

Deep sea coral language in the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (sections 105 and 211):

Section 105 authorizes (via discretionary authority) the Regional Fishery Management Councils to restrict the use of destructive types of fishing gear within areas of known deep sea coral habitat. This provision intends to promote a proactive approach towards deep sea coral protection. Furthermore, Council activity does not need to be linked to a determination of deep sea corals as essential fish habitat for individual or complex fisheries. In other words, Councils can protect deep sea corals for their own merit as valuable and vulnerable marine ecosystems.

SEC. 105. FISHERY MANAGEMENT PLAN DISCRETIONARY PROVISIONS.

Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by inserting “(A)” after “(2)” in paragraph (2);

(2) by inserting after paragraph (2) the following:

“(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

“(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

“(i) is based on the best scientific information available;

“(ii) includes criteria to assess the conservation benefit of the closed area;

“(iii) establishes a timetable for review of the closed area’s performance that is consistent with the purposes of the closed area; and

“(iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;”;

(3) by striking “fishery;” in paragraph (5) and inserting “fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;”;

(4) by striking paragraph (6) and inserting the following:

“(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- “(A) present participation in the fishery;
- “(B) historical fishing practices in, and dependence on, the fishery;
- “(C) the economics of the fishery;
- “(D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (7) by redesignating paragraph (12) as paragraph (14) and inserting after paragraph (11) the following:
 - “(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and”.
 - “(E) the cultural and social framework relevant to the fishery and any affected fishing communities;
 - “(F) the fair and equitable distribution of access privileges in the fishery; and
 - “(G) any other relevant considerations;”;
- (5) by striking “(other than economic data)” in paragraph (7);
- (6) by striking “and” after the semicolon in paragraph (11); and

Section 408 establishes a coordinated deep sea coral research program at NOAA. Coordination should include the deep sea coral research currently carried out at NOAA on an ad-hoc basis, plus any new research. Program goals include the mapping of locations of deep sea coral habitat, reducing the interactions between fishing gear and deep sea corals, and the reporting of management relevant information to the Councils. Reports on deep sea coral mapping activities are due to Congress by January 12, 2008, and biannually thereafter.

SEC. 211. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.

Title IV (16 U.S.C. 1881 et seq.) is amended by adding at the end the following:

“SEC. 408. DEEP SEA CORAL RESEARCH AND TECHNOLOGY PROGRAM.

“(a) IN GENERAL.—The Secretary, in consultation with appropriate regional fishery management councils and in coordination with other federal agencies and educational institutions, shall, subject to the availability of appropriations, establish a program—

“(1) to identify existing research on, and known locations of, deep sea corals and submit such information to the appropriate Councils;

“(2) to locate and map locations of deep sea corals and submit such information to the Councils;

“(3) to monitor activity in locations where deep sea corals are known or likely to occur, based on best scientific information

available, including through underwater or remote sensing technologies and submit such information to the appropriate Councils;

“(4) to conduct research, including cooperative research with fishing industry participants, on deep sea corals and related species, and on survey methods;

“(5) to develop technologies or methods designed to assist fishing industry participants in reducing interactions between fishing gear and deep sea corals; and

“(6) to prioritize program activities in areas where deep sea corals are known to occur, and in areas where scientific modeling or other methods predict deep sea corals are likely to be present.

“(b) REPORTING.—Beginning 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall submit biennial reports to Congress and the public on steps taken by the Secretary to identify, monitor, and protect deep sea coral areas, including summaries of the results of mapping, research, and data collection performed under the program.”