

Summary of the Bottom Trawl and Deep Sea Coral Habitat Act – S.1635, H.R.3778



Section 1 - Short Title

The short title is the “Bottom Trawl and Deep Sea Coral Habitat Act of 2005.”

Section 2 - Findings

Lays out the scientific and economic basis for this legislation. Acknowledges that “a proper balance of use and protection of ocean resources is necessary to ensure the sustainability of such resources.” The U.S. Commission on Ocean Policy, the Pew Oceans Commission, and the President’s Ocean Action Plan all echo what researchers from esteemed organizations like the National Research Council have been saying for several years: protection of deep sea corals, particularly from the most-destructive fishing practices, should be a priority due to the importance of deep sea coral ecosystems to a host of biological diversity. Deep sea coral habitats are threatened by an increasing number and frequency of human impacts, particularly as the result of the recent, rapid spread of bottom trawl fisheries into deep water regions. This expansion of deep sea bottom 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, which “provide spawning habitat, food, and shelter to numerous fishes and other associated species, including commercially and recreationally targeted species.”

“It is important that fishermen continue to be permitted to use areas that have traditionally been fished, as long as conservation considerations allow.” The method of protecting deep sea corals used in the Bottom Trawl and Deep Sea Coral Habitat Act is therefore derived from a successful approach already used and approved by fishermen in some parts of the country. The North Pacific Fishery Management Council recently adopted measures that would protect significant expanses of deep sea corals off Alaska by restricting bottom trawling to “open areas” where they have historically fished. The Act follows the approach of the North Pacific Council in creating a system of bottom trawl zones – in which bottom trawling is permitted, and coral habitat zones – in which deep sea coral and sponge ecosystems are protected.

Section 3 - Purposes

Establishes that the Act’s purposes are to permit fishermen to use bottom trawls in traditional bottom trawl fishing grounds, to provide long-term protection for deep sea coral and sponge ecosystems, and to identify, map, and assess deep sea coral and sponge ecosystems to create a balanced policy for maintenance of fishing and protection of deep sea ecosystems. This Act establishes a process that would achieve an outcome similar to that achieved by the North Pacific Fishery Management Council to protect deep sea corals while also clearly delineating areas open to bottom trawls.

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Section 4 - Definitions

Defines terms used in this Act, including:

“Bottom Trawl” — any trawl or dredge fishing gear that is designed to contact the seafloor while in use, including but not limited to pelagic trawls that contact the seafloor while in use, otter trawls, and scallop dredges.

“Bottom Trawl Zone” — any area established by this Act in which the use of bottom trawls is permitted. Fishing with other types of fishing gear may continue as regulation permits.

“Coral Habitat Conservation Zone” — any area established by this Act to protect deep sea corals and sponges.

“Deep Sea Coral and Sponge Ecosystem” — a community of living deep sea coral and/or deep sea sponge species, the benthic and non-benthic species associated with them, and the living and nonliving physical and chemical components that constitute habitat for corals and sponges.

“Deep Sea Corals” — species that—

- occur at a depth of not less than 50 meters;
- do not contain symbiotic algae; and
- are in the phylum Cnidaria, in the order—
 - (i) Antipatharia (black corals);
 - (ii) Scleractinia (stony corals);
 - (iii) Gorgonacea (horny corals);
 - (iv) Alcyonacea (soft corals);
 - (v) Pennatulacea (sea pens), in the class Anthozoa; or
 - (vi) Hydrocorallina (hydrocorals), in the class Hydrozoa.

“Deep Sea Sponges” — species of the phylum Porifera that occur at a depth of not less than 50 meters.

Section 5 – Mapping and Research

Requires the Secretary to direct the Under Secretary for Oceans and Atmosphere to prepare and carry out a program to explore, identify, research, and map deep sea corals and deep sea sponges. This includes creating maps of deep sea coral and sponge ecosystem locations and researching:

- the natural history, taxonomic classification, and growth rates;
- the ecological role and the anthropogenic, ecological, and other benefits of deep sea coral and sponge species and habitats; and
- the correlation of deep sea corals and sponges with geologic formations, physical features, and other predictors of presence.

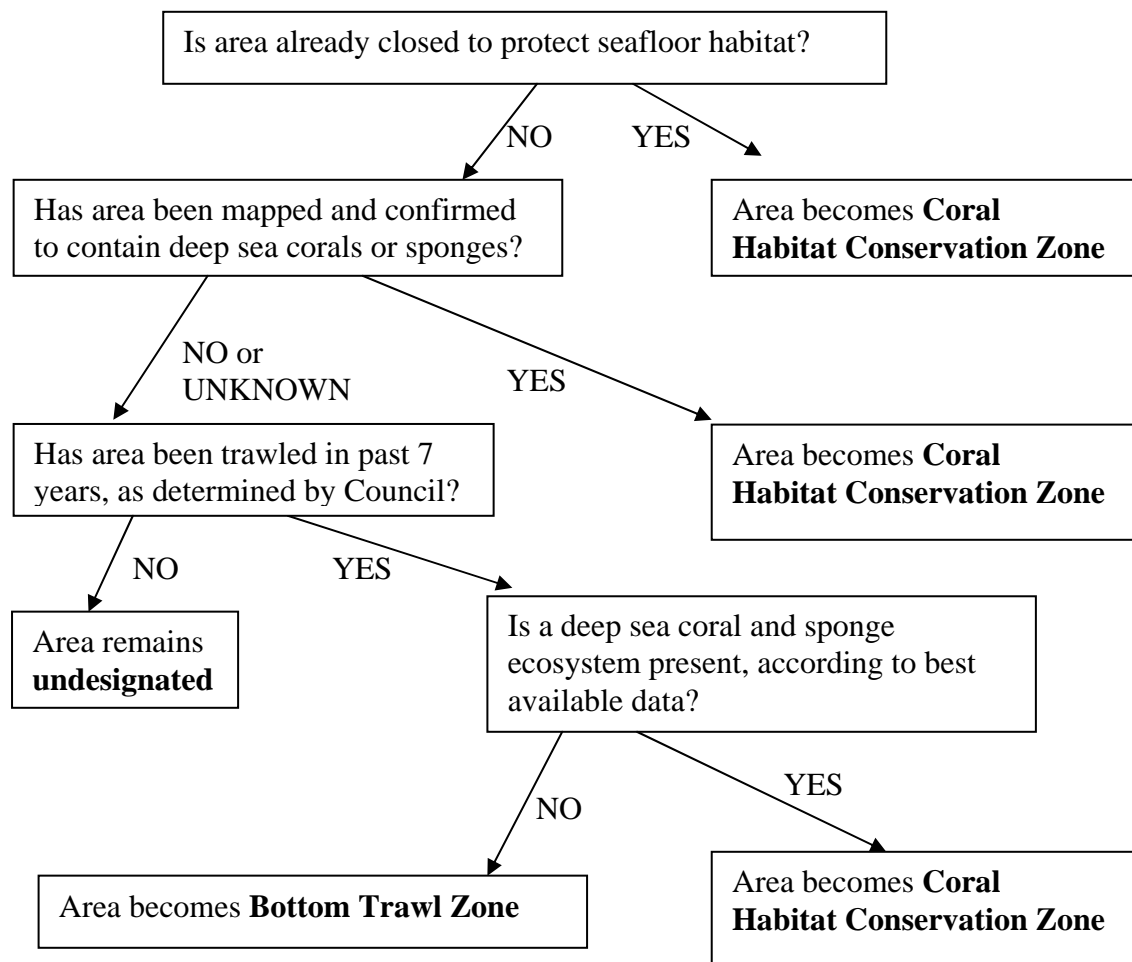
The Secretary, in consultation with the Councils, is also directed to develop a cooperative research program to identify ideal trawl areas and deep sea coral and sponge habitats. Finally, the Secretary, in consultation with the Councils and expert scientists, is instructed to define the thresholds above which the abundances of various deep sea coral and sponge species are considered to constitute an “ecosystem.”

Section 6 – Use of Best Available Data

Requires that all designations of Bottom Trawl Zones and Coral Habitat Conservation Zones be based on the best available data. Boundaries of the zones shall be determined after considering: the precision and accuracy of the available trawl location data, the precision and accuracy of deep sea coral and sponge presence data, economic cost to the industry, ecological costs and benefits to deep sea corals and sponges in the area, and ease of enforcement. Additionally, buffers are permitted in Coral Habitat Conservation Zones.

Sections 7 and 8 – Initial Designations of Bottom Trawl Zones and Coral Habitat Conservation Zones

Within 24 months of enactment, the Councils shall undertake the following analysis and the Secretary, using the input from the Councils, shall designate Bottom Trawl Zones and Coral Habitat Conservation Zones after opportunity for public comment. Beginning 30 days after the end of the comment period, bottom trawls may only be used within Bottom Trawl Zones.

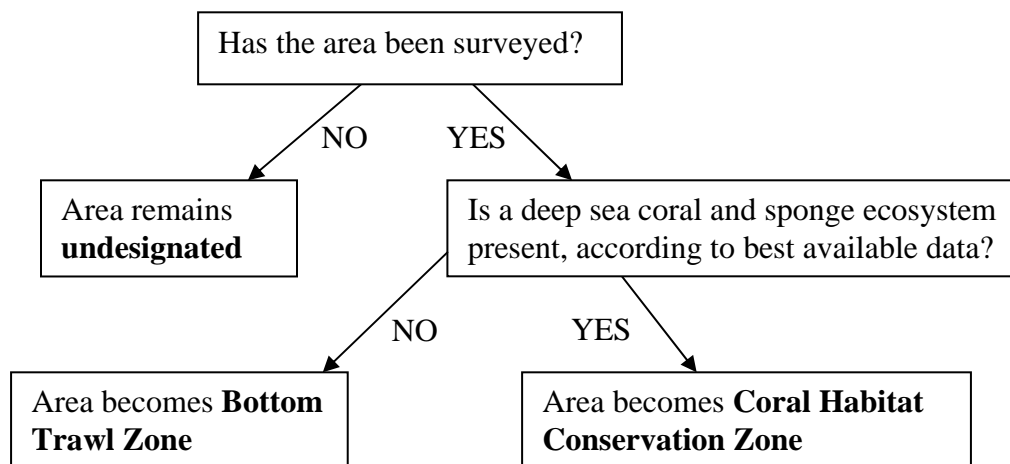


Section 9 – Undesignated Areas

All areas not designated in the initial round of designations shall be available for subsequent designation at any time according to the processes set out in sections 10 and 11.

Sections 10 and 11 – Subsequent Designations of Bottom Trawl and Coral Habitat Conservation Zones

After initial designations are made, the Secretary, in consultation with the Councils, shall undertake the following analysis to designate additional Bottom Trawl Zones and Coral Habitat Conservation Zones, after opportunity for public involvement. The Secretary is responsible for reviewing bycatch records and any other mapping or research efforts the Secretary determines appropriate. Sites can be recommended by a Council or the Secretary for designation for either type of Zone.



Section 12 – Stricter Regulation Permitted and Savings Clause

Nothing in this Act shall restrict the ability of the Secretary to promulgate stronger fishery or habitat protection measures for any purpose, as authorized by other laws. All rules and regulations issued under the Magnuson-Stevens Act pertaining to the conservation, management or protection of deep sea coral or sponges shall continue in full force and effect after the date of enactment of this Act until modified or rescinded by the Secretary.

Section 13 – Use of Vessel Monitoring Systems (VMS)

Within 24 months of enactment of this Act, all vessels using bottom trawl gear in waters deeper than 50 meters must use VMS whenever the vessel leaves port with bottom trawl gear on board.

Section 14 – Penalties and Enforcement

Duplicates the civil and criminal enforcement and penalty provisions of the Magnuson-Stevens Act.

Section 15 – International Protections for Deep Sea Corals and Deep Sea Sponges

Authorizes the President 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 16 – Reports to Congress

Requires the Secretary to 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 17 – Authorization of Appropriations

Authorizes the appropriation of \$15 million to carry out the provisions of this Act.