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A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

SECTION 1. SHORT TITLE AND REFERENCES.

(a) This Act may be cited as the “Coral Reef Ecosystem Conservation Amendments Act of 2007.”

(b) Except as otherwise expressly provided, whenever in this bill an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*).

SEC. 2. REDESIGNATIONS.

The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended by redesignating—

- (a) section 206 (16 U.S.C. § 6405) as section 207;
- (b) section 207 (16 U.S.C. § 6406) as section 208;
- (c) section 208 (16 U.S.C. § 6407) as section 215;
- (d) section 209 (16 U.S.C. § 6408) as section 216; and
- (e) section 210 (16 U.S.C. § 6409) as section 217.

SEC. 3. FINDINGS AND PURPOSES.

Section 202 of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6401) is amended to read as follows:

1 “SEC. 202. FINDINGS AND PURPOSES.

2 “(a) The Congress finds that—

3 “(1) Coral reefs contain high biological diversity and serve important
4 ecosystem functions;

5 “(2) Coral reef resources provide economic and environmental benefits in
6 the form of food, jobs, natural products, and pharmaceuticals;

7 “(3) Coral reefs are the basis of thriving commercial and recreational
8 fishing and tourism industries;

9 “(4) A combination of stressors, including climate change, has caused a
10 rapid decline in the health of many coral reef ecosystems globally;

11 “(5) Natural stressors on coral reefs are compounded by human impacts
12 including pollution, overfishing, and physical damage; and

13 “(6) Healthy coral reefs provide shoreline protection for coastal
14 communities and resources.

15 “(b) The purposes of this title are—

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

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

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

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

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

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

8 “(7) to provide mechanisms to address injuries to coral reefs.”.

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

10 Section 203(a) of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6402(a)) is
11 amended to read as follows:

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

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

21 Section 204 of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6403) is
22 amended —

23 (1) throughout by striking “Administrator” and inserting “Secretary”;

1 (2) by amending subsection (a) to read as follows:

2 “(a) GRANTS.— The Secretary, subject to the availability of funds, shall
3 provide grants of financial assistance for projects for the conservation of coral
4 reef ecosystems (hereafter in this title referred to as ‘coral conservation projects’),
5 for proposals approved by the Secretary in accordance with this section.”;

6 (3) by amending subsection (c) to read as follows:

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

13 (4) by striking subsection (d) and renumbering the subsequent sections as (d)
14 through (i);

15 (5) in subparagraph (e)(2)(A), as redesignated, by striking “Magnuson- Stevens”
16 and inserting “Magnuson-Stevens”;

17 (6) by amending subsection (f), as redesignated, to read as follows:

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

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

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

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

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

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

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

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

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

1 “(9) developing and implementing cost-effective methods to
2 restore degraded coral reef ecosystems and biodiversity;
3 “(10) responding to coral disease and bleaching events; or
4 “(11) promoting ecologically sound navigation and anchorages
5 near coral reef ecosystems.”; and
6 (7) in subsection (i), as redesignated, by striking “coral reefs” and inserting “coral
7 reef ecosystems”.

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

9 Section 205 of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6404) is
10 amended —

11 (1) by amending subsection (a) to read as follows:

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

22 (2) in subsection (c) by striking “Administrator” and inserting “Secretary”;

1 (3) in subsection (c) by striking “the grant program” and inserting “any grant
2 program”; and

3 (4) in subsection (d) by striking “Administrator” and inserting “Secretary”.

4 **SEC. 7. AGREEMENTS.**

5 The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended
6 by inserting a new section 206 as follows:

7 “SEC. 206. AGREEMENTS.

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

11 “(b) For purposes related to the conservation, preservation, protection, restoration
12 or replacement of coral reefs or coral reef ecosystems and the enforcement of this Act,
13 the Secretary is authorized to use, with their consent and with or without reimbursement,
14 the land, services, equipment, personnel, and facilities of any Department, agency or
15 instrumentality of the United States, or of any state, local government, Indian tribal
16 government, Territory or possession, or of any political subdivision thereof, or of any
17 foreign government or international organization.

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

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

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

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

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

11 **SEC. 8. EMERGENCY ASSISTANCE.**

12 Section 207 of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6405), as
13 redesignated by section 2, is amended to read as follows:

14 “SEC. 207. EMERGENCY ASSISTANCE.

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

19 **SEC. 9. NATIONAL PROGRAM.**

20 Section 208 of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6406), as
21 redesignated by section 2, is amended to read as follows:

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1 “SEC. 208. NATIONAL PROGRAM.

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

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

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

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

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

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

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

21 and

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

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

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

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

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

16 “(4) Develop metadata standards for coral reef ecosystems in accordance
17 with Federal Geographic Data Committee guidelines.”;

18 “(d) EMERGENCY RESPONSE, STABILIZATION AND RESTORATION.—
19 The Secretary shall establish an account (to be called the Emergency Response,
20 Stabilization and Restoration Account) in the Damage Assessment Restoration Revolving
21 Fund established by Public Law 101-515, 104 Stat. 2101 (1990) (33 U.S.C. § 2706 note),
22 for implementation of this subsection for emergency actions. There are authorized to be
23 deposited into the Emergency Response, Stabilization and Restoration Account amounts

1 which are authorized to be appropriated for such Account pursuant to section 216, and
2 funds which are authorized by sections 210(d)(3)(B) and 211(f)(3)(B). Amounts in the
3 Emergency Response, Stabilization and Restoration Account shall be available for use by
4 the Secretary as specified in sections 210 and 211.”

5 **SEC. 10. PROHIBITED ACTIVITIES.**

6 The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended
7 by inserting a new section 209 as follows:

8 “SEC. 209. PROHIBITED ACTIVITIES AND SCOPE OF PROHIBITIONS.

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

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

14 “(1) if the destruction, loss, or injury was caused by the use of
15 fishing gear; provided, however, that such gear is used in a manner not
16 prohibited under the Magnuson-Stevens Fishery Conservation and
17 Management Act, 16 U.S.C. §§ 1801 *et seq.*, or other federal or State law;

18 “(2) if the destruction, loss, or injury was caused by an activity that
19 is authorized by federal or State law including, but not limited to, lawful
20 discharges from vessels of graywater, cooling water, engine exhaust,
21 ballast water and sewage from marine sanitation devices; provided,
22 however, that such activity shall not be construed to include actions such

1 as vessel groundings, vessel scrapings, anchor damage, excavation not
2 authorized by federal or State permit, or other similar activities;

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

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

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

12 “(i) an emergency that posed an unacceptable threat to
13 human health or safety or to the marine environment,

14 “(ii) an emergency that posed a threat to national
15 security, or

16 “(iii) an activity necessary for law enforcement or
17 search and rescue, and

18 “(B) could not reasonably be avoided.

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

20 “(1) refusing to permit any officer authorized to enforce this Act to
21 board a vessel, other than a vessel operated by the Department of Defense
22 or United States Coast Guard, subject to such person's control for the

1 purposes of conducting any search or inspection in connection with the
2 enforcement of this Act;

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

7 “(3) submitting false information to the Secretary or any officer
8 authorized to enforce this Act in connection with any search or inspection
9 conducted under this Act.

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

12 **SEC. 11. DESTRUCTION OF CORAL REEFS.**

13 The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended
14 by inserting a new section 210 as follows:

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

16 “(a) LIABILITY. —

17 “(1) LIABILITY TO THE UNITED STATES.—Except as provided in
18 subsection (f), all persons who engage in an activity that is prohibited under
19 sections 209(a) or 209(c), or create an imminent risk thereof, are liable, jointly
20 and severally, to the United States for an amount equal to the sum of—

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

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

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

5 “(2) LIABILITY IN REM.—

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

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

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

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

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

19 “(3) DEFENSES.—A person is not liable under this subsection if that
20 person establishes that the destruction, loss, or injury was caused solely by an act
21 of God, an act of war, or an act or omission of a third party (other than an
22 employee or agent of the defendant or one whose act or omission occurs in
23

1 connection with a contractual relationship, existing directly or indirectly with the
2 defendant), and the person acted with due care.

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

5 “(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

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

10 “(2) DAMAGE ASSESSMENT.—

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

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

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

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

1 the manner described under section 2705 of Title 33. The Secretary, acting as
2 trustee for coral reefs for the United States, shall submit a request for such an
3 action to the Attorney General whenever a person may be liable for such costs or
4 damages.

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

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

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

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

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

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

21 “(1) as appropriate be deposited into an account or accounts in the
22 Damage Assessment Restoration Revolving Fund established by Public

1 Law 101-515, 104 Stat. 2101 (1990) (33 U.S.C. § 2706 note), or the Natural
2 Resource Damage Assessment Fund created pursuant to Title I of Public Law
3 102-154, 105 Stat. 990 (1991);

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

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

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

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

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

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

22

1 “(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.”.

2 **SEC. 12. ENFORCEMENT.**

3 The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended
4 by inserting a new section 211 as follows:

5 “SEC. 211. ENFORCEMENT.

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

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

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

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

17

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

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

5 “(5) exercise any other lawful authority; and

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

8 “(c) CIVIL ENFORCEMENT AND PERMIT SANCTIONS.—

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

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

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

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

17 “(5) IN REM JURISDICTION.—A vessel used in violating this Act, any
18 regulation promulgated under this Act, or any permit issued under this Act, shall
19 be liable in rem for any civil penalty assessed for such violation. Such penalty
20 shall constitute a maritime lien on the vessel and may be recovered in an action in
21 rem in the district court of the United States having jurisdiction over the vessel.
22

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

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

20 “(8) The several district courts of the United States shall have jurisdiction
21 over any actions brought by the United States arising under this section. For the
22 purpose of this section, American Samoa shall be included within the judicial
23 district of the District Court of the United States for the District of Hawaii. Each

1 violation shall be a separate offense and the offense shall be deemed to have been
2 committed not only in the district where the violation first occurred, but also in
3 any other district as authorized by law.”

4 “(d) FORFEITURE.—

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

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

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

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

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

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

5 “(b) any property, real or personal, used or intended to be used, in
6 any manner, to commit or facilitate the commission of a violation of this
7 Act, including, without limitation, any vessel (including the vessel’s
8 equipment, stores, catch and cargo), vehicle, aircraft, or other means of
9 transportation.

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

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

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

11 “(f) EXPENDITURES.—

12 “(1) Notwithstanding section 3302 of Title 31 or section 1861 of Title 16,
13 United States Code, amounts received by the United States as civil penalties
14 under section 211(c) of this bill, forfeitures of property under section 211(d), and
15 costs imposed under section 211(e), shall—

16 “(A) be placed into an account;

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

19 “(C) remain available until expended.

20 “(2) Amounts received under this section for forfeitures under
21 section 211(d) and costs imposed under section 211(e) shall be used to pay the
22 reasonable and necessary costs incurred by the Secretary to provide temporary

1 storage, care, maintenance, and disposal of any property seized in connection with
2 a violation of this Act or any regulation promulgated under this Act.

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

6 “(A) to stabilize, restore, or otherwise manage the coral reef with
7 respect to which the violation occurred that resulted in the penalty or
8 forfeiture;

9 “(B) to be transferred to the Emergency Response, Stabilization
10 and Restoration Account established under section 208(d) or an account
11 referenced in section 210(d)(1) of this Act, to reimburse such account for
12 amounts used for authorized emergency actions;

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

14 “(D) to conduct research on techniques to stabilize and restore
15 coral reefs;

16 “(E) to conduct activities that prevent or reduce the likelihood of
17 future damage to coral reefs;

18 “(F) to stabilize, restore or otherwise manage any other coral reef;
19 or

20 “(G) to pay a reward to any person who furnishes information
21 leading to an assessment of a civil penalty, or to a forfeiture of property,
22 for a violation of this Act or any regulation promulgated under this Act.
23

1 “(g) CRIMINAL ENFORCEMENT.—

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

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

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

22

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

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

10 “(j) INJUNCTIVE RELIEF.—

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

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

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

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

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

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

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

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

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

1 injury occurred, or in the United States District Court for the District of
2 Columbia.”.

3 **SEC. 13. PERMITS.**

4 The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended
5 by inserting a new section 212 as follows:

6 “SEC. 212. PERMITS.

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

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

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

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

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

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

20 “(d) FEES.—

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

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

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

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

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

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

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

16 “(B) waive or reduce the fee.

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

20 **SEC. 14. COORDINATION WITH STATES AND TERRITORIES.**

21 The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended
22 by inserting a new section 213 as follows:

23

1 “SEC. 213. COORDINATION WITH STATES AND TERRITORIES

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

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

10 **SEC. 15. REGULATIONS.**

11 The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended
12 by inserting a new section 214 as follows:

13 “SEC. 214. REGULATIONS.

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

20 **SEC. 16. EFFECTIVENESS REPORT.**

21 Section 215 of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6407), as
22 redesignated by section 2, is amended to read as follows:

23

1 “SEC. 215. EFFECTIVENESS REPORT.

2 “Not later than 2 years after the date on which the Secretary publishes the
3 Report on U.S. Coral Reef Task Force Agency Activities 2002 to 2003 and every
4 2 years thereafter, the Secretary shall submit to the Committee on Commerce,
5 Science, and Transportation of the Senate and the Committee on Natural
6 Resources of the House of Representatives a report describing all activities
7 undertaken to implement the strategy, under section 203, including a description
8 of the funds obligated each fiscal year to advance coral reef ecosystem
9 conservation. This report will cover the time period since the last report was
10 submitted.”.

11 **SEC. 17. AUTHORIZATION OF APPROPRIATIONS.**

12 Section 216 of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6408), as
13 redesignated by section 2, is amended to read as follows:

14 “SEC. 216. AUTHORIZATION OF APPROPRIATIONS.

15 “(a) IN GENERAL.— There are authorized to be appropriated to the Secretary to
16 carry out this Act, including for the Emergency Response, Stabilization and Restoration
17 Account established under section 208(d), \$25,797,000 in fiscal year 2008 and such sums
18 as may be necessary for each of fiscal years 2009 through 2012.

19 “(b) ADMINISTRATION.— Of the amounts appropriated under subsection (a),
20 not more than 10 percent of the amounts appropriated, may be used for program
21 administration or for overhead costs incurred by the National Oceanic and Atmospheric
22 Administration or the Department of Commerce and assessed as an administrative
23 charge.”.

1 **SEC. 18. DEFINITIONS.**

2 Section 217 of the Coral Reef Conservation Act of 2000 (16 U.S.C. § 6409), as
3 redesignated by section 2, is amended to read as follows:

4 “SEC. 217. DEFINITIONS.

5 “In this title:

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

10 “(2) CONSERVATION.— The term ‘conservation’ means the use of methods
11 and procedures necessary to preserve or sustain corals and associated species as diverse,
12 viable, and self-perpetuating coral reef ecosystems, including all activities associated
13 with resource management, such as assessment, conservation, protection, restoration,
14 sustainable use, and management of habitat; mapping; habitat monitoring; assistance in
15 the development of management strategies for marine protected areas and marine
16 resources consistent with the National Marine Sanctuaries Act (16 U.S.C. §§ 1431 et
17 seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C.
18 §§ 1801 et seq.); law enforcement; conflict resolution initiatives; community outreach
19 and education; and that promote safe and ecologically sound navigation.

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

22 “(A) all species of the orders Antipatharia (black corals), Scleractinia
23 (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and

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

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

5 “(4) CORAL REEF.— Coral Reefs are defined as limestone structures composed
6 in whole or in part of living zooxanthellate stony corals (Class Anthozoa, Order
7 Scleractinia), as described in section 217(3), their skeletal remains, or both, and including
8 other coral, associated sessile invertebrates and plants, and any adjacent or associated
9 seagrasses.

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

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

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

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

21 “(A) compensation for—

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

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

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

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

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

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

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

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

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

23

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

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

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

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

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

20 “(A) for purposes of sections 201 through 208 and sections 215 through
21 217, the Secretary of Commerce; and

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

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

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

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

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

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

18 **SEC. 19. JUDICIAL REVIEW.**

19 The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 *et seq.*) is amended
20 by inserting a new section 218 as follows:

21 “SEC. 218. JUDICIAL REVIEW.

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

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

6 “(2) review of all other final agency actions of the Secretary under this Act
7 may be had only by the filing of a petition for review by an interested person in
8 the Circuit Court of Appeals of the United States for the federal judicial district in
9 which such person resides or transacts business which is directly affected by the
10 action taken; such petition shall be filed within 120 days from the date such final
11 agency action is taken.

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

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

18 **SEC. 20. THE DEPARTMENT OF THE INTERIOR PROGRAM.**

19 (a) DEFINITIONAL AMENDMENTS AND CLARIFICATIONS.—

20 (1) Section 8 of the Act of March 10, 1934 (16 U.S.C. § 666b), commonly
21 known as the “Fish and Wildlife Coordination Act”, is amended by inserting at the
22 end thereof the words “, including coral reef ecosystems” (as such term is defined
23 in section 217(b) of the Coral Reef Conservation Act of 2000, as amended);

1 (2) With respect to the authorities under the Act of August 8, 1956 (16
2 U.S.C. § 742a et. seq.), as amended, commonly known as the “Fish and Wildlife
3 Act of 1956”; and under Public Law 95-616 (16 U.S.C. § 742l), as amended,
4 commonly known as the “Fish and Wildlife Improvement Act of 1978”, references
5 in such Acts to “wildlife” or “fish and wildlife” shall be construed to include coral
6 reef ecosystems (as such term is defined in section 217(b) of the Coral Reef
7 Conservation Act of 2000, as amended).

8 (b) ASSISTANCE TO INSULAR AREAS.—Sec. 601 of Public Law 96-597 (48
9 U.S.C. § 1469d), as amended, is amended by redesignating existing subsection (d) as (e),
10 and by inserting:

11 “(d). Coral Reefs.—The Secretary of the Interior is authorized to extend to
12 the governments of American Samoa, the Commonwealth of the Northern Mariana
13 Islands, Guam, and the Virgin Islands, and their agencies and instrumentalities,
14 financial and technical assistance for the conservation of coral reef ecosystems (as
15 such term is defined in the Coral Reef Conservation Act of 2000 [Pub. L. No. 106-
16 562, 114 Stat. 2794 (2000)], as amended) under the jurisdiction of such
17 governments.”.

18 (c) The Coral Reef Conservation Act of 2000 (16 U.S.C. §§ 6401 et seq.) is
19 amended by inserting a new section 219 as follows:

20 “SEC. 219. DEPARTMENT OF THE INTERIOR.

21 “CORAL REEF CONSERVATION ASSISTANCE.— The Secretary of the
22 Interior may provide technical and financial assistance to States, American Samoa, the
23 Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico and the Virgin

1 Islands, for management and conservation of coral reef ecosystems, including
2 implementation of Local Action Strategies. The Secretary shall coordinate coral reef
3 conservation activities under the Act of March 10, 1934 (16 U.S.C. § 666b), as amended,
4 commonly known as the “Fish and Wildlife Coordination Act”, Public Law 95-616 (16
5 U.S.C. § 742*l*), as amended, commonly known as the “Fish and Wildlife Improvement
6 Act of 1978”, Public Law 96-597 (48 U.S.C. § 1469d), as amended, with those coral reef
7 conservation activities of other agencies and partners, including those activities carried
8 out through the U.S. Coral Reef Task Force.”