



Summary of the Deep Sea Coral Protection Act -S. 1953 -



Section 1 - Short Title

The short title is the “Deep Sea Coral Protection Act.”

Section 2 - Findings

Lays out the scientific basis for this legislation. In recent years NOAA and other scientific organizations worldwide have discovered that the majority of the coral species found in the world’s oceans live in deep or cold waters. Deep sea corals are typically found along continental margins, seamounts, undersea canyons and ridges. These corals form reefs and gardens that are essential to numerous oceanic species. For example, more than 1,300 species live among the lophelia coral reefs in the Northeastern Atlantic Ocean. These species, including commercially and recreationally important fish species, rely on these complex habitats for spawning, food, and shelter from predation. Not only are deep sea coral ecosystems important for the preservation of ocean biodiversity and the long-term sustainability of commercial and recreational fish species, but they also provide important clues for the study of global climate change and are under study as sources of new biomedical compounds for medical treatment of disease.

Deep sea coral habitats are subject to growing human impacts, particularly as the result of the recent, rapid spread of deep sea trawl fisheries into deep water regions. This expansion of deep sea trawl fishing has outstripped scientific efforts to properly locate deep sea coral reefs and gardens. As a result, the United States is losing the opportunity to conserve these important habitats. In comparison, the European Union, New Zealand, Canada and Norway have already prohibited the use of mobile bottom-tending fishing gear in some areas containing deep sea coral ecosystems.

Section 3 - Policy

Establishes that it is the policy of the United States to protect deep sea corals and sponges and their habitats from damage by commercial fishing gear, particularly mobile bottom-tending gear.

Section 4 - Definitions

Defines terms used in this Act, including:

“Deep Sea Coral Ecosystem” – Living species of deep sea corals and sponges, and other species of organisms associated with the deep sea coral habitats, and the nonliving environmental factors that affect species of deep sea corals and sponges, that together function as an ecological unit in nature.

“Deep Sea Corals and Sponges” – Coral species are defined as those:

- without symbiotic algae that occur in the exclusive economic zone (EEZ) of the U.S. in areas under the jurisdiction of the Mid-Atlantic FMC, North Atlantic FMC, Pacific FMC, and North Pacific FMC, or
- that occur in the exclusive economic zone (EEZ) of the U.S. at depths of at least 50 meters in areas under the jurisdiction of the South Atlantic FMC, the Gulf of Mexico FMC, Caribbean FMC, and the Western Pacific FMC.

“Mobile Bottom-Tending Fishing Gear” – Any fishing gear that uses a piece of gear that drags along the ocean floor, including dredges, beam or otter trawls, or pelagic trawls that contact the ocean floor.

“Secretary” – The Secretary of Commerce.

Section 5 - Prohibition on the Use of Mobile Bottom-Tending Fishing Gear in Coral Management Areas

Prohibits the use of mobile bottom-tending fishing gear in all areas designated under this Act as “Coral Management Areas.”

Section 6 – Coral Management Areas

Coral Management Areas are designated initially in one of two ways:

Initial Designations – The Act designates six known and mapped deep sea coral ecosystems as Coral Management Areas: Alaska Deep Sea Gardens, Oceanographer Canyon (off of MA), Lydonia Canyon (off of MA), Oculina Reefs (off of FL), the Lophelia/Enallopsammia reefs (off of NC, SC, GA, FL), and Bear Seamount (off of MA).

Areas Identified through Fishing Records - Establishes a process for the Secretary to designate as Coral Management Areas all areas of the exclusive economic zone that have not been fished using mobile bottom-tending fishing gear for the three years prior to November 1, 2003. This determination will be based on analysis of commercial fishing records maintained by the National Marine Fisheries Service. Thus, current trawling may continue, but cannot expand into Coral Management Areas until those areas’ designations are removed.

The Coral Management Area designation shall be removed from part or all of the areas identified as untrawled in the 3-year period if:

- The deep sea corals and sponges have been mapped by NOAA;
- A Fishery Management Council recommends to the Secretary of Commerce that the area should no longer be designated a Coral Management Area;
- The Secretary determines that the use of mobile bottom-tending fishing gear in the area would only cause minimal and temporary damage to deep sea corals and sponges; and
- The use of mobile bottom-tending gear is not prohibited by any other provision of law.

The Secretary is required to publish Coral Management Area designations or designation removals in the Federal Register.

Section 7 – Monitoring of Coral Bycatch and Designations of Coral Management Areas

Designation of Coral Management Areas based on Deep Sea Coral and Sponge Bycatch – The Secretary shall monitor bycatch of commercial fishing within the exclusive economic zone and identify deep sea coral ecosystems where high bycatch of deep sea corals or sponges indicates the presence of a deep sea coral ecosystem. After identifying an area as a deep sea coral ecosystem, the Secretary has 60 days to designate it as a Coral Management Area.

Annual Bycatch Report – The Secretary must publish an annual report summarizing deep sea coral and sponge bycatch monitoring data and a description of any areas designated as Coral Management Areas.

Section 8 – Research

The Under Secretary for Oceans and Atmosphere is directed to carry out a comprehensive program

- to research, identify, and map deep sea corals and sponges. The program will produce: -reliable maps of deep sea coral ecosystems
- research directed at
 - the natural history
 - taxonomic classification

- ecological role, and
- the benefits of these species and their habitats.

The Secretary shall prepare an annual, published report that summarizes the research strategy, and the findings of the research conducted that year.

Section 9 – Annual Data Review

The Chair of the National Research Council shall conduct an annual review of all available data related to deep sea corals and sponges, including the monitoring and research conducted by the Secretary of Commerce or other relevant federal entity. After the annual review is completed, the Chair of the National Research Council shall recommend areas identified as deep sea coral ecosystems to the Secretary of Commerce for designation as Coral Management Areas. This recommendation by the National Research Council shall be published in the Federal Register. The Secretary of Commerce will publish a rule, subject to notice and comment, designating the recommended areas as coral management areas, unless the Secretary finds no rational basis for the recommendation.

Section 10 – Penalties and Enforcement

Enforcement shall be the same as under the Magnuson-Stevens Fishery Conservation and Management Act:

- **Civil** penalties for persons who violate the prohibition against using mobile bottom-tending gear in a Coral Management Area shall be the same as those set out in section 308 of the Magnuson-Stevens Act. Therefore, a civil penalty shall not exceed \$100,000 per violation, with each day of a continuing violation constituting a separate offense.
- **Criminal** punishments for persons who unlawfully interfere with enforcement of this Act shall be the same as those set out in section 309(b) of the Magnuson-Stevens Act. Therefore, punishment may be a fine, which shall not exceed \$100,000, imprisonment for not more than 6 months, or both. If the person uses a dangerous weapon, engages in conduct that causes bodily injury to any observer or officer authorized to enforce the provisions of this Act, or places such an observer or officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$200,000, imprisonment for not more than 10 years, or both.

Enforcement of this Act shall be carried out by the officers responsible for enforcement under the Magnuson-Stevens Act.

Section 11 – International Protections for Deep Sea Corals and Sponges

The President is authorized to permit the Secretary of Commerce, in consultation with the Secretary of State, to work with appropriate foreign entities to promote research and conservation of deep sea corals and sponges in international waters.

Section 12 – Report to Congress

The Secretary shall report to Congress 3 years after enactment of this legislation and every 3 years thereafter on all activities undertaken to carry out this Act.

Section 13 – Authorization of Appropriations

Authorizes an annual appropriation of \$50 million to carry out the provisions of this Act.