” includes—
- (A) *compensation for—*
 - (i) *the cost of replacing, restoring, or acquiring the equivalent of the coral reef, or component thereof; and*
 - (ii) *the lost services of, or the value of the lost use of, the coral reef or component thereof, or the cost of activities to minimize or prevent threats of, equivalent injury to, or destruction of coral reefs or components thereof, pending restoration or replacement or the acquisition of an equivalent coral reef or component thereof;*
 - (B) *the reasonable cost of damage assessments under section 213;*
 - (C) *the reasonable costs incurred by the Secretary in implementing section 208(d);*
 - (D) *the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;*
 - (E) *the reasonable cost of curation, conservation and loss of contextual information of any coral encrusted archaeological, historical, and cultural resource;*
 - (F) *the cost of legal actions under section 213, undertaken by the United States, associated with the destruction or loss of, or injury to, a coral reef or component thereof, including the costs of attorney time and expert witness fees; and*
 - (G) *the indirect costs associated with the costs listed in subparagraphs (A) through (F) of this paragraph.*
- (9) *EMERGENCY ACTIONS.*—The term “emergency actions” means *all necessary actions to prevent or minimize the additional destruction or loss of, or injury to, coral reefs or components thereof, or to minimize the risk of such additional destruction, loss, or injury.*
- (10) *EXCLUSIVE ECONOMIC ZONE.*—The term “Exclusive Economic Zone” means *the waters of the Exclusive Economic Zone of the United States under Presidential Proclamation 5030, dated March 10, 1983.*
- (11) *PERSON.*—The term “person” means *any individual, private or public corporation, partnership, trust, institution, association, or any other public or private entity, whether foreign or domestic, private person or entity, or any officer, employee, agent, Department, agency, or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.*
- (12) *RESPONSE COSTS.*—The term “response costs” means *the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, a coral reef, or component thereof, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 213.*
- (13) *SECRETARY.*—The term “Secretary” means—
- (A) *for purposes of sections 201 through 211, sections 218 through 220 (except as otherwise provided in subparagraph (B)), and the other paragraphs of this section, the Secretary of Commerce, acting through the Administrator*

of the National Oceanic and Atmospheric Administration;
and

(B) for purposes of sections 212 through 220—

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

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

(14) SERVICE.—The term “service” means functions, ecological or otherwise, performed by a coral reef or component thereof.

(15) STATE.—The term “State” means any State of the United States that contains a coral reef ecosystem within its seaward boundaries, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands, and any other territory or possession of the United States, or separate sovereign in free association with the United States, that contains a coral reef ecosystem within its seaward boundaries.

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

