

108TH CONGRESS
1ST SESSION

S. 1953

To protect deep sea corals and sponges, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 25, 2003

Mr. LAUTENBERG introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect deep sea corals and sponges, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Deep Sea Coral Protec-
5 tion Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Complex seafloor habitats created by struc-
9 ture-forming organisms including deep sea corals
10 and sponges are essential to numerous fish species,
11 including commercially and recreationally targeted

1 species, which rely on such complex habitats for
2 spawning, food, and shelter from predation. For ex-
3 ample, more than 1,300 species live among lophelia
4 coral reefs in the Northeastern Atlantic Ocean.

5 (2) Deep sea corals typically exhibit slow
6 growth, extreme longevity, and highly patchy dis-
7 tribution, predominately along continental margins,
8 seamounts, undersea canyons, and ridges.

9 (3) Living organisms, such as deep sea corals
10 and sponges, that create complex habitat have not
11 been adequately studied for the potential benefit to
12 society or for the ecological importance that such or-
13 ganisms provide to fish species and other forms of
14 marine life.

15 (4) Some deep sea corals have a growth ring
16 structure that provides a living record of changes in
17 water temperature and other information that can
18 be used to track global climate change over time.

19 (5) Deep sea corals are a future source of new
20 biomedical compounds for the pharmaceutical and
21 biotechnical industries.

22 (6) The exceptional diversity, uniqueness, and
23 vulnerability of deep sea corals necessitates that the
24 mapping and conservation of such species be given
25 a high priority.

1 (7) There is national and international recogni-
2 tion of the importance of deep sea coral habitats.
3 The European Union, New Zealand, Canada, and
4 Norway have prohibited the use of fishing gear that
5 employs mobile bottom-tending fishing gear in some
6 areas where deep sea coral exist. Further, several of
7 the Councils have taken action to protect the fragile
8 habitat of deep sea corals.

9 (8) Deep sea coral habitats are subject to grow-
10 ing human pressures, particularly as a result of the
11 rapid spread of deep sea trawl fisheries into new re-
12 gions and new grounds, aided by the development of
13 navigational, fish-finding, and other technologies.

14 **SEC. 3. POLICY.**

15 It is the policy of the United States to protect deep
16 sea corals and sponges, including protecting such orga-
17 nisms that are found in the continental margins, canyons,
18 seamounts, and ridges of the world's oceans, and the habi-
19 tats of such organisms from damage from gear and equip-
20 ment used in commercial fishing, particularly mobile bot-
21 tom-tending gear.

22 **SEC. 4. DEFINITIONS.**

23 In this Act:

24 (1) CORAL MANAGEMENT AREA.—The term
25 “Coral Management Area” means an area des-

1 ignated as a Coral Management Area under this
2 Act.

3 (2) COUNCIL.—The term “Council”, unless oth-
4 erwise specified, means 1 of the Regional Fishery
5 Management Councils established by section 302 of
6 the Magnuson-Stevens Fishery Conservation and
7 Management Act (16 U.S.C. 1852).

8 (3) DEEP SEA CORAL ECOSYSTEM.—The term
9 “deep sea coral ecosystem” means living species of
10 deep sea corals and sponges, consisting of both reef-
11 like structures or thickets, and other species of orga-
12 nisms associated with the deep sea coral habitats,
13 and the nonliving environmental factors that affect
14 species of deep sea corals and sponges, that together
15 function as an ecological unit in nature.

16 (4) DEEP SEA CORALS AND SPONGES.—The
17 term “deep sea corals and sponges” means the spe-
18 cies—

19 (A)(i) in the family Stylasteriidae that are
20 without symbiotic algae;

21 (ii) in the phylum Cnidaria and in—

22 (I) the subclass Octocorallia, other
23 than in the order Pennatulacea; or

1 (II) the subclass Hexacorallia, includ-
2 ing the orders Scleractinia,
3 Corallimorpharia, and Antipatharia; or

4 (iii) in the phylum Porifera that are
5 sponges; and

6 (B)(i) that occur in regions of the exclusive
7 economic zone that are not subject to the juris-
8 diction of a Council that is the—

9 (I) South Atlantic Fishery Manage-
10 ment Council;

11 (II) Gulf of Mexico Fishery Manage-
12 ment Council;

13 (III) Western Pacific Fishery Man-
14 agement Council; or

15 (IV) Caribbean Fishery Management
16 Council; or

17 (ii) that occur at depths of at least 50 me-
18 ters in regions of the exclusive economic zone
19 that are subject to the jurisdiction of a Council
20 that is the—

21 (I) South Atlantic Fishery Manage-
22 ment Council;

23 (II) Gulf of Mexico Fishery Manage-
24 ment Council;

1 (III) Western Pacific Fishery Man-
2 agement Council; and

3 (IV) Caribbean Fishery Management
4 Council.

5 (5) EXCLUSIVE ECONOMIC ZONE.—The term
6 “exclusive economic zone” has the meaning given
7 that term in section 3 of the of the Magnuson-Ste-
8 vens Fishery Conservation and Management Act (16
9 U.S.C. 1802).

10 (6) MOBILE BOTTOM-TENDING FISHING
11 GEAR.—The term “mobile bottom-tending fishing
12 gear” means any fishing gear that uses a piece of
13 gear that drags along the ocean floor, including
14 dredges, beam or otter trawls, or pelagic trawls that
15 contact the ocean floor.

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

18 **SEC. 5. PROHIBITION ON THE USE OF MOBILE BOTTOM-**
19 **TENDING FISHING GEAR IN CORAL MANAGE-**
20 **MENT AREAS.**

21 Mobile bottom-tending fishing gear may not be used
22 in any area designated as a Coral Management Area.

23 **SEC. 6. CORAL MANAGEMENT AREAS.**

24 (a) INITIAL DESIGNATIONS.—

1 (1) ALASKA DEEP SEA GARDENS.—Each area
 2 bounded by a circle with a radius of 3 nautical miles
 3 and a center at each of following points is des-
 4 ignated as a Coral Management Area:

5 (A) $51^{\circ}58'13''$ N. x $176^{\circ}49'53''$ W.

6 (B) $51^{\circ}54'25''$ N. x $177^{\circ}24'35''$ W.

7 (C) $51^{\circ}50'53''$ N. x $179^{\circ}49'54''$ W.

8 (D) $51^{\circ}24'02''$ N. x $179^{\circ}01'38''$ W.

9 (E) $51^{\circ}50'45''$ N. x $179^{\circ}49'28''$ W.

10 (2) OTHER DESIGNATIONS.—Each area bound-
 11 ed by the following coordinates is designated as a
 12 Coral Management Area:

13 (A) OCEANOGRAPHER CANYON.— $40^{\circ}30'$ N.
 14 x $68^{\circ}11'$ W., $40^{\circ}10'$ N. x $68^{\circ}10'$ W., and
 15 $40^{\circ}10'$ N. x $68^{\circ}00'$ W.

16 (B) LYDONIA CANYON.— $40^{\circ}36'$ N. x
 17 $67^{\circ}45'$ W., $40^{\circ}15'$ N. x $67^{\circ}45'$ W., and $40^{\circ}15'$
 18 N. x $67^{\circ}35'$ W.

19 (C) OCULINA REEFS.—

20 (i) $27^{\circ}30'$ N. x 80° W., $28^{\circ}30'$ N. x
 21 80° W., and the 183 meter contour.

22 (ii) $28^{\circ}30'$ N. x 80° W., $28^{\circ}30'$ N. x
 23 $80^{\circ}03'$ W., $28^{\circ}29'$ N. x 80° W., and
 24 $28^{\circ}29'$ N. x $80^{\circ}03'$ W.

1 (iii) $28^{\circ}17' N. \times 80^{\circ} W.$, $28^{\circ}16' N. \times$
 2 $80^{\circ} W.$, $28^{\circ}17' N. \times 80^{\circ}03' W.$, and
 3 $28^{\circ}16' N. \times 80^{\circ}03' W.$

4 (D) LOPHELIA/ENALLOPSAMMIA REEFS.—

5 (i) $31^{\circ} N. \times 79^{\circ}50' W.$, $31^{\circ} N. \times$
 6 $79^{\circ}30' W.$, $30^{\circ}20' N. \times 80^{\circ}10' W.$, and
 7 $30^{\circ}20' N. \times 79^{\circ}30' W.$

8 (ii) $30^{\circ}20' N. \times 80^{\circ}10' W.$, $30^{\circ}20' N.$
 9 $\times 79^{\circ}30' W.$, $29^{\circ}00' N. \times 79^{\circ}45' W.$, and
 10 $29^{\circ} N. \times 79^{\circ}30' W.$

11 (iii) $29^{\circ} N. \times 79^{\circ}45' W.$, $29^{\circ} N. \times$
 12 $79^{\circ}30' W.$, $28^{\circ} N. \times 79^{\circ}45' W.$, and 28°
 13 $N. \times 79^{\circ}30' W.$

14 (iv) $31^{\circ}55' N. \times 79^{\circ}20' W.$, $31^{\circ}55' N.$
 15 $\times 79^{\circ} W.$, $31^{\circ}35' N. \times 79^{\circ}25' W.$, and
 16 $31^{\circ}35' N. \text{ by } 79^{\circ} W.$

17 (v) $32^{\circ}12' N. \times 77^{\circ}45' W.$, $32^{\circ}12' N.$
 18 $\times 77^{\circ}20' W.$, $31^{\circ}30' N. \times 77^{\circ}45' W.$, and
 19 $31^{\circ}30' N. \times 77^{\circ}20' W.$

20 (vi) $32^{\circ} N. \times 77^{\circ}10' W.$, $32^{\circ} N. \times$
 21 $77^{\circ}10' W.$, $31^{\circ}48' N. \times 77^{\circ}20' W.$, and
 22 $31^{\circ}48' N. \times 77^{\circ}10' W.$

23 (E) BEAR SEAMOUNT.— $39^{\circ}52' N. \times$
 24 $67^{\circ}30' W.$, $39^{\circ}58' N. \times 67^{\circ}50' W.$, $39^{\circ}58' N.$
 25 $\times 67^{\circ}50' W.$, and $39^{\circ}52' N. \times 67^{\circ}50' W.$

1 (b) AREAS IDENTIFIED THROUGH FISHING
2 RECORDS.—The Secretary shall designate as a Coral
3 Management Area any area that is located within the ex-
4 clusive economic zone for which records of commercial
5 fishing trips maintained by the National Marine Fisheries
6 Service do not demonstrate that the area has been fished
7 using mobile bottom-tending gear during the 3-year period
8 ending on November 1, 2003.

9 (c) TERMINATION OF DESIGNATION.—

10 (1) IN GENERAL.—The Secretary may deter-
11 mine that an area or part of an area that is des-
12 ignated as a Coral Management Area pursuant to
13 subsection (b) shall no longer be designated as a
14 Coral Management Area if—

15 (A) the deep sea corals and sponges in
16 such area have been mapped by the National
17 Oceanic and Atmospheric Administration;

18 (B) a Council recommends to the Secretary
19 that such area no longer be designated as a
20 Coral Management Area;

21 (C) the Secretary determines that the use
22 of mobile bottom-tending fishing gear in such
23 area would cause only minimal and temporary
24 damage to deep sea corals and sponges located
25 in such area; and

1 (D) the use of mobile bottom-tending fish-
2 ing gear in such area is not prohibited by any
3 other provision of law.

4 (d) PUBLICATION.—The Secretary shall publish
5 in the Federal Register a description of any area
6 that the Secretary—

7 (A) designates as a Coral Management
8 Area under this Act; or

9 (B) determines shall no longer be des-
10 igned as a Coral Management Area under
11 subsection (c).

12 **SEC. 7. MONITORING OF CORAL BYCATCH.**

13 (a) REQUIREMENT FOR MONITORING.—The Sec-
14 retary shall monitor fishing within the exclusive economic
15 zone in a manner that is adequate to identify the quantity
16 of all deep sea coral and sponge bycatch caught and the
17 location in which the bycatch was caught. The monitoring
18 shall include—

19 (1) evaluating bycatch data; and

20 (2) identifying areas in which the rate of by-
21 catch of deep sea corals and sponges indicate the
22 presence of a deep sea coral ecosystem.

23 (b) CORAL MANAGEMENT AREA.—Not later than 60
24 days after identifying an area described in subsection

1 (a)(2), the Secretary shall designate such area as a Coral
2 Management Area.

3 (c) REPORT.—

4 (1) REQUIREMENT.—Not less frequently than
5 once each calendar year, the Secretary shall prepare
6 a report that summarizes the data collected during
7 the monitoring carried out under this section. The
8 report shall include a description of any area that
9 the Secretary designates as a Coral Management
10 Area pursuant to subsection (b).

11 (2) PUBLICATION.—Notice of the availability of
12 each report required by paragraph (1) shall be pub-
13 lished in the Federal Register.

14 **SEC. 8. RESEARCH.**

15 (a) REQUIREMENT FOR RESEARCH.—The Secretary
16 shall direct the Under Secretary for Oceans and Atmos-
17 phere to carry out a comprehensive program to explore,
18 research, identify, and map deep sea corals and sponges
19 that includes an annual research strategy that compares
20 areas open to mobile bottom-tending gear with areas des-
21 ignated as Coral Management Areas.

22 (b) DESCRIPTION OF RESEARCH.—The comprehen-
23 sive program described in subsection (a) shall include—

24 (1) creating maps of the locations of deep sea
25 coral ecosystems; and

1 (2) conducting research related to deep sea corals and sponges and the habitats of deep sea corals and sponges, including—

2 (A) the natural history;

3 (B) taxonomic classification;

4 (C) ecological role; and

5 (D) the benefits of such species and habitats.

6 (c) CORAL MANAGEMENT AREA.—Not later than 60 days after the date on which the Secretary determines that an area has a deep sea coral ecosystem based on the research conducted under this section, the Secretary shall designate such area as a Coral Management Area.

7 (d) REPORT.—

8 (1) REQUIREMENT FOR REPORT.—Not less frequently than once each calendar year, the Secretary shall prepare a report that summarizes the annual research strategy the findings of the program carried out under this subsection. The report shall include a description of any area that the Secretary designates as a Coral Management Area pursuant to subsection (c).

9 (2) PUBLICATION.—Notice of the availability of each report required by paragraph (1) shall be published in the Federal Register.

1 **SEC. 9. ANNUAL DATA REVIEW.**

2 (a) **REQUIREMENT FOR ANNUAL REVIEW.**—Not less
3 frequently than once each calendar year, the Chair of the
4 National Research Council shall review all available data
5 related to deep sea corals and sponges. Such data shall
6 include data—

7 (1) related to the monitoring carried out under
8 section 7;

9 (2) related to the research carried out under
10 section 8; and

11 (3) obtained from any Federal agency under
12 subsection (b).

13 (b) **DATA FROM FEDERAL ENTITIES.**—The head of
14 any Federal agency that holds information related to the
15 ocean floor, including information related to the habit of
16 deep sea corals and sponges, shall, upon request, furnish
17 such information to the Chair of the National Research
18 Council.

19 (c) **RECOMMENDATIONS.**—

20 (1) **IN GENERAL.**—Not later than 30 days after
21 completing the annual review required by subsection
22 (a), the Chair of the National Research Council shall
23 submit to the Secretary a recommendation that any
24 area identified as a deep sea coral ecosystem in such
25 annual review be designated as a Coral Management
26 Area.

1 (2) PUBLICATION.—Notice of the availability of
2 each recommendation submitted to the Secretary
3 under paragraph (1) shall be published in the Fed-
4 eral Register.

5 (d) REVIEW OF RECOMMENDATIONS.—

6 (1) PROPOSED RULE.—Not later than 10 days
7 after receiving a recommendation pursuant to sub-
8 section (c)(1), the Secretary shall publish in the
9 Federal Register a proposed rule to designate any
10 recommended area as a Coral Management Area.

11 (2) COMMENT PERIOD.—The Secretary shall
12 accept comments on any proposed rule published
13 under paragraph (1) for 30 days after the date of
14 the publication of such proposed rule.

15 (3) FINAL DETERMINATION.—Not later than 60
16 days after the publication of such proposed rule, the
17 Secretary shall designate the area recommended
18 under subsection (c)(1) as a Coral Management
19 Area unless the Secretary finds no rational basis for
20 the recommendation.

21 **SEC. 10. PENALTIES AND ENFORCEMENT.**

22 (a) CIVIL PENALTIES.—The civil penalties set out in
23 section 308 of the Magnuson-Stevens Fishery Conserva-
24 tion and Management Act (16 U.S.C. 1858) shall apply

1 to a person who is found by the Secretary to have violated
2 the prohibition in section 5.

3 (b) CRIMINAL OFFENSES.—

4 (1) PROHIBITED ACTS.—It is unlawful for any
5 person—

6 (A) to refuse to permit any officer author-
7 ized to enforce the provisions of this Act (as
8 provided for in subsection (d)) to board a fish-
9 ing vessel subject to such person's control for
10 purposes of conducting any search or inspection
11 in connection with the enforcement of this Act
12 or any regulation, permit, or agreement issued
13 pursuant to this Act;

14 (B) to forcibly assault, resist, oppose, im-
15 pede, intimidate, or interfere with any such au-
16 thorized officer in the conduct of any search or
17 inspection described in subparagraph (A);

18 (C) to resist a lawful arrest for any act
19 prohibited by this Act;

20 (D) to interfere with, delay, or prevent, by
21 any means, the apprehension or arrest of an-
22 other person, knowing that such other person
23 has committed any act prohibited by this Act;

24 (E) to knowingly and willfully submit to a
25 Council, the Secretary, or the Governor of a

1 State false information regarding any matter
2 that the Council, Secretary, or Governor is con-
3 sidering in the course of carrying out this Act;
4 or

5 (F) to forcibly assault, resist, oppose, im-
6 pede, intimidate, sexually harass, bribe, or
7 interfere with any observer on a vessel under
8 this Act, or any data collector employed by the
9 National Marine Fisheries Service or under
10 contract to any person to carry out responsibil-
11 ities under this Act.

12 (2) PUNISHMENT.—A person is guilty of an of-
13 fense if such person commits any act prohibited by
14 paragraph (1). Such offense is punishable by the
15 punishments set out in section 309(b) of the Magnu-
16 son-Stevens Fishery Conservation and Management
17 Act (16 U.S.C. 1859(b)).

18 (c) CIVIL FORFEITURES.—Any fishing vessel (includ-
19 ing its fishing gear, furniture, appurtenances, stores, and
20 cargo) used, and fish (or the fair market value thereof)
21 taken or retained, in any manner, in connection with or
22 as a result of the commission of a violation of the prohibi-
23 tion in section 5 (other than such a violation for which
24 the issuance of a citation is sufficient sanction) shall be
25 subject to the civil forfeiture provisions set out in section

1 310 of the Magnuson-Stevens Fishery Conservation and
2 Management Act (16 U.S.C. 1860).

3 (d) ENFORCEMENT.—The provisions of this Act shall
4 be enforced by the officers responsible for the enforcement
5 the Magnuson-Stevens Fishery Conservation and Manage-
6 ment Act as provided for in subsection (a) of section 311
7 of the Magnuson-Stevens Fishery Conservation and Man-
8 agement Act (16 U.S.C. 1861). Such officers shall have
9 the powers and authorities to enforce this Act as are pro-
10 vided in such section.

11 **SEC. 11. INTERNATIONAL PROTECTIONS FOR DEEP SEA**
12 **CORALS AND SPONGES.**

13 The President is authorized to permit the Secretary,
14 in consultation with the Secretary of State, to work with
15 appropriate foreign entities to develop the data necessary
16 to identify areas located in international waters that would
17 benefit from additional protection for deep sea corals and
18 sponges.

19 **SEC. 12. REPORT TO CONGRESS.**

20 (a) REQUIREMENT.—On the date that is 3 years
21 after the date of enactment of this Act, and every 3 years
22 thereafter, the Secretary shall submit to Congress a report
23 on the activities undertaken to carry out the provisions
24 of this Act.

1 (b) CONTENT.—The reports required by subsection
2 (a) shall include a description of—

3 (1) the activities carried out to protect and
4 monitor deep sea corals and sponges; and

5 (2) any area designated as a Coral Management
6 Area.

7 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated \$50,000,000
9 for each fiscal year to carry out the provisions of this Act.

○