

**16 USC Ch. 83: CORAL REEF CONSERVATION****From Title 16—CONSERVATION****CHAPTER 83—CORAL REEF CONSERVATION**

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**§6401. Purposes**

The purposes of this chapter are—

(1) to conserve and restore the condition of United States coral reef ecosystems challenged by natural and human-accelerated changes, including increasing ocean temperatures, changing ocean chemistry, coral bleaching, coral diseases, water quality degradation, invasive species, and illegal, unreported, and unregulated fishing;

(2) to promote the science-based management and sustainable use of coral reef ecosystems to benefit local communities and the Nation, including through improved integration and cooperation among Federal and non-Federal stakeholders responsible for managing coral reef resources;

(3) to develop sound scientific information on the condition of coral reef ecosystems, continuing and emerging threats to such ecosystems, and the efficacy of innovative tools, technologies, and strategies to mitigate stressors and restore such ecosystems, including evaluation criteria to determine the effectiveness of management interventions, and accurate mapping for coral reef restoration;

(4) to assist in the preservation of coral reefs by supporting science-based, consensus-driven, and community-based coral reef management by covered States and covered Native entities, including monitoring, conservation, and restoration projects that empower local communities, small businesses, and nongovernmental organizations;

(5) to provide financial resources, technical assistance, and scientific expertise to supplement, complement, and strengthen community-based management programs and conservation and restoration projects of non-Federal reefs;

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

(7) to support rapid, effective, and science-based assessment and response to exigent circumstances that pose immediate and long-term threats to coral reefs, including—

(A) coral disease outbreaks;

(B) invasive or nuisance species;

(C) coral bleaching;

(D) natural disasters; and

(E) industrial or mechanical disasters, including vessel groundings, hazardous spills, and coastal construction accidents; and

(8) to serve as a model for advancing similar international efforts to monitor, conserve, and restore coral reef ecosystems.

(Pub. L. 106–562, title II, §202, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3931.)

**EDITORIAL NOTES**

## PRIOR PROVISIONS

A prior section 6401, Pub. L. 106–562, [title II, §202, Dec. 23, 2000](#), 114 Stat. 2800, set forth purposes of this chapter, prior to repeal by Pub. L. 117–263, [div. J, title C, §10001\(a\), Dec. 23, 2022](#), 136 Stat. 3931.

## STATUTORY NOTES AND RELATED SUBSIDIARIES

### SHORT TITLE

Pub. L. 106–562, [title II, §201, Dec. 23, 2000](#), 114 Stat. 2800, provided that: "This title [enacting this chapter] may be cited as the 'Coral Reef Conservation Act of 2000'."

### SAVINGS CLAUSE

Pub. L. 117–263, [div. J, title C, §10001\(d\), Dec. 23, 2022](#), 136 Stat. 3951, provided that: "None of the amendments made by or provisions of this title [enacting sections 6401 to 6415 of this title and chapter 83A of this title, amending section 7504 of this title, and repealing sections 6401 to 6409 of this title] may be construed to enlarge the management authority of a Federal agency or coral reef stewardship partnership to coral reefs and coral reef ecosystems outside the boundaries of such agency's or partnership's jurisdiction."

## NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF RESERVE

Pub. L. 106–554, [§1\(a\)\(4\) \[div. B, title I, §144\(f\)\], Dec. 21, 2000](#), 114 Stat. 2763, [2763A-249](#), provided that: "(1) The President, after consultation with the Governor of the State of Hawaii, may designate any Northwestern Hawaiian Islands coral reef or coral reef ecosystem as a coral reef reserve to be managed by the Secretary of Commerce.

"(2) Upon the designation of a reserve under paragraph (1) by the President, the Secretary shall—

"(A) take action to initiate the designation of the reserve as a National Marine Sanctuary under sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433[, 1434]);

"(B) establish a Northwestern Hawaiian Islands Reserve Advisory Council under section 315 of that Act (16 U.S.C. 1445a), the membership of which shall include at least one representative from Native Hawaiian groups; and

"(C) until the reserve is designated as a National Marine Sanctuary, manage the reserve in a manner consistent with the purposes and policies of that Act [16 U.S.C. 1431 et seq.].

"(3) Notwithstanding any other provision of law, no closure areas around the Northwestern Hawaiian Islands shall become permanent without adequate review and comment.

"(4) The Secretary shall work with other Federal agencies and the Director of the National Science Foundation, to develop a coordinated plan to make vessels and other resources available for conservation or research activities for the reserve.

"(5) If the Secretary has not designated a national marine sanctuary in the Northwestern Hawaiian Islands under sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433, 1434) before October 1, 2005, the Secretary shall conduct a review of the management of the reserve under section 304(e) of that Act (16 U.S.C. 1434(e)).

"(6) No later than 6 months after the date of enactment of this Act [Dec. 21, 2000], the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources [now Committee on Natural Resources], describing actions taken to implement this subsection, including costs of monitoring, enforcing, and addressing marine debris, and the extent to which the fiscal or other resources necessary to carry out this subsection are reflected in the Budget of the United States Government submitted by the President under section 1104 of title 31, United States Code.

"(7) There are authorized to be appropriated to the Secretary of Commerce to carry out the provisions of this subsection such sums, not exceeding \$4,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005, as are reported under paragraph (5) [(6)] to be reflected in the Budget of the United States Government."

Substantially identical provisions were contained in Pub. L. 106–513, [§6\(g\), Dec. 21, 2000](#), 114 Stat. 2385.

## EXECUTIVE DOCUMENTS

### EX. ORD. NO. 13089. CORAL REEF PROTECTION

Ex. Ord. No. 13089, June 11, 1998, 63 F.R. 32701, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in furtherance of the purposes of the Clean Water Act of 1977, as amended (33 U.S.C. 1251,

*et seq.*) [see Short Title of 1977 Amendment note set out under section 1451 of this title], Coastal Zone Management Act [of 1972] (16 U.S.C. 1451, *et seq.*), Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*), National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, *et seq.*), National Marine Sanctuaries Act, (16 U.S.C. 1431, *et seq.*), National Park Service Organic Act ([former] 16 U.S.C. 1, *et seq.*) [see 18 U.S.C. 1865(a), 54 U.S.C. 100101(a), 100301 *et seq.*, 100751(a), 100752, 100753, 102101], National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–ee) [16 U.S.C. 668dd–668ee], and other pertinent statutes, to preserve and protect the biodiversity, health, heritage, and social and economic value of U.S. coral reef ecosystems and the marine environment, it is hereby ordered as follows:

SECTION 1. *Definitions.* (a) "U.S. coral reef ecosystems" means those species, habitats, and other natural resources associated with coral reefs in all maritime areas and zones subject to the jurisdiction or control of the United States (e.g., Federal, State, territorial, or commonwealth waters), including reef systems in the south Atlantic, Caribbean, Gulf of Mexico, and Pacific Ocean. (b) "U.S. Coral Reef Initiative" is an existing partnership between Federal agencies and State, territorial, commonwealth, and local governments, nongovernmental organizations, and commercial interests to design and implement additional management, education, monitoring, research, and restoration efforts to conserve coral reef ecosystems for the use and enjoyment of future generations. The existing U.S. Islands Coral Reef Initiative strategy covers approximately 95 percent of U.S. coral reef ecosystems and is a key element of the overall U.S. Coral Reef Initiative. (c) "International Coral Reef Initiative" is an existing partnership, founded by the United States in 1994, of governments, intergovernmental organizations, multilateral development banks, nongovernmental organizations, scientists, and the private sector whose purpose is to mobilize governments and other interested parties whose coordinated, vigorous, and effective actions are required to address the threats to the world's coral reefs.

SEC. 2. *Policy.* (a) All Federal agencies whose actions may affect U.S. coral reef ecosystems shall: (a) identify their actions that may affect U.S. coral reef ecosystems; (b) utilize their programs and authorities to protect and enhance the conditions of such ecosystems; and (c) to the extent permitted by law, ensure that any actions they authorize, fund, or carry out will not degrade the conditions of such ecosystems.

(b) Exceptions to this section may be allowed under terms prescribed by the heads of Federal agencies:

- (1) during time of war or national emergency;
- (2) when necessary for reasons of national security, as determined by the President;
- (3) during emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution; or
- (4) in any case that constitutes a danger to human life or a real threat to vessels, aircraft, platforms, or other man-made structures at sea, such as cases of *force majeure* caused by stress of weather or other act of God.

SEC. 3. *Federal Agency Responsibilities.* In furtherance of section 2 of this order, Federal agencies whose actions affect U.S. coral reef ecosystems, shall, subject to the availability of appropriations, provide for implementation of measures needed to research, monitor, manage, and restore affected ecosystems, including, but not limited to, measures reducing impacts from pollution, sedimentation, and fishing. To the extent not inconsistent with statutory responsibilities and procedures, these measures shall be developed in cooperation with the U.S. Coral Reef Task Force and fishery management councils and in consultation with affected States, territorial, commonwealth, tribal, and local government agencies, nongovernmental organizations, the scientific community, and commercial interests.

SEC. 4. *U.S. Coral Reef Task Force.* The Secretary of the Interior and the Secretary of Commerce, through the Administrator of the National Oceanic and Atmospheric Administration, shall co-chair a U.S. Coral Reef Task Force ("Task Force"), whose members shall include, but not be limited to, the Administrator of the Environmental Protection Agency, the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Secretary of Transportation, the Director of the National Science Foundation, the Administrator of the Agency for International Development, and the Administrator of the National Aeronautics and Space Administration. The Task Force shall oversee implementation of the policy and Federal agency responsibilities set forth in this order, and shall guide and support activities under the U.S. Coral Reef Initiative ("CRI"). All Federal agencies whose actions may affect U.S. coral reef ecosystems shall review their participation in the CRI and the strategies developed under it, including strategies and plans of State, territorial, commonwealth, and local governments, and, to the extent feasible, shall enhance Federal participation and support of such strategies and plans. The Task Force shall work in cooperation with State, territorial, commonwealth, and local government agencies, nongovernmental organizations, the scientific community, and commercial interests.

SEC. 5. *Duties of the U.S. Coral Reef Task Force.* (a) *Coral Reef Mapping and Monitoring.* The Task Force, in cooperation with State, territory, commonwealth, and local government partners, shall coordinate a

comprehensive program to map and monitor U.S. coral reefs. Such programs shall include, but not be limited to, territories and commonwealths, special marine protected areas such as National Marine Sanctuaries, National Estuarine Research Reserves, National Parks, National Wildlife Refuges, and other entities having significant coral reef resources. To the extent feasible, remote sensing capabilities shall be developed and applied to this program and local communities should be engaged in the design and conduct of programs.

(b) *Research.* The Task Force shall develop and implement, with the scientific community, research aimed at identifying the major causes and consequences of degradation of coral reef ecosystems. This research shall include fundamental scientific research to provide a sound framework for the restoration and conservation of coral reef ecosystems worldwide. To the extent feasible, existing and planned environmental monitoring and mapping programs should be linked with scientific research activities. This Executive order shall not interfere with the normal conduct of scientific studies on coral reef ecosystems.

(c) *Conservation, Mitigation, and Restoration.* The Task Force, in cooperation with State, territorial, commonwealth, and local government agencies, nongovernmental organizations, the scientific community and commercial interests, shall develop, recommend, and seek or secure implementation of measures necessary to reduce and mitigate coral reef ecosystem degradation and to restore damaged coral reefs. These measures shall include solutions to problems such as land-based sources of water pollution, sedimentation, detrimental alteration of salinity or temperature, over-fishing, over-use, collection of coral reef species, and direct destruction caused by activities such as recreational and commercial vessel traffic and treasure salvage. In developing these measures, the Task Force shall review existing legislation to determine whether additional legislation is necessary to complement the policy objectives of this order and shall recommend such legislation if appropriate. The Task Force shall further evaluate existing navigational aids, including charts, maps, day markers, and beacons to determine if the designation of the location of specific coral reefs should be enhanced through the use, revision, or improvement of such aids.

(d) *International Cooperation.* The Secretary of State and the Administrator of the Agency for International Development, in cooperation with other members of the Coral Reef Task Force and drawing upon their expertise, shall assess the U.S. role in international trade and protection of coral reef species and implement appropriate strategies and actions to promote conservation and sustainable use of coral reef resources worldwide. Such actions shall include expanded collaboration with other International Coral Reef Initiative ("ICRI") partners, especially governments, to implement the ICRI through its Framework for Action and the Global Coral Reef Monitoring Network at regional, national, and local levels.

SEC. 6. This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

## **EX. ORD. NO. 13178. NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF ECOSYSTEM RESERVE**

Ex. Ord. No. 13178, Dec. 4, 2000, 65 F.R. 76903, as amended by Ex. Ord. No. 13196, §§3, 4, Jan. 18, 2001, 66 F.R. 7395, 7396, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Marine Sanctuaries Act, (16 U.S.C. 1431 *et seq.*), and the National Marine Sanctuaries Amendments Act of 2000, Public Law 106-513 [see Short Title of 2000 Amendment note set out under section 1431 of this title], and in furtherance of the purposes of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Marine Protection, Research, and Sanctuaries Act [of 1972] (33 U.S.C. 1401 *et seq.* [16 U.S.C. 1431 *et seq.*, 1447 *et seq.*, 33 U.S.C. 1401 *et seq.*, 2801 *et seq.*]), Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*), Endangered Species Act [of 1973] (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act [of 1972] (16 U.S.C. 1362 [1361] *et seq.*), Clean Water Act (33 U.S.C. 1251 *et seq.*), National Historic Preservation Act ([former] 16 U.S.C. 470 *et seq.*) [see 54 U.S.C. 300101 *et seq.*], National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-ee), and other pertinent statutes, it is ordered as follows:

SECTION 1. *Preamble.* The world's coral reefs—the rain forests of the sea—are in serious decline. These important and sensitive areas of biodiversity warrant special protection. While United States waters contain approximately 3 percent of the world's coral reefs, approximately 70 percent of U.S. coral reefs are in the Northwestern Hawaiian Islands. The 3.5 million acres of coral reefs around the remote, mostly uninhabited Northwestern Hawaiian Islands are spectacular and almost undisturbed by humans. The approximately 1,200 mile stretch of coral islands, seamounts, banks, and shoals are unquestionably some of the healthiest and most extensive coral reefs in the United States. In their own right, the spectacular coral reefs and lands provide an amazing geological record of volcanic and erosive powers that have shaped this area. This vast area supports a dynamic reef ecosystem that supports more than

7,000 marine species, of which approximately half are unique to the Hawaiian Island chain. This incredibly diverse ecosystem is home to many species of coral, fish, birds, marine mammals, and other flora and fauna including the endangered Hawaiian monk seal, the threatened green sea turtle, and the endangered leatherback and hawksbill sea turtles. In addition, this area has great cultural significance to Native Hawaiians as well as linkages to early Polynesian culture—making it additionally worthy of protection and understanding. This is truly a unique and special place, a coral reef ecosystem like no place on earth, and a source of pride, inspiration, and satisfaction for all Americans, especially the people of Hawaii. It is fully worthy of our best efforts to preserve a legacy of America's natural wonders for future generations. Due to the special significance of this area, I have determined that it is in the best interest of our Nation, and of future generations, to provide strong and lasting protection for the coral reef ecosystem of the Northwestern Hawaiian Islands.

On May 26, 2000, I directed the Secretaries of Commerce and the Interior, working cooperatively with the State of Hawaii and consulting with the Western Pacific Fishery Management Council, to develop recommendations for a new, coordinated management regime to increase protection of the coral reef ecosystem of the Northwestern Hawaiian Islands and provide for sustainable use of the area. Upon consideration of their recommendations and comments received during the public visioning process on this initiative, and based on the statutory authorities set forth above, I am issuing this Executive Order.

*SEC. 2. Purpose.* The purpose of this Executive Order is to ensure the comprehensive, strong, and lasting protection of the coral reef ecosystem and related marine resources and species (resources) of the Northwestern Hawaiian Islands.

*SEC. 3. Establishment of Coral Reef Ecosystem Reserve.* There is hereby established in the Northwestern Hawaiian Islands a coral reef ecosystem reserve to be known as the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve). The Reserve shall include submerged lands and waters of the Northwestern Hawaiian Islands, extending approximately 1,200 nautical miles (nm) long and 100nm wide. The Reserve shall be adjacent to and seaward of the seaward boundaries of the State of Hawaii and the Midway Atoll National Wildlife Refuge, and shall overlay the Hawaiian Islands National Wildlife Refuge to the extent that it extends beyond the seaward boundaries of the State of Hawaii. The boundaries of the Reserve are described in section 6 of this order.

*SEC. 4. Management Principles.* The Secretary of Commerce, or his designee, (hereafter "Secretary") shall, subject to section 10(b) of this order, manage the Reserve in accordance with the following principles:

- (a) The principal purpose of the Reserve is the long-term conservation and protection of the coral reef ecosystem and related marine resources and species of the Northwestern Hawaiian Islands in their natural character;
- (b) The Reserve shall be managed using available science and applying a precautionary approach with resource protection favored when there is a lack of information regarding any given activity, to the extent not contrary to law;
- (c) Culturally significant, noncommercial subsistence, cultural, and religious uses by Native Hawaiians should be allowed within the Reserve, consistent with applicable law and the long-term conservation and protection of Reserve resources;
- (d) The Reserve shall be managed using, when appropriate, geographical zoning and innovative management techniques to ensure that the Reserve resources are protected from degradation or harm;
- (e) To the extent consistent with the primary purpose of the Reserve, the Reserve shall be managed to support, promote, and coordinate appropriate scientific research and assessment, and long-term monitoring of Reserve resources, and the impacts or threats thereto from human and other activities, to help better understand, protect, and conserve these resources and species for future generations;
- (f) To the extent consistent with the primary purpose of the Reserve, the Reserve shall be managed to enhance public awareness, understanding, and appreciation of Reserve resources, and the impacts or threats thereto from human and other activities;
- (g) The Reserve shall be managed to further restoration and remediation of degraded or injured Reserve resources; and
- (h) The Reserve shall be managed to facilitate coordinated management among Federal and State agencies and other entities, as appropriate, to provide comprehensive (looking beyond jurisdictional boundaries) conservation of the coral reef ecosystem and related marine resources and species throughout the Northwestern Hawaiian Islands, consistent with applicable authorities and the Management Principles of this section.

*SEC. 5. Implementation.* (a) *Management of the Reserve.* The Secretary shall manage the Reserve under the National Marine Sanctuaries Act and in accordance with this order.

(b) *Reserve Operations Plan.* The Secretary, in consultation with the Secretary of the Interior and the Governor of Hawaii, shall develop an operations plan to govern the management of the Reserve. In developing the Reserve Operations Plan the Secretary shall consider the advice and recommendations of

the Reserve Council established pursuant to paragraph (c) of this section. The Reserve Operations Plan shall be directed at priority issues and actions that, at a minimum, provide for:

- (1) Coordinated management among the Reserve, Hawaiian Islands National Wildlife Refuge, Midway Atoll National Wildlife Refuge, and the State of Hawaii, consistent with relevant authorities;
- (2) Coordination among Federal agencies and the Director of the National Science Foundation to make vessels and other resources available for conservation and research activities for the Reserve;
- (3) The cleanup and prevention of marine debris in the Reserve;
- (4) The restoration or remediation of any degraded or injured resources of the Reserve;
- (5) Research, monitoring, and assessment of the Reserve;
- (6) Education and outreach about the Reserve and its resources and efforts to conserve them;
- (7) Enforcement and surveillance for the Reserve, including the use of new technologies and coordination with the United States Coast Guard and other relevant agencies;
- (8) Identification and coordination with Native Hawaiian interests, regarding culturally significant, noncommercial subsistence, cultural, and religious uses and locations within the Reserve;
- (9) Identification of potential tourism, recreational, and commercial activities within the Reserve and actions necessary to ensure that these activities do not degrade the Reserve's resources or diminish the Reserve's natural character;
- (10) Use of vessel monitoring systems for any vessel entering or transiting the Reserve, if warranted. To this end, the Secretary in consultation with the Department of State, United States Coast Guard, and the Department of Defense, shall evaluate the need for the establishment of vessel monitoring systems and, if warranted, shall initiate the steps necessary to have the appropriate domestic agencies, and request that the International Maritime Organization, adopt a vessel monitoring system requirement for the Reserve;
- (11) Any regulations, in addition to the conservation measures and Reserve Preservation Areas established under this order, that the Secretary determines are necessary to manage the Reserve in accordance with this order; and

(12) Coordination of all relevant activities with the process to designate the Reserve as a National Marine Sanctuary, as provided under paragraph (f) of this section.

(c) *Conservation Measures.* The Reserve Operations Plan shall also include the conservation measures in section 7 of this order and the Reserve Preservation Areas in section 8 of this order.

(d) *Memorandum of Agreement.* To further paragraph (b)(1) of this section, and subject to section 10(b) of this order, and in particular to promote coordinated management of the entirety of the shallow areas of the coral reef ecosystem throughout the Northwestern Hawaiian Islands, the Secretary shall work with the Secretary of the Interior and Governor of the State of Hawaii to enter into one or more memoranda of agreement for the coordinated conservation and management of the Reserve, Midway Atoll and Hawaiian Islands National Wildlife Refuges, and State of Hawaii submerged lands and waters within the Northwestern Hawaiian Islands.

(e) *National Marine Sanctuary.* The Secretary shall initiate the process to designate the Reserve as a national marine sanctuary pursuant to sections 303 and 304 of the National Marine Sanctuaries Act (16 U.S.C. 1433, 1434). In doing so the Secretary shall supplement or complement the existing Reserve. The Secretary shall, in consultation with the Governor of the State of Hawaii, determine whether State submerged lands and waters should be included as part of the sanctuary. In designating and managing the sanctuary, the Secretary shall consider the advice and recommendations of the Reserve Council established pursuant to paragraph (f) of this section.

(f) *Council.* After considering input from the Secretary of the Interior and Governor of the State of Hawaii, the Secretary shall establish a Coral Reef Ecosystem Reserve Council pursuant to section 315 of the National Marine Sanctuaries Act (16 U.S.C. 1445a) to provide advice and recommendations on the Reserve Operations Plan and designation and management of any sanctuary. The Council shall include:

(1) Three Native Hawaiian representatives, including one Native Hawaiian elder, with experience or knowledge regarding Native Hawaiian subsistence, cultural, religious, or other activities in the Northwestern Hawaiian Islands.

(2) Three representatives from the non-Federal science community with experience specific to the Northwestern Hawaiian Islands and with expertise in at least one of the following areas:

- (A) Marine mammal science.
- (B) Coral reef ecology.
- (C) Native marine flora and fauna of the Hawaiian Islands.
- (D) Oceanography.
- (E) Any other scientific discipline the Secretary determines to be appropriate.

(3) Three representatives from nongovernmental wildlife/marine life, environmental, and/or conservation organizations.

(4) One representative from the commercial fishing industry that conducts activities in the Northwestern Hawaiian Islands.

(5) One representative from the recreational fishing industry that conducts activities in the Northwestern Hawaiian Islands.

(6) One representative from the ocean-related tourism industry.

(7) One representative from the non-Federal community with experience in education and outreach regarding marine conservation issues.

(8) One citizen-at-large representative.

(9) One representative from the State of Hawaii as appointed by the Governor.

(10) One representative each, as nonvoting, *ex officio* members, from the Department of the Interior, United States Coast Guard, Department of Defense, Department of State, the National Marine Fisheries Service, the Hawaiian Islands Humpback Whale National Marine Sanctuary, National Science Foundation, Marine Mammal Commission, and Western Pacific Regional Fishery Management Council.

(g) *Report.* The Secretary shall provide a progress report on the implementation of this order to the Chair of the Council on Environmental Quality within 1 year from the date of this order.

**SEC. 6. *Area of the Reserve.*** The Reserve includes the waters and submerged lands of the Northwestern Hawaiian Islands as follows:

(a) The seaward boundary of the Reserve is 50nm from the approximate center geographical positions of Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Atoll, and Kure Island. Where the areas are not contiguous, parallel lines drawn tangent to and connecting those semi-circles of the 50nm areas that lie around such areas shall delimit the remainder of the Reserve.

(b) The inland boundary of the Reserve around each of the areas named in subparagraph (a) of this section is the seaward boundary of Hawaii State waters and submerged lands, and the seaward boundary of the Midway Atoll National Wildlife Refuge, as appropriate.

(c) The Reserve boundary is generally depicted on the map attached to this order. The Secretary, after consultation with the Governor of the State of Hawaii, may make technical modifications to the boundary of the Reserve, including providing straight-line boundaries for the Reserve for clarity and ease of identification, as appropriate.

**SEC. 7. *Protection and Conservation Measures.*** The conservation measures in this section apply throughout the Reserve.

(a)(1) *Commercial Fishing.* All currently existing commercial Federal fishing permits and current levels of fishing effort and take, which also includes the non-permitted level of trolling for pelagic species by currently permitted bottom fishers, as determined by the Secretary and pursuant to regulations in effect on December 4, 2000, shall be capped as follows:

(A) No commercial fishing may occur in Reserve Preservation Areas pursuant to section 8 of this order;

(B) There shall be no increase in the number of permits of any particular type of fishing (such as for bottomfishing) beyond the number of permits of that type in effect the year preceding the date of this order;

(C) The annual level of aggregate take under all permits of any particular type of fishing may not exceed the aggregate level of take under all permits of that type of fishing as follows:

(1) Bottomfishing—the annual aggregate level for each permitted bottomfisher shall be that permittee's individual average taken over the 5 years preceding December 4, 2000, as determined by the Secretary, provided that the Secretary, in furtherance of the principles of the reserve, may make a one-time reasonable increase to the total aggregate to allow for the use of two Native Hawaiian bottomfishing permits;

(2) All other commercial fishing—the annual aggregate level shall be the permittee's individual take in the year preceding December 4, 2000, as determined by the Secretary.

(D) There shall be no permits issued for any particular type of fishing for which there were no permits issued in the year preceding the date of this order; and

(E) The type of fishing gear used by any permit holder may not be changed except with the permission of the Secretary, as provided under paragraph 3 of this section.

(F) Trolling for pelagic species shall be capped based on reported landings for the year preceding December 4, 2000.

(2) *Recreational Fishing.* All currently existing (preceding the date of this order) levels of recreational fishing effort, as determined by the Secretary and pursuant to regulations in effect on the day of this order, shall be capped (i.e., no increase of take levels or levels of fishing effort, species targeted, or change in gear types) throughout the Reserve. However, fishing is further restricted as provided in section 8 of this order.

(3) The Secretary, after consultation with the Secretary of the Interior and Governor of the State of Hawaii, and after public review and comment and consideration of any advice or recommendations of the

Reserve Council and Western Pacific Regional Fishery Management Council, may further restrict the fishing activities under subparagraphs (a)(1) and (a)(2) of this section if necessary to protect Reserve resources, or may authorize or require alternate gear types if such gear would offer equal or greater protection for Reserve resources.

(b) In addition to the conservation measures in paragraph (a) of this section, the following activities are prohibited throughout the Reserve:

- (1) Exploring for, developing, or producing oil, gas, or minerals;
  - (2) Having a vessel anchored on any living or dead coral with an anchor, an anchor chain, or an anchor rope when visibility is such that the seabed can be seen;
  - (3) Drilling into, dredging, or otherwise altering the seabed; or constructing, placing, or abandoning any structure, material, or other matter on the seabed, except as an incidental result of anchoring vessels;
  - (4) Discharging or depositing any material or other matter into the Reserve, or discharging or depositing any material or other matter outside the Reserve that subsequently enters the Reserve and injures any resource of the Reserve, except:
    - (A) fish parts (i.e., chumming materia [sic] or bait) used in and during fishing operations authorized under this order;
    - (B) biodegradable effluent incident to vessel use and generated by a marine sanitation device in accordance with section 312 of the Federal Water Pollution Control Act, as amended [33 U.S.C. 1322];
    - (C) water generated by routine vessel operations (e.g., deck wash down and graywater as defined in section 312 of the Federal Water Pollution Control Act), excluding oily wastes from bilge pumping; or
    - (D) cooling water from vessels or engine exhaust; and
  - (5) Removal, moving, taking, harvesting, or damaging any living or nonliving Reserve resources, except as provided under paragraph (a) of this section and sections 8(a) and 9 of this order.
- (c) The Secretary may conduct, or authorize by permit the activities listed in subparagraphs (b)(3)–(5) of this section to the extent that they are necessary for research, monitoring, education, or management activities that further the Management Principles of section 4 of this order.

#### *SEC. 8. Reserve Preservation Areas.*

(a) To further protect Reserve resources, the following areas are hereby established as Reserve Preservation Areas until some or all are made permanent after adequate public review and comment, within which all activities referred to in paragraph (b) of this section are prohibited.

(1) From the seaward boundary of Hawaii State waters and submerged lands to a mean depth of 100 fathoms (fm) around:

- (A) Nihoa Island, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;
  - (B) Necker Island, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;
  - (C) French Frigate Shoals;
  - (D) Gardner Pinnacles, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;
  - (E) Maro Reef, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;
  - (F) Laysan Island, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 50 fm, unless and until the Secretary determines otherwise after adequate public review and comment;
  - (G) Lisianski Island, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue seaward of a mean depth of 25 fm, unless and until the Secretary determines otherwise after adequate public review and comment;
  - (H) Pearl and Hermes Atoll; and
  - (I) Kure Atoll.
- (2) Twelve nautical miles around the approximate geographical centers of:
- (A) The first bank immediately east of French Frigate Shoals;



(B) Southeast Brooks Bank, which is the first bank immediately west of French Frigate Shoals, provided that the closure area shall not be closer than approximately 3nm of the next bank immediately west;

(C) St. Rogatien Bank, provided that the closure area shall not be closer than approximately 3nm of the next bank immediately east, provided further that bottomfishing in accordance with the requirements of section 7(a)(1) of this order shall be allowed to continue, unless and until the Secretary determines otherwise after adequate public review and comment;

(D), (E) [Revoked. Ex. Ord. No. 13196, §4, Jan. 18, 2001, 66 F.R. 7396]

(F) Pioneer Bank, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, respectively, of this order [sic] shall be allowed to continue, unless and until the Secretary determines otherwise after adequate public review and comment.

(3) Twelve nautical miles around the approximate geographical centers of

(A) The first bank west of St. Rogation Bank, east of Gardner Pinnacles, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, shall be allowed to continue for a period of 5 years from the date of this order; and

(B) Raita Bank, provided that commercial bottomfishing and commercial and recreational trolling for pelagic species in accordance with the requirements of sections 7(a)(1) and 7(a)(2) of this order, shall be allowed to continue for a period of 5 years from the date of this order; and

(C) Provided that both banks described above in (3)(A) and (3)(B) shall only continue to allow commercial bottomfishing and commercial and recreational trolling for pelagic species after the 5-year time period if it is determined that continuation of such activities will have no adverse impact on the resources of these banks.

(b) Activities Prohibited Within Reserve Preservation Areas.

(1) In addition to the conservation measures in section 7 of this order, which are applicable to the entire Reserve, the following activities are prohibited within the Reserve Preservation Areas listed in paragraph (a) of this section, except as expressly otherwise stated in this paragraph and sections (8)(a) and 9 of this order:

(A) Commercial and recreational fishing;

(B) Anchoring in any area that contains available mooring buoys, or anchoring outside an available anchoring area when such area has been designated by the Secretary;

(C) Any type of touching or taking of living or dead coral;

(D) Discharging or depositing any material or other matter except cooling water or engine exhaust; and

(E) Such other activities that the Secretary identifies after adequate public review and comment, and after consideration of any advice and recommendations of the Reserve Council.

(2) Notwithstanding the prohibitions in this paragraph, the Secretary may conduct, or authorize by permit, research, monitoring, education, or management activities within any Reserve Preservation Area that further the Management Principles of section 4 of this order.

(3) The Reserve Preservation Areas in this section are approximated using fathoms. The Secretary will develop straight line boundaries based on longitude and latitude coordinates to encompass each Reserve Preservation Area, to provide for clarity and ease of identification. The Secretary may make technical modifications to any such boundaries.

*SEC. 9. Native Hawaiian Uses.* Native Hawaiian noncommercial subsistence, cultural, or religious uses may continue, to the extent consistent with existing law, within the Reserve and Reserve Preservation Areas identified under section 8 of this order. The Secretary shall work with Native Hawaiian interests to identify those areas where such Native Hawaiian uses of the Reserve's resources may be conducted without injury to the Reserve's coral reef ecosystem and related marine resources and species, and may revise the areas where such activities may occur after public review and comment, and consideration of any advice and recommendations of the Reserve Council.

*SEC. 10. National Wildlife Refuges.*

(a) The Secretary of the Interior, in managing, through the U.S. Fish and Wildlife Service the Hawaiian Islands and Midway Atoll National Wildlife Refuges pursuant to the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd–668ee) and other applicable laws, shall follow the Management Principles of section 4 of this order, to the extent consistent with applicable law.

(b) Wherever the Reserve overlaps the Hawaiian Islands National Wildlife Refuge, the Reserve shall be managed to supplement and complement management of the Refuge to ensure coordinated conservation and management of the Reserve and the Refuge, consistent with the purposes and policies of the National Marine Sanctuaries Act, the National Marine Sanctuaries Amendments Act of 2000, and this order, and the authorities of the U.S. Fish and Wildlife Service under the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-668ee) and other laws with respect to management of the Refuge.

Nothing in this order shall enlarge or diminish the jurisdiction or authority of the Secretary or Secretary of the Interior in managing the Reserve or Refuge, respectively.

(c) The Secretary of the Interior, through the U.S. Fish and Wildlife Service, shall coordinate with the Secretary and the Governor of the State of Hawaii, as provided under section 5(b) of this order, to ensure coordinated protection and management among the Reserve, Refuges, and State, consistent with relevant authorities.

*SEC. 11. Administration and Judicial Review.*

(a) *International Law.* Management of the Reserve and any regulations issued pursuant thereto and all other provisions of this order shall be applied consistently with the 1983 Presidential Proclamation on the Exclusive Economic Zone [Proc. No. 5030, 16 U.S.C. 1453 note], the 1988 Presidential Proclamation on the Territorial Sea [Proc. No. 5928, 43 U.S.C. 1331 note], and the 1999 Presidential Proclamation on Contiguous Zone [Proc. No. 7219, 43 U.S.C. 1331 note] and in accordance with generally recognized principles of international law, and with the treaties, conventions, and other agreements to which the United States is a party. The Secretary shall consult with the Department of State in implementing this order.

(b) *Agency Responsibilities.* All Federal agencies whose actions may affect the Reserve and any National Marine Sanctuary established by the Secretary pursuant to this order shall carry out such actions in accordance with applicable laws, regulations and Executive Orders, including Executive Orders 13089 of June 11, 1998 [set out above], and 13158 of May 26, 2000 [16 U.S.C. 1431 note].

(c) *National Security and Emergency Actions.* Consistent with applicable law, nothing in this order is intended to apply to military activities (including those carried out by the United States Coast Guard), including military exercises, conducted within or in the vicinity of the Reserve, consistent with the requirements of Executive Orders 13089 of June 11, 1998, and 13158 of May 26, 2000. Further, nothing in this order is intended to restrict the Department of Defense from conducting activities necessary during time of war or national emergency, or when necessary for reasons of national security as determined by the Secretary of Defense, consistent with applicable law. In addition, consistent with applicable law, nothing in this order shall limit agency actions to respond to emergencies posing an unacceptable threat to human health or safety or to the marine environment and admitting of no other feasible solution.

(d) *United States Coast Guard.* Nothing in this order is intended to limit the authority of the United States Coast Guard to enforce any Federal law, or install or maintain aids to navigation.

(e) *Funding.* This order shall be carried out subject to the availability of appropriated funds and to the extent permitted by law.

(f) *Territorial Waters.* Nothing in this order shall enlarge or diminish the jurisdiction or authority of the State of Hawaii or the United States over submerged or other lands within the territorial waters off the coast of Hawaii.

(g) *Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

## **EX. ORD. NO. 13196. FINAL NORTHWESTERN HAWAIIAN ISLANDS CORAL REEF ECOSYSTEM RESERVE**

Ex. Ord. No. 13196, Jan. 18, 2001, 66 F.R. 7395, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Marine Sanctuaries Act, (16 U.S.C. 1431 *et seq.*), and the National Marine Sanctuaries Amendments Act of 2000, Public Law 106-513 [see Short Title of 2000 Amendment note set out under section 1431 of this title], and in furtherance of the purposes of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Marine Protection, Research, and Sanctuaries Act [of 1972] (33 U.S.C. 1401 *et seq.* [16 U.S.C. 1431 *et seq.*, 1447 *et seq.*, 33 U.S.C. 1401 *et seq.*, 2801 *et seq.*]), Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*), Endangered Species Act [of 1973] (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act [of 1972] (16 U.S.C. 1362 [1361] *et seq.*), Clean Water Act (33 U.S.C. 1251 *et seq.*), National Historic Preservation Act ([former] 16 U.S.C. 470 *et seq.*) [see 54 U.S.C. 300101 *et seq.*], National Wildlife Refuge System Administration Act (16 U.S.C. 668dd-e.e. [16 U.S.C. 668dd-668ee]), and other pertinent statutes, it is ordered as follows:

*SEC. 1. Preamble.* On December 4, 2000, I issued Executive Order 13178 [set out above] establishing the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (Reserve) pursuant to my authority under the National Marine Sanctuaries Act, as amended by the National Marine Sanctuary Amendments Act of 2000 (Act). In establishing the Reserve, I set forth a number of conservation measures and created specific Reserve Preservation Areas to protect the coral reef ecosystem and related marine resources and species (resources) of the Reserve. The Act provides that no closure areas can become permanent without adequate notice and comment. Accordingly, I proposed to make permanent the Reserve

Preservation Areas and initiated a 30-day comment period on this proposal. I also sought comment on the conservation measures for the Reserve. On my behalf, the Secretary of Commerce received the public comments and held seven public hearings, including six throughout Hawaii. After considering the comments expressed at the hearings and received in writing, I have determined to make permanent the Reserve Preservation Areas with certain modifications set forth below. Further, I have modified certain conservation measures to address concerns raised, particularly regarding commercial and recreational fishing within the Reserve. With this action, the establishment of the Reserve under the Act, including the conservation measures and permanent Reserve Preservation Areas, is complete. The Secretary of Commerce will manage the Reserve pursuant to Executive Order 13178, as modified by this order, under the Act. The Secretary shall also initiate the process to designate the Reserve as a National Marine Sanctuary, as required by the Act.

*SEC. 2. Purpose.* The purpose of this order is to amend Executive Order 13178 [set out above], and to make permanent Reserve Preservation Areas, as modified below, to ensure the comprehensive, strong, and lasting protection of the resources of the Northwestern Hawaiian Islands.

[SECS. 3, 4. Amended Ex. Ord. No. 13178, set out above.]

*SEC. 5. Reserve Preservation Areas.* The Reserve Preservation Areas, as modified in sections 3 and 4 of this order, are hereby made permanent in accordance with the Act.

*SEC. 6. Judicial Review.* This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

## **§6402. Federal coral reef management and restoration activities**

### **(a) In general**

The Administrator, the Secretary of the Interior, or the Secretary of Commerce may conduct activities described in subsection (b) to conserve and restore coral reefs and coral reef ecosystems that are consistent with—

- (1) all applicable laws governing resource management in Federal and State waters, including this chapter;
- (2) the National Coral Reef Resilience Strategy; and
- (3) coral reef action plans in effect under section 6404 of this title, as applicable.

### **(b) Activities described**

Activities described in this subsection are activities to conserve, research, monitor, assess, and restore coral reefs and coral reef ecosystems in waters managed under the jurisdiction of a Federal agency specified in subsection (c) or in coordination with a State in waters managed under the jurisdiction of such State, including—

- (1) developing, including through the collection of requisite in situ and remotely sensed data, high-quality and digitized maps reflecting—
  - (A) current and historical live coral cover data;
  - (B) coral reef habitat quality data;
  - (C) priority areas for coral reef conservation to maintain biodiversity and ecosystem structure and function, including the reef matrix, that benefit coastal communities and living marine resources;
  - (D) priority areas for coral reef restoration to enhance biodiversity and ecosystem structure and function, including the reef matrix, to benefit coastal communities and living marine resources; and
  - (E) areas of concern that may require enhanced monitoring of coral health and cover;
- (2) enhancing compliance with Federal laws that prohibit or regulate—
  - (A) the taking of coral products or species associated with coral reefs; or
  - (B) the use and management of coral reef ecosystems;
- (3) long-term ecological monitoring of coral reef ecosystems;
- (4) implementing species-specific recovery plans for listed coral species consistent with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);
- (5) restoring degraded coral reef ecosystems;
- (6) reducing land-based stressors to coral reef ecosystems;
- (7) promoting ecologically sound navigation and anchorages, including through navigational aids and expansion of reef-safe anchorages and mooring buoy systems, to enhance recreational access while preventing or minimizing the likelihood of vessel impacts or other physical damage to coral reefs;
- (8) monitoring and responding to severe bleaching or mortality events, disease outbreaks, invasive species outbreaks, and significant maritime accidents, including hazardous spill cleanup and the removal of grounded vessels;
- (9) conducting scientific research that contributes to the understanding, sustainable use, and long-term conservation of coral reefs;

(10) enhancing public awareness, understanding, and appreciation of coral reefs and coral reef ecosystems and their ecological and socioeconomic value; and

(11) centrally archiving, managing, and distributing on a public website data sets and coral reef ecosystem assessments, including the data repositories of the Coral Reef Conservation Program of the National Oceanic and Atmospheric Administration.

**(c) Federal agencies specified**

A Federal agency specified in this subsection is one of the following:

- (1) The National Oceanic and Atmospheric Administration.
- (2) The National Park Service.
- (3) The United States Fish and Wildlife Service.
- (4) The Office of Insular Affairs.

(Pub. L. 106–562, title II, §203, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3932.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

This chapter, referred to in subsec. (a)(1), was in the original "this Act" which was translated as reading "this title", meaning title II of Pub. L. 106–562, to reflect the probable intent of Congress.

The Endangered Species Act of 1973, referred to in subsec. (b)(4), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

**PRIOR PROVISIONS**

A prior section 6402, Pub. L. 106–562, title II, §203, Dec. 23, 2000, 114 Stat. 2800, related to national coral reef action strategy, prior to repeal by Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3931.

**§6403. National coral reef resilience strategy**

**(a) In general**

The Administrator shall—

- (1) not later than 2 years after December 23, 2022, develop a national coral reef resilience strategy; and
- (2) review and revise the strategy—
  - (A) not less frequently than once every 15 years;
  - (B) not less frequently than once every 5 years, in the case of guidance on best practices under subsection (b) (4); and
  - (C) as appropriate.

**(b) Elements**

The strategy required by subsection (a) shall include the following:

- (1) A discussion addressing—
  - (A) continuing and emerging threats to the resilience of United States coral reef ecosystems;
  - (B) remaining gaps in coral reef ecosystem research, monitoring, and assessment;
  - (C) the status of management cooperation and integration among Federal reef managers and covered reef managers;
  - (D) the status of efforts to manage and disseminate critical information, and enhance interjurisdictional data sharing, related to research, reports, data sets, and maps;
  - (E) areas of special focus, which may include—
    - (i) improving natural coral recruitment;
    - (ii) preventing avoidable losses of corals and their habitat;
    - (iii) enhancing the resilience of coral populations;
    - (iv) supporting a resilience-based management approach;
    - (v) developing, coordinating, and implementing watershed management plans;
    - (vi) building and sustaining watershed management capacity at the local level;
    - (vii) providing data essential for coral reef fisheries management;
    - (viii) building capacity for coral reef fisheries management;
    - (ix) increasing understanding of coral reef ecosystem services;
    - (x) educating the public on the importance of coral reefs, threats and solutions; and
    - (xi) evaluating intervention efficacy;

(F) the status of conservation efforts, including the use of marine protected areas to serve as replenishment zones developed consistent with local practices and traditions and in cooperation with, and with respect for the scientific, technical, and management expertise and responsibilities of, covered reef managers;

(G) science-based adaptive management and restoration efforts; and

(H) management of coral reef emergencies and disasters.

(2) A statement of national goals and objectives designed to guide—

(A) future Federal coral reef management and restoration activities authorized under section 6402 of this title;

(B) conservation and restoration priorities for grants awarded under section 6410 of this title; and

(C) research priorities for the reef research coordination institutes designated under section 6412(b)(1)(B)<sup>1</sup> of this title.

(3) A designation of priority areas for conservation, and priority areas for restoration, to support the review and approval of grants under section 6410(e) of this title.

(4) Technical assistance in the form of general templates for use by covered reef managers and Federal reef managers to guide the development of coral reef action plans under section 6404 of this title, including guidance on the best science-based practices to respond to coral reef emergencies that can be included in coral reef action plans.

### (c) Consultations

In developing all elements of the strategy required by subsection (a), the Administrator shall—

(1) consult with the Secretary of the Interior, the Task Force, covered States, and covered Native entities;

(2) consult with the Secretary of Defense, as appropriate;

(3) engage stakeholders, including covered States, coral reef stewardship partnerships, reef research institutes and research centers described in section 6412<sup>1</sup> of this title, and recipients of grants under section 6410 of this title; and

(4) solicit public review and comment regarding scoping and the draft strategy.

### (d) Submission to Congress; publication

The Administrator shall—

(1) submit the strategy required by subsection (a) and any revisions to the strategy to the appropriate congressional committees; and

(2) publish the strategy and any such revisions on public websites of—

(A) the Coral Reef Conservation Program of the National Oceanic and Atmospheric Administration; and

(B) the Task Force.

(Pub. L. 106–562, title II, §204, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3933.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

Section 6412 of this title, referred to in subsecs. (b)(2)(C) and (c)(3), probably should be a reference to section 6411 of this title which relates to reef research coordination institutes and coral reef research centers. Subsec. (b)(1)(B) of section 6412 of this title probably should be a reference to section 6411(a)(1) of this title which requires the designation of reef research coordination institutes. Section 6412(b) does not contain a par. (1)(B).

### PRIOR PROVISIONS

A prior section 6403, Pub. L. 106–562, title II, §204, Dec. 23, 2000, 114 Stat. 2801, related to coral reef conservation program, prior to repeal by Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3931.

<sup>1</sup> See *References in Text* note below.

## §6404. Coral reef action plans

### (a) Plans prepared by Federal reef managers

#### (1) In general

Not later than 3 years after December 23, 2022, and 2 years after the date of publication of each National Coral Reef Resilience Strategy, each Federal reef manager shall—

(A) prepare a coral reef action plan to guide management and restoration activities to be undertaken within the responsibilities and jurisdiction of the manager; or

(B) in the case of a reef under the jurisdiction of a Federal reef manager for which there is an action plan in effect as of December 23, 2022, update that plan to comply with the requirements of this subsection.

## **(2) Elements**

A plan prepared under paragraph (1) by a Federal reef manager shall include a discussion of the following:

(A) Short- and medium-term coral reef conservation and restoration objectives within the jurisdiction of the manager.

(B) A current adaptive management framework to inform research, monitoring, and assessment needs.

(C) Tools, strategies, and partnerships necessary to identify, monitor, and address pollution, water quality, and other negative impacts to coral reef ecosystems within the jurisdiction of the manager.

(D) The status of efforts to improve coral reef ecosystem management cooperation and integration between Federal reef managers and covered reef managers, including the identification of existing research and monitoring activities that can be leveraged for coral reef status and trends assessments within the jurisdiction of the manager.

(E) Estimated budgetary and resource considerations necessary to carry out the plan.

(F) Contingencies for response to and recovery from emergencies and disasters.

(G) In the case of an updated plan, annual records of significant management and restoration actions taken under the previous plan, cash and noncash resources used to undertake the actions, and the source of such resources.

(H) Documentation by the Federal reef manager that the plan is consistent with the National Coral Reef Resilience Strategy.

(I) A data management plan to ensure data, assessments, and accompanying information are appropriately preserved, curated, publicly accessible, and broadly reusable.

## **(3) Submission to Task Force**

Each Federal reef manager shall submit a plan prepared under paragraph (1) to the Task Force.

## **(4) Application of Administrative Procedure Act**

Each plan prepared under paragraph (1) shall be subject to the requirements of subchapter II of chapter 5, and chapter 7, of title 5 (commonly known as the "Administrative Procedure Act").

## **(b) Plans prepared by covered reef managers**

### **(1) In general**

A covered reef manager may elect to prepare, submit to the Task Force, and maintain a coral reef action plan to guide management and restoration activities to be undertaken within the responsibilities and jurisdiction of the manager.

### **(2) Effective period**

A plan prepared under this subsection shall remain in effect for 5 years, or until an updated plan is submitted to the Task Force, whichever occurs first.

### **(3) Elements**

A plan prepared under paragraph (1) by a covered reef manager—

(A) shall contain a discussion of—

(i) short- and medium-term coral reef conservation and restoration objectives within the jurisdiction of the manager;

(ii) estimated budgetary and resource considerations necessary to carry out the plan;

(iii) in the case of an updated plan, annual records of significant management and restoration actions taken under the previous plan, cash and noncash resources used to undertake the actions, and the source of such resources; and

(iv) contingencies for response to and recovery from emergencies and disasters; and

### **(B) may contain a discussion of—**

(i) the status of efforts to improve coral reef ecosystem management cooperation and integration between Federal reef managers and covered reef managers, including the identification of existing research and monitoring activities that can be leveraged for coral reef status and trends assessments within the jurisdiction of the manager;

(ii) a current adaptive management framework to inform research, monitoring, and assessment needs;

(iii) tools, strategies, and partnerships necessary to identify, monitor, and address pollution and water quality impacts to coral reef ecosystems within the jurisdiction of the manager; and

(iv) a data management plan to ensure data, assessments, and accompanying information are appropriately preserved, curated, publicly accessible, and broadly reusable.

## **(c) Technical assistance**

The Administrator and the Task Force shall make reasonable efforts to provide technical assistance upon request by a Federal reef manager or covered reef manager developing a coral reef action plan under this section.

**(d) Publication**

The Administrator shall publish each coral reef action plan prepared and submitted to the Task Force under this section on the public website of the Coral Reef Conservation Program of the National Oceanic and Atmospheric Administration.

(Pub. L. 106–562, title II, §205, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3935.)

**EDITORIAL NOTES****REFERENCES IN TEXT**

The Administrative Procedure Act, referred to in subsec. (a)(4), is act [June 11, 1946, ch. 324](#), 60 Stat. 237, which was classified to sections 1001 to 1011 of former Title 5, Executive Departments and Government Officers and Employees, and which was repealed and reenacted as subchapter II (§551 et seq.) of chapter 5, and chapter 7 (§701 et seq.), of Title 5, Government Organization and Employees, by Pub. L. 89–554, [Sept. 6, 1966](#), 80 Stat. 378. See Short Title note preceding section 551 of Title 5.

**PRIOR PROVISIONS**

A prior section 6404, Pub. L. 106–562, [title II, §205, Dec. 23, 2000](#), 114 Stat. 2803, related to creation of a coral reef conservation fund, prior to repeal by Pub. L. 117–263, div. J, title C, §10001(a), [Dec. 23, 2022](#), 136 Stat. 3931.

**§6405. Coral reef stewardship partnerships****(a) In general**

To further community-based stewardship of coral reefs, coral reef stewardship partnerships for Federal and non-Federal coral reefs may be established in accordance with this section.

**(b) Standards and procedures**

The Administrator shall develop and adopt—

- (1) standards for identifying individual coral reefs and ecologically significant units of coral reefs; and
- (2) processes for adjudicating multiple applicants for stewardship of the same coral reef or ecologically significant unit of a reef to ensure no geographic overlap in representation among stewardship partnerships authorized by this section.

**(c) Membership for Federal coral reefs**

A coral reef stewardship partnership that has identified, as the subject of its stewardship activities, a coral reef or ecologically significant unit of a coral reef that is fully or partially under the management jurisdiction of any Federal agency specified in section 6402(c) of this title shall, at a minimum, include the following:

- (1) That Federal agency, a representative of which shall serve as chairperson of the coral reef stewardship partnership.
- (2) A State or county's resource management agency to the extent that such partnership covers a reef within such States or county's jurisdiction.
- (3) A coral reef research center designated under section 6411(b) of this title.
- (4) A nongovernmental organization.
- (5) A covered Native entity culturally affiliated with the subject reef or ecologically significant unit, if any.
- (6) Such other members as the partnership considers appropriate, such as interested stakeholder groups and covered Native entities.

**(d) Membership for non-Federal coral reefs****(1) In general**

A coral reef stewardship partnership that has identified, as the subject of its stewardship activities, a coral reef or ecologically significant component of a coral reef that is not under the management jurisdiction of any Federal agency specified in section 6402(c) of this title shall, at a minimum, include the following:

- (A) A State or county's resource management agency or a covered Native entity, a representative of which shall serve as the chairperson of the coral reef stewardship partnership.
- (B) A coral reef research center designated under section 6411(b) of this title.
- (C) A nongovernmental organization.
- (D) Such other members as the partnership considers appropriate, such as interested stakeholder groups.

**(2) Additional members****(A) In general**

Subject to subparagraph (B), a coral reef stewardship partnership described in paragraph (1) may also include representatives of one or more Federal agencies.

**(B) Requests; approval**

A representative of a Federal agency described in subparagraph (A) may become a member of a coral reef stewardship partnership described in paragraph (1) if—

- (i) the representative submits a request to become a member to the chairperson of the partnership referred to in paragraph (1)(A); and
- (ii) the chairperson consents to the request.

**(e) Nonapplicability of Federal Advisory Committee Act**

The Federal Advisory Committee Act (5 U.S.C. App.)<sup>1</sup> shall not apply to coral reef stewardship partnerships under this section.

(Pub. L. 106–562, title II, §206, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3937.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Federal Advisory Committee Act, referred to in subsec. (e), is Pub. L. 92–463, [Oct. 6, 1972](#), 86 Stat. 770, which was set out in the Appendix to Title 5, Government Organization and Employees, and was substantially repealed and restated in chapter 10 (§1001 et seq.) of Title 5 by Pub. L. 117–286, [§§3\(a\), 7, Dec. 27, 2022](#), 136 Stat. 4197, [4361](#). For disposition of sections of the Act into chapter 10 of Title 5, see Disposition Table preceding section 101 of Title 5.

**PRIOR PROVISIONS**

A prior section 6405, Pub. L. 106–562, [title II, §206, Dec. 23, 2000](#), 114 Stat. 2804, related to emergency assistance, prior to repeal by Pub. L. 117–263, div. J, title C, §10001(a), [Dec. 23, 2022](#), 136 Stat. 3931.

<sup>1</sup> *See References in Text note below.*

**§6406. Block grants**

**(a) In general**

In each fiscal year beginning in fiscal year 2023 and subject to the availability of appropriations, the Administrator shall provide block grants of financial assistance of not less than \$500,000 to each covered State to support management and restoration activities and further the implementation of coral reef action plans in effect under section 6404 of this title by covered States and non-Federal coral reef stewardship partnerships in accordance with this section. The Administrator shall review each covered State's application for block grant funding to ensure that applications are consistent with applicable action plans and the National Coral Reef Resilience Strategy.

**(b) Responsibilities of the Administrator**

The Administrator is responsible for—

- (1) providing guidance on the proper documentation of expenditures authorized under this chapter;
- (2) issuing annual solicitations to covered States for awards under this section; and
- (3) determining the appropriate allocation of additional amounts among covered States in accordance with this section.

**(c) Responsibilities of covered States**

Each covered State is responsible for documenting and reporting—

- (1) such State's use of Federal funds received under this chapter; and
- (2) such expenditures of non-Federal funds made in furtherance of coral reef management and restoration as the Administrator determines appropriate.

**(d) Cooperative agreements**

Subject to the availability of appropriations, the Administrator may seek to enter into a cooperative agreement with a covered State to fund coral reef conservation and restoration activities in waters managed under the jurisdiction of such covered State that are consistent with the National Coral Reef Resilience Strategy and any applicable action plan under section 6404 of this title.

**(e) All Islands Committee**

The Administrator may enter into a cooperative agreement with the All Islands Committee of the Task Force to provide support for its activities.



(Pub. L. 106–562, title II, §207, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3938.)

## EDITORIAL NOTES

### REFERENCES IN TEXT

This chapter, referred to in subsecs. (b)(1) and (c)(1), was in the original "this Act" which was translated as reading "this title", meaning title II of Pub. L. 106–562, to reflect the probable intent of Congress.

### PRIOR PROVISIONS

A prior section 6406, Pub. L. 106–562, title II, §207, Dec. 23, 2000, 114 Stat. 2804, related to national program to conserve coral reefs and coral reef ecosystems, prior to repeal by Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3931.

## §6407. Coral Reef Stewardship Fund

### (a) Agreement

The Administrator shall seek to enter into an agreement with the National Fish and Wildlife Foundation (in this section referred to as the "Foundation"), authorizing the Foundation to receive, hold, and administer funds received under this section.

### (b) Fund

#### (1) In general

The Foundation shall establish an account, which shall—

- (A) be known as the "Coral Reef Stewardship Fund" (in this section referred to as the "Fund"); and
- (B) serve as the successor to the account known before December 23, 2022, as the Coral Reef Conservation Fund and administered through a public-private partnership with the Foundation.

#### (2) Deposits

The Foundation shall deposit funds received under this section into the Fund.

#### (3) Purposes

The Fund shall be available solely to support coral reef stewardship activities that—

- (A) further the purposes of this chapter; and
- (B) are consistent with—
  - (i) the National Coral Reef Resilience Strategy; and
  - (ii) coral reef action plans in effect, if any, under section 6404 of this title covering a coral reef or ecologically significant component of a coral reef to be impacted by such activities, if applicable.

#### (4) Investment of amounts

##### (A) Investment of amounts

The Foundation shall invest such portion of the Fund as is not required to meet current withdrawals in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

##### (B) Interest and proceeds

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

#### (5) Review of performance

The Administrator shall conduct a continuing review of all deposits into, and disbursements from, the Fund. Each review shall include a written assessment concerning the extent to which the Foundation has implemented the goals and requirements of—

- (A) this section; and
- (B) the National Coral Reef Resilience Strategy.

### (c) Authorization to solicit donations

#### (1) In general

Pursuant to an agreement entered into under subsection (a), the Foundation may accept, receive, solicit, hold, administer, and use any gift (including, notwithstanding section 1342 of title 31, donations of services) to further the purposes of this chapter.

#### (2) Deposits in Fund

Notwithstanding section 3302 of title 31, any funds received as a gift shall be deposited and maintained in the Fund.

**(d) Administration**

Under an agreement entered into pursuant to subsection (a), and subject to the availability of appropriations, the Administrator may transfer funds appropriated for such purposes to carry out this chapter to the Foundation. Amounts received by the Foundation under this subsection may be used for matching, in whole or in part, contributions (whether in money, services, or property) made to the Foundation by private persons, State or local government agencies, or covered Native entities.

(Pub. L. 106–562, title II, §208, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3939.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6407, Pub. L. 106–562, title II, §208, Dec. 23, 2000, 114 Stat. 2804, required submission of reports documenting the effectiveness of the coral reef conservation grant program and describing activities undertaken to implement the national coral reef strategy, prior to repeal by Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3931.

**§6408. Emergency assistance**

**(a) In general**

Notwithstanding any other provision of law, from funds appropriated pursuant to the authorization of appropriations under section 6414 of this title, the Administrator may provide emergency assistance to any covered State or coral reef stewardship partnership to respond to immediate harm to coral reefs or coral reef ecosystems arising from any of the exigent circumstances described in subsection (b).

**(b) Coral reef exigent circumstances**

The Administrator shall develop a list of, and criteria for, circumstances that pose an exigent threat to coral reefs, including—

- (1) new and ongoing outbreaks of disease;
- (2) new and ongoing outbreaks of invasive or nuisance species;
- (3) new and ongoing coral bleaching events;
- (4) natural disasters;
- (5) industrial or mechanical incidents, such as vessel groundings, hazardous spills, or coastal construction accidents; and
- (6) such other circumstances as the Administrator determines appropriate.

**(c) Annual report on exigent circumstances**

On February 1 of each year, the Administrator shall submit to the appropriate congressional committees, the Committee on Appropriations of the Senate, and the Committee on Appropriations of the House of Representatives a report that—

- (1) describes locations with exigent circumstances described in subsection (b) that were considered but declined for emergency assistance, and the rationale for the decision; and
- (2) with respect to each instance in which emergency assistance under this section was provided—
  - (A) the location and a description of the exigent circumstances that prompted the emergency assistance, the entity that received the assistance, and the current and expected outcomes from the assistance;
  - (B) a description of activities of the National Oceanic and Atmospheric Administration that were curtailed as a result of providing the emergency assistance; and
  - (C) an assessment of whether further action is needed to restore the affected coral reef, recommendations for such restoration, and a cost estimate to implement such recommendations.

(Pub. L. 106–562, title II, §209, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3940.)

**EDITORIAL NOTES**

**PRIOR PROVISIONS**

A prior section 6408, Pub. L. 106–562, title II, §209, Dec. 23, 2000, 114 Stat. 2805, authorized appropriations, prior to repeal by Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3931.

## §6409. Coral Reef Disaster Fund

### (a) Agreements

The Administrator shall seek to enter into an agreement with the National Fish and Wildlife Foundation (in this section referred to as the "Foundation"), authorizing the Foundation to receive, hold, and administer funds received under this section.

### (b) Fund

#### (1) In general

The Foundation shall establish an account, to be known as the "Coral Reef Disaster Fund" (in this section referred to as the "Fund").

#### (2) Deposits

The Foundation shall deposit funds received under this section into the Fund.

#### (3) Purposes

The Fund shall be available solely to support the long-term recovery of coral reefs from exigent circumstances described in section 6408(b) of this title—

(A) in partnership with non-Federal stakeholders; and

(B) in a manner that is consistent with—

(i) the National Coral Reef Resilience Strategy; and

(ii) coral reef action plans in effect, if any, under section 6404 of this title.

#### (4) Investment of amounts

##### (A) Investment of amounts

The Foundation shall invest such portion of the Fund as is not required to meet current withdrawals in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

##### (B) Interest and proceeds

The interest on, and the proceeds from, the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

#### (5) Review of performance

The Administrator shall conduct continuing reviews of all deposits into, and disbursements from, the Fund. Each such review shall include a written assessment concerning the extent to which the Foundation has implemented the goals and requirements of this section.

### (c) Authorization to solicit donations

#### (1) In general

Pursuant to an agreement entered into under subsection (a), the Foundation may accept, receive, solicit, hold, administer, and use any gift (including, notwithstanding section 1342 of title 31, donations of services) to further the purposes of this chapter.

#### (2) Deposits in Fund

Notwithstanding section 3302 of title 31, any funds received as a gift shall be deposited and maintained in the Fund.

(Pub. L. 106–562, title II, §210, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3941.)

### EDITORIAL NOTES

### PRIOR PROVISIONS

A prior section 6409, Pub. L. 106–562, [title II, §210, Dec. 23, 2000](#), 114 Stat. 2805, provided definitions for the chapter, prior to repeal by Pub. L. 117–263, div. J, title C, §10001(a), [Dec. 23, 2022](#), 136 Stat. 3931.

## §6410. Ruth D. Gates Coral Reef Conservation Grant Program

### (a) In general

Subject to the availability of appropriations, the Administrator shall establish a program (to be known as the "Ruth D. Gates Coral Reef Conservation Grant Program") to provide grants for projects for the conservation and restoration of

coral reef ecosystems (in this section referred to as "coral reef projects") pursuant to proposals approved by the Administrator in accordance with this section.

**(b) Matching requirements for grants**

**(1) In general**

Except as provided in paragraph (3), Federal funds for any coral reef project for which a grant is provided under subsection (a) may not exceed 50 percent of the total cost of the project.

**(2) Non-Federal share**

The non-Federal share of the cost of a coral reef project may be provided by in-kind contributions and other noncash support.

**(3) Waiver**

The Administrator may waive all or part of the matching requirement under paragraph (1) if the Administrator determines that no reasonable means are available through which an applicant can meet the matching requirement with respect to a coral reef project and the probable benefit of the project outweighs the public interest in the matching requirement.

**(c) Eligibility**

**(1) In general**

An entity described in paragraph (2) may submit to the Administrator a proposal for a coral reef project.

**(2) Entities described**

An entity described in this paragraph is—

- (A) a covered reef manager or a covered Native entity;
- (B) a regional fishery management council established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);
- (C) a coral reef stewardship partnership seeking to implement a coral reef action plan in effect under section 6404 of this title;
- (D) a coral reef research center designated under section 6411(b) of this title; or
- (E) a nongovernmental organization or research institution with demonstrated expertise in the conservation or restoration of coral reefs in practice or through significant contributions to the body of existing scientific research on coral reefs.

**(d) Project proposals**

Each proposal for a grant under this section for a coral reef project 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 individual or entity.
- (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 under subsection (e)(2).
- (8) In the case of a proposal submitted by a coral reef stewardship partnership, a description of how the project aligns with the applicable coral reef action plan in effect under section 6404 of this title.
- (9) Any other information the Administrator considers to be necessary for evaluating the eligibility of the project for a grant under this subsection.

**(e) Project review and approval**

**(1) In general**

The Administrator shall review each coral reef project proposal submitted under this section to determine if the project meets the criteria set forth in subsection (f).

**(2) Prioritization of conservation projects**

The Administrator shall prioritize the awarding of funding for projects that meet the criteria for approval described in—

- (A) subparagraphs (A) through (G) of subsection (f)(2) that are proposed to be conducted within priority areas identified for coral reef conservation by the Administrator under the National Coral Reef Resilience Strategy; and
- (B) subparagraphs (E) through (L) of subsection (f)(2) that are proposed to be conducted within priority areas identified for coral reef restoration by the Administrator under the National Coral Reef Resilience Strategy.

**(3) Review; approval or disapproval**

Not later than 180 days after receiving a proposal for a coral reef project under this section, the Administrator shall

- (A) request and consider written comments on the proposal from each Federal agency, State government, covered Native entity, 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 or Marine National Monument, 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, unless such entities were directly involved in the development of the project proposal;

(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, with summaries of all written comments, recommendations, and peer reviews, to the entity that submitted the proposal, and each of those States, covered Native entity, and other government jurisdictions that provided comments under subparagraph (A).

#### **(f) Criteria for approval**

The Administrator may not approve a proposal for a coral reef project under this section unless the project—

(1) is consistent with—

(A) the National Coral Reef Resilience Strategy; and

(B) any Federal or non-Federal coral reef action plans in effect under section 6404 of this title covering a coral reef or ecologically significant unit of a coral reef to be affected by the project; and

(2) will enhance the conservation and restoration of coral reefs by—

(A) addressing conflicts arising from the use of environments near coral reefs or from the use of corals, species associated with coral reefs, and coral products, including supporting consensus-driven and community-based planning and management initiatives for the protection of coral reef ecosystems;

(B) improving 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;

(C) designing and implementing networks of real-time water quality monitoring along coral reefs, including data collection related to turbidity, nutrient availability, harmful algal blooms, and plankton assemblages, with an emphasis on coral reefs impacted by agriculture and urban development;

(D) promoting ecologically sound navigation and anchorages, including mooring buoy systems to promote enhanced recreational access, near coral reefs;

(E) furthering the goals and objectives of coral reef action plans in effect under section 6404 of this title;

(F) mapping the location and distribution of coral reefs and potential coral reef habitat;

(G) stimulating innovation to advance the ability of the United States to understand, research, or monitor coral reef ecosystems, or to develop management or adaptation options to conserve and restore coral reef ecosystems;

(H) implementing research to ensure the population viability of coral species in United States waters listed as threatened or endangered under the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.] as detailed in the population-based recovery criteria included in species-specific recovery plans established under such Act;

(I) developing and implementing cost-effective methods to restore degraded coral reef ecosystems or to create geographically appropriate coral reef ecosystems in suitable waters, including by improving habitat or promoting success of keystone species, with an emphasis on novel restoration strategies and techniques to advance coral reef recovery and growth near population centers threatened by rising sea levels and storm surge;

(J) translating and applying coral genetics research to coral reef ecosystem restoration, including research related to traits that promote resilience to increasing ocean temperatures, changing ocean chemistry, coral bleaching, coral diseases, and invasive species;

(K) developing and maintaining in situ native coral propagation sites; or

(L) developing and maintaining ex situ coral propagation nurseries and land-based coral gene banks to—

(i) conserve or augment genetic diversity of native coral populations;

(ii) support captive breeding of rare coral species; or

(iii) enhance resilience of native coral populations to increasing ocean temperatures, changing ocean chemistry, coral bleaching, and coral diseases through selective breeding, conditioning, or other approaches that target genes, gene expression, phenotypic traits, or phenotypic plasticity.

#### **(g) Funding requirements**

To the extent practicable based upon proposals for coral reef projects submitted to the Administrator, the Administrator shall ensure that funding for grants awarded under this section during a fiscal year is distributed as follows:

(1) Not less than 40 percent of funds available shall be awarded for projects in areas of the Pacific Ocean subject to the jurisdiction or control of the United States.

(2) Not less than 40 percent of the funds available shall be awarded for projects in areas of the Atlantic Ocean, the Gulf of Mexico, or the Caribbean Sea subject to the jurisdiction or control of the United States.

(3) To the extent there are viable applications made by eligible coral reef stewardship partners, not more than 67 percent of funds distributed in each region in accordance with paragraphs (1) and (2) may be made exclusively available to projects that are—

(A) submitted by a coral reef stewardship partnership; and

(B) consistent with the coral reef action plan in effect under section 6404 of this title by such a partnership.

(4) Of the funds distributed to support projects in accordance with paragraph (3), not less than 20 percent and not more than 33 percent shall be awarded for projects submitted by a Federal coral reef stewardship partnership, to the extent there are viable applications made by eligible Federal coral reef stewardship partnerships.

**(h) Task Force**

The Administrator may consult with the Secretary of the Interior and the Task Force to obtain guidance in establishing priorities and evaluating proposals for coral reef projects under this section.

(Pub. L. 106–562, title II, §211, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3941.)

**EDITORIAL NOTES**

**REFERENCES IN TEXT**

The Magnuson-Stevens Fishery Conservation and Management Act, referred to in subsecs. (c)(2)(B) and (e)(3)(A), is Pub. L. 94–265, Apr. 13, 1976, 90 Stat. 331, which is classified principally to chapter 38 (§1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (f)(2)(H), is Pub. L. 93–205, Dec. 28, 1973, 87 Stat. 884, which is classified principally to chapter 35 (§1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

**§6411. Coral reef research**

**(a) Reef research coordination institutes**

**(1) Establishment**

The Administrator shall designate 2 reef research coordination institutes for the purpose of advancing and sustaining essential capabilities in coral reef research, one each in the Atlantic and Pacific basins, to be known as the "Atlantic Reef Research Coordination Institute" and the "Pacific Reef Research Coordination Institute", respectively.

**(2) Membership**

Each institute designated under paragraph (1) shall be housed within a single coral reef research center designated by the Administrator under subsection (b).

**(3) Functions**

The institutes designated under paragraph (1) shall—

(A) conduct federally directed research to fill national and regional coral reef ecosystem research gaps and improve understanding of, and responses to, continuing and emerging threats to the resilience of United States coral reef ecosystems consistent with the National Coral Reef Resilience Strategy;

(B) support ecological research and monitoring to study the effects of conservation and restoration activities funded by this chapter on promoting more effective coral reef management and restoration; and

(C) through agreements—

(i) collaborate directly with States, covered Native entities, covered coral reef managers, nonprofit organizations, and other coral reef research centers designated under subsection (b);

(ii) assist in the development and implementation of—

(I) the National Coral Reef Resilience Strategy; and

(II) coral reef action plans under section 6404 of this title;

(iii) build capacity within non-Federal governmental resource management agencies to establish research priorities and translate and apply research findings to management and restoration practices; and

(iv) conduct public education and awareness programs for policymakers, resource managers, and the general public on—

(I) coral reefs and coral reef ecosystems;

(II) best practices for coral reef ecosystem management and restoration;

(III) the value of coral reefs; and

(IV) the threats to the sustainability of coral reef ecosystems.

**(b) Coral reef research centers**

**(1) In general**

The Administrator shall—

(A) periodically solicit applications for designation of qualifying institutions in covered States as coral reef research centers; and

(B) designate all qualifying institutions in covered States as coral reef research centers.

## **(2) Qualifying institutions**

For purposes of paragraph (1), an institution is a qualifying institution if the Administrator determines that the institution—

(A) is operated by an institution of higher education or nonprofit marine research organization;

(B) has established management-driven national or regional coral reef research or restoration programs;

(C) has demonstrated abilities to coordinate closely with appropriate Federal and State agencies, and other academic and nonprofit organizations; and

(D) maintains significant local community engagement and outreach programs related to coral reef ecosystems.

(Pub. L. 106–562, title II, §212, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3945.)

## **§6412. Coral reef prize competitions**

### **(a) In general**

Subject to the availability of appropriations, the head of any Federal agency with a representative serving on the United States Coral Reef Task Force established by section 6451 of this title, may, individually or in cooperation with one or more agencies, carry out a program to award prizes competitively under section 3719 of title 15.

### **(b) Purposes**

Any program carried out under this section shall be for the purpose of stimulating innovation to advance the ability of the United States to understand, research, or monitor coral reef ecosystems, or to develop management or adaptation options to preserve, sustain, and restore coral reef ecosystems.

### **(c) Priority programs**

Priority shall be given to establishing programs under this section that address communities, environments, or industries that are in distress as a result of the decline or degradation of coral reef ecosystems, including—

(1) scientific research and monitoring that furthers the understanding of causes behind coral reef decline and degradation and the generally slow recovery following disturbances, including changing ocean chemistry, temperature-related bleaching, disease, and their associated impacts on coral physiology;

(2) the development of monitoring or management options for communities or industries that are experiencing significant financial hardship;

(3) the development of adaptation options to alleviate economic harm and job loss caused by damage to coral reef ecosystems;

(4) the development of measures to help vulnerable communities or industries, with an emphasis on rural communities and businesses; and

(5) the development of adaptation and management options for impacted tourism industries.

(Pub. L. 106–562, title II, §213, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3946.)

## **§6413. Reports on administration**

### **(a) In general**

Not later than 2 years after December 23, 2022, and every 2 years thereafter, the Administrator shall submit to the committees specified in subsection (b) a report on the administration of this chapter during the 2-year period preceding submission of the report, including—

(1) a description of all activities undertaken to implement the National Coral Reef Resilience Strategy;

(2) a statement of all funds obligated under the authorities of this chapter; and

(3) a summary, disaggregated by State, of Federal and non-Federal contributions toward the costs of each project or activity funded, in full or in part, under this chapter.

### **(b) Committees specified**

The committees specified in this subsection are—

(1) the Committee on Commerce, Science, and Transportation, Committee on Environment and Public Works, Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate; and

(2) the Committee on Natural Resources and the Committee on Appropriations of the House of Representatives.

(Pub. L. 106–562, title II, §214, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3947.)

## **§6414. Authorization of appropriations**

**(a) In general**

There is authorized to be appropriated to the Administrator \$45,000,000 for each of fiscal years 2023 through 2027 to carry out this chapter which shall remain available until expended. Of such amounts, there is authorized to be appropriated for each such fiscal year—

- (1) \$12,000,000 to carry out section 6406 of this title;
- (2) \$3,500,000 for activities authorized under section 6410 of this title; and
- (3) \$4,500,000 to be provided to the cooperative institutes designated under section 6411(a) of this title to carry out the functions described in such section.

**(b) Administration**

Not more than 10 percent of the amounts appropriated under subsection (a) may be used for program administration or overhead costs incurred by the National Oceanic and Atmospheric Administration or the Department of Commerce.

(Pub. L. 106–562, title II, §215, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3947.)

**§6415. Definitions**

In this chapter:

**(1) Administrator**

The term "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

**(2) Alaska Native Corporation**

The term "Alaska Native Corporation" has the meaning given the term "Native Corporation" in section 1602 of title 43.

**(3) Appropriate congressional committees**

The term "appropriate congressional committees" means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives.

**(4) Conservation**

The term "conservation" means the use of methods and procedures necessary to preserve or sustain native corals and associated species as diverse, viable, and self-perpetuating coral reef ecosystems with minimal impacts from invasive species, including—

- (A) all activities associated with resource management, such as monitoring, assessment, protection, restoration, sustainable use, management of habitat, and maintenance or augmentation of genetic diversity;
- (B) mapping;
- (C) scientific expertise and technical assistance in the development and implementation of management strategies for marine protected areas and marine resources required by Federal law;
- (D) law enforcement;
- (E) conflict resolution initiatives;
- (F) community outreach and education; and
- (G) promotion of safe and ecologically sound navigation and anchoring.

**(5) Coral**

The term "coral" means species of the phylum Cnidaria, including—

- (A) all species of the orders Antipatharia (black corals), Scleractinia (stony corals), Alcyonacea (soft corals, organ pipe corals, gorgonians), and Helioporacea (blue coral), of the class Anthozoa; and
- (B) all species of the order Anthoathecata (fire corals and other hydrocorals) of the class Hydrozoa.

**(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 of coral.

**(7) Coral reef**

The term "coral reef" means calcium carbonate structures in the form of a reef or shoal, composed in whole or in part by living coral, skeletal remains of coral, crustose coralline algae, and other associated sessile marine plants and animals.

**(8) Coral reef ecosystem**

The term "coral reef ecosystem" means—

- (A) corals and other geographically and ecologically associated marine communities of other reef organisms (including reef plants and animals) associated with coral reef habitat; and
- (B) the biotic and abiotic factors and processes that control or significantly affect coral calcification rates, tissue growth, reproduction, recruitment, abundance, coral-algal symbiosis, and biodiversity in such habitat.

**(9) Coral reef ecosystem services**



The term "coral reef ecosystem services" means the attributes and benefits provided by coral reef ecosystems including—

- (A) protection of coastal beaches, structures, and infrastructure;
- (B) habitat for organisms of economic, ecological, biomedical, medicinal, and cultural value;
- (C) serving as centers for the promulgation, performance, and training of cultural practices representative of traditional ecological knowledge; and
- (D) aesthetic value.

**(10) Covered Native entity**

The term "covered Native entity" means a Native entity with interests in a coral reef ecosystem.

**(11) Covered reef manager**

The term "covered reef manager" means—

- (A) a management unit of a covered State with jurisdiction over a coral reef ecosystem;
- (B) a covered State; or
- (C) a coral reef stewardship partnership under section 6405 of this title.

**(12) Covered State**

The term "covered State" means Florida, Hawaii, and the territories of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the United States Virgin Islands.

**(13) Federal reef manager**

**(A) In general**

The term "Federal reef manager" means—

- (i) a management unit of a Federal agency specified in subparagraph (B) with lead management jurisdiction over a coral reef ecosystem; or
- (ii) a coral reef stewardship partnership under section 6405(c) of this title.

**(B) Federal agencies specified**

A Federal agency specified in this subparagraph is one of the following:

- (i) The National Oceanic and Atmospheric Administration.
- (ii) The National Park Service.
- (iii) The United States Fish and Wildlife Service.
- (iv) The Office of Insular Affairs.

**(14) Institution of higher education**

The term "institution of higher education" has the meaning given that term in section 1001 of title 20.

**(15) Interested stakeholder groups**

The term "interested stakeholder groups" means any of the following with interest in an applicable coral reef or ecologically significant unit of a coral reef:

- (A) A business.
- (B) A commercial or recreational fisherman.
- (C) A recreationalist.
- (D) A Federal, State, Tribal, or local government unit with related jurisdiction.
- (E) An institution of higher education (as such term is defined in section 1001(a) of title 20.<sup>1</sup>)
- (F) A nongovernmental organization.

**(16) National Coral Reef Resilience Strategy**

The term "National Coral Reef Resilience Strategy" means the National Coral Reef Resilience Strategy in effect under section 6403 of this title.

**(17) Native entity**

The term "Native entity" means any of the following:

- (A) An Indian Tribe (as defined in section 5304 of title 25).
- (B) An Alaska Native Corporation.
- (C) The Department of Hawaiian Home Lands.
- (D) The Office of Hawaiian Affairs.
- (E) A Native Hawaiian organization (as defined in section 7517 of title 20).

**(18) Nonprofit organization**

The term "nonprofit organization" means any corporation, trust, association, cooperative, or other organization, not including an institution of higher education, that—

- (A) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (B) is not organized primarily for profit; and
- (C) uses net proceeds to maintain, improve, or expand the operations of the organization.

**(19) Restoration**

The term "restoration" means the use of methods and procedures necessary to enhance, rehabilitate, recreate, or create a functioning coral reef or coral reef ecosystem, in whole or in part, within suitable waters of the historical geographic range of such ecosystems, to provide ecological, economic, cultural, or coastal resiliency services associated with healthy coral reefs and benefit native populations of coral reef organisms.

**(20) Resilience**

The term "resilience" means the capacity for corals within their native range, coral reefs, or coral reef ecosystems to resist and recover from natural and human disturbances, and maintain structure and function to provide coral reef ecosystem services, as determined by clearly identifiable, measurable, and science-based standards.

**(21) Secretary**

The term "Secretary" means the Secretary of Commerce.

**(22) State**

The term "State" means—

- (A) any State of the United States that contains a coral reef ecosystem within its seaward boundaries;
- (B) American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, or the United States Virgin Islands; or
- (C) any other territory or possession of the United States or separate sovereign in free association with the United States that contains a coral reef ecosystem within its seaward boundaries.

**(23) Stewardship**

The term "stewardship", with respect to a coral reef, includes conservation, restoration, and public outreach and education.

**(24) Task Force**

The term "Task Force" means the United States Coral Reef Task Force established under section 6451 of this title. (Pub. L. 106–562, title II, §216, as added Pub. L. 117–263, div. J, title C, §10001(a), Dec. 23, 2022, 136 Stat. 3948.)

<sup>1</sup> So in original. A closing parenthesis probably should precede the period.