

National Oceanic and Atmospheric Administration

Statutes Which Authorize NOAA's Capacity Building Activities

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Introduction

The term “Capacity Building” – more recently referred to as “Capacity Development” – can encompass a wide variety of specific activities which are focused on rendering constructive and enduring aid to other nations. In general, an institution’s or a society’s “capacity” refers to its ability to solve its own problems or to achieve its own objectives. Capacity Development is the “process whereby people, organizations and society as a whole unleash, strengthen, create, adapt and maintain capacity over time.”¹ The subject was notably addressed in terms of environmental capacity development at the United Nations Conference on Environment and Development which was held at Rio de Janeiro in 1992. Among other things, that conference produced a global blueprint for sustainable development which it called “Agenda 21.” Chapter 37 of that document addressed “National Mechanisms and International Cooperation for Capacity-Building in Developing Countries.” Noting that “[t]he ability of a country to follow sustainable development paths is determined to a large extent by the capacity of its people and its institutions as well as well as its ecological and geographical conditions,” Agenda 21 sought to identify the elements of Capacity Building. “Specifically, capacity-building encompasses the country's human, scientific, technological, organizational, institutional and resource capabilities. A fundamental goal of capacity-building is to enhance the ability to evaluate and address the crucial questions related to policy choices and modes of implementation among development options.” *Agenda 21* at 37.1

In calling attention to the wide variety of potential contributions in this context, FAO points out that Capacity Building “has traditionally been associated with knowledge transfer and training of individuals, yet it is a complex, non-linear and long-term change process in which no single factor (*e.g.* information, education and training, technical assistance, policy advice, etc.) can by itself be an explanation for the development of capacity.”² It can involve organizational development, the refinement of management structures, and the development of institutional and legal frameworks, as well as legal and regulatory changes which enhance the capacities of organizations, institutions and agencies. Ideally, Capacity Building is a cooperative venture. Both the helper and the helped contribute to its success. The recipients of this unique form of aid are provided with, or are supported in the development of, skills and tools which will enable them to identify their own development options, make informed choices, and implement effective solutions.³ The U.S. Agency for International Development (USAID), which has decades of experience in supporting sustainable development, notes that “[t]he ultimate goal of development cooperation must be to enable developing countries to devise and implement their own solutions to key development challenges and to develop resilience against shocks and other

¹ The Food and Agriculture Organization of the United Nations (FAO) adopts the definition of “capacity” as “the ability of people, organizations and society as a whole to manage their affairs successfully.” FAO, “Corporate Strategy on Capacity Development” (Oct. 2010) at 3.

² *Id.*

³ See United Nations Environment Programme, *Capacity Building for Sustainable Development: An Overview of UNEP Environmental Capacity Development Activities* (2002), ch. 1.

setbacks. Sustainability is about building skills, knowledge, institutions, and incentives that can make development processes self-sustaining.”⁴

NOAA, both on its own and in cooperation with USAID, plays a key role in the United States efforts to build capacity in developing nations and globally – particularly in areas of science, research and information sharing. The three pillars that support and promote NOAA’s mission are “Science, Service and Stewardship.” Under the banner of “science,” NOAA is charged, first, with developing an understanding of the oceans and coasts, as well as a predictive understanding of climate and weather. With respect to “service,” NOAA is called upon to share that knowledge with others, to provide the information that will enable society to understand natural resources and processes, to manage, to plan and to respond. The Agency has the responsibility, in a number of areas, to train others and to make the benefits of its research and study available for the welfare and protection of humankind. Finally, NOAA is one of the nation’s environmental “stewards,” charged with sustainably managing and conserving marine and coastal resources, as well as fragile ecosystems, and with developing those skills in others.

This digest touches upon the statutory underpinnings for the second of these mission components – the sharing, outreach, education and training that can enable others to better manage the resources to which they have access and to respond effectively to any contingency or change. The statutory provisions described in this guide equip NOAA, for example, with the authority and the tools to train developing nations in the techniques and legal frameworks that will enable them to better protect their vital fisheries and coastal resources. They direct NOAA to develop, conduct, support and promote educational activities at all levels which will enhance public awareness and understanding of the ocean, and promote coastal and atmospheric science and stewardship. NOAA is the leading provider of climate information to the nation and the world. Thus, Congress directed NOAA to provide technical assistance and training to international entities to enable them to forecast natural events and to provide an early warning capability. NOAA is directed to stimulate opportunities for education, to engage educational institutions, science and research institutions, government agencies, and public and private entities to promote research that will enable an informed society to make the best social and economic decisions and that will protect vulnerable populations.

This digest will always be a work-in-progress. NOAA was created by executive Reorganization Plan No. 4 of 1970 which essentially transferred various function from the Department of the Interior to the Department of Commerce. While Congress has yet to succeed in passing a comprehensive NOAA organic act to formally establish the agency and chart its purpose and goals, it has, nevertheless, significantly enhanced that purpose and those goals by means of some 200 individual statutes that have been enacted in the years since 1970. Thus, by a natural evolution, the Agency’s mission, as described in NOAA’s *Next Generation Strategic Plan*, has become one of Science, Service, and Stewardship. New legislative initiatives and revisions to existing statutes will continue to emerge in this area of critically important endeavor as Congress strengthens and enhances that mission, and every effort will be made to keep this digest current.

⁴ USAID Policy Framework, 2011-2015 at 12.

***Disclaimer:** This digest is not intended to represent or reflect an interpretation by the NOAA Office of General Counsel or the National Oceanic and Atmospheric Administration of any of the legal authorities identified herein. This digest is offered for informational purposes only and is without prejudice to any position the NOAA Office of General Counsel may take regarding any matter or issue.*

Government Employees – Details to International Organizations, 5 U.S.C. §§ 3343, 3581-3584

The head of an agency may detail, for a period of not more than 5 years, an employee of his or her agency to an international organization which requests services, except that under special circumstances, where the President determines it to be in the national interest, he may extend the 5-year period for up to an additional 3 years. 5 U.S.C. § 3343(b). Details may be made without reimbursement to the United States by the international organization; or with agreement by the international organization to reimburse the United States for all or part of the pay, travel expenses, and allowances payable during the detail, and the reimbursement shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed. 5 U.S.C. § 3343(d).

Weather Service Organic Act, 15 U.S.C. § 313-313d, 325

The Act authorizes NOAA to forecast, record, report, and monitor the weather, and to distribute meteorological, hydrologic and climate data. 15 U.S.C. § 313. NOAA's National Weather Service (NWS) provides these services for the United States, its territories, adjacent waters and ocean areas. NWS data and products form a national information database and infrastructure which can be used by other governmental agencies, the private sector, the public and the global community.

The Secretary of Commerce is authorized to take such action as may be necessary in the development of an international basic meteorological reporting network in the Arctic region of the Western Hemisphere, including the establishment, operation, and maintenance of such reporting stations in cooperation with the State Department and other United States governmental departments and agencies, with the meteorological services of foreign countries and with persons engaged in air commerce. 15 U.S.C. § 313a. Additionally, appropriations now or hereafter provided for the National Weather Service shall be available for equipment and maintenance of meteorological offices and stations, and maintenance and operation of meteorological facilities outside the United States by contract or otherwise. 15 U.S.C. § 325.

National Climate Program Act, 15 U.S.C. §§ 2901-2908

The purpose of this Act is to establish a comprehensive National Climate Program to assist both the Nation and the world to understand and respond to artificial and natural climate processes. 15 U.S.C. § 2902. The Secretary of Commerce shall establish within the Department of Commerce a National Climate Program Office which shall serve as the lead entity responsible

for administering the program and be responsible for coordinating interagency participation in international climate-related activities. 15 U.S.C. § 2904(c).

The Act grants NOAA the authority to enter into contracts, grants or cooperative agreements for climate-related activities. 15 U.S.C. § 2904(c). These activities include: assessments of the effect of climate on the natural environment, land and water resources and national security; basic and applied research to improve understanding of climate processes and climate change; methods for improving climate forecasts; global data collection and monitoring and analysis activities; systems for management and dissemination of climatological data; measures for increasing international cooperation in climate research, monitoring, analysis and data dissemination; mechanisms for intergovernmental climate-related studies and services, including participation by universities; and experimental climate forecast centers. 15 U.S.C. § 2904(d).

In addition, the Secretary of Commerce shall cooperate and participate with other Federal agencies, and foreign, international, and domestic organizations and agencies involved in international or domestic climate-related programs; provide representation at climate-related international meetings and conferences, and coordinate the activities of the Program with the climate programs of other nations and international agencies and organizations. 15 U.S.C. § 2904(f)(1)-(2).

Global Change Research Act of 1990, 15 U.S.C. §§ 2921-2938

The purpose of this Act is to provide for development and coordination of a comprehensive and integrated United States Global Change Research Program which will assist the Nation and the world to understand, assess, predict, and respond to human-induced global change as well as the natural processes of global change. 15 U.S.C. § 2931(b). The President is directed to establish an interagency Committee on Earth and Environmental Sciences of which NOAA is to be a member. 15 U.S.C. § 2932. The Committee shall cooperate with the Secretary of State in providing representation at international meetings and conferences on global change research in which the United States participates; and in coordinating the federal activities of the United States with programs of other nations and with international global change research activities such as the International Geosphere-Biosphere Program. 15 U.S.C. § 2932(e).

The Committee shall develop a [National Global Change Research Plan](#) for implementation of the Program. The Plan shall make recommendations for the coordination of the global change research activities of the United States with such activities of other nations and international organizations, including a description of the extent and nature of necessary international cooperation; bilateral and multilateral proposals for improving worldwide access to scientific data and information; and methods for improving participation in international global change research by developing nations. 15 U.S.C. § 2934(b), (e). The Plan shall also create globally accessible formats for data collected by various international sources. 15 U.S.C. § 2934(b), (e).

International Cooperation in Global Change Research Act of 1990, 15 U.S.C. §§ 2951-2953

The purposes of this Act are to promote international and intergovernmental cooperation on global change research; to involve scientists and policymakers from developing nations in such cooperative global change research programs; and to promote international efforts to provide technical and other assistance to developing nations which will facilitate improvements in their domestic standard of living while minimizing damage to the global or regional environment. 15 U.S.C. § 2951(b).

- **Global Change Research** -- The President shall direct the Secretary of State, in cooperation with the Committee on Earth and Environmental Sciences, of which NOAA is a member, to initiate discussions with other nations leading toward international protocols and other agreements to coordinate global change research activities. Such discussions should include coordination of global change research plans with those developed by international organizations such as the International Council on Scientific Unions, the World Meteorological Organization, and the United Nations Environment Program. It should include the establishment of global change research centers and training programs for scientists, especially those from developing nations; and the development of innovative methods for management of international global change research. 15 U.S.C. § 2952(a)
- **Energy Research** – The President shall direct the Secretary of State (in cooperation with the Secretary of Energy, the Secretary of Commerce, the United States Trade Representative, and other appropriate members of the Committee on Earth and Environmental Sciences, which includes NOAA) to initiate discussions with other nations leading toward an international research protocol for cooperation on the development of energy technologies which have minimally adverse effects on the environment. 15 U.S.C. § 2952(b).
- **Information Office** – The Act requires that the President, with advice from all relevant Federal agencies, establish an Office for Global Change Research Information to provide foreign governments, businesses, institutions, and citizens with useful information and research data about adapting to the effects of global change. 15 U.S.C. § 2953.

South Pacific Tuna Act of 1988, 16 U.S.C. §§ 973-973r

The Secretary of Commerce is directed under this Act to issue such regulations as may be necessary to carry out the purposes and objectives of the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987. The Secretary of Commerce, in consultation with the Secretary of State and the Secretary of Homeland Security, shall issue regulations necessary to carry out the purposes and objectives of the Treaty. 16 U.S.C. § 973b. Under Section 15 of this Act, the United States tuna industry is called upon to provide

\$250,000 annually in technical assistance, including provision of assistance by technicians, in response to requests from the Pacific Island nations which are Parties to that Treaty. Such requests are to be coordinated through an Administrator designated by the Pacific Island Parties to act on their behalf. The Secretary of State shall designate an entity to coordinate the provision of such technical assistance and to provide an annual report to the Secretary of State regarding the provision of such technical assistance. 16 U.S.C. § 973m. Associated with the Treaty is an Economic Assistance Agreement which serves to support public education and health care programs, responsible utilization of resources, and general economic and social welfare in the Pacific Islands.

Marine Mammal Protection Act of 1972, 16 U.S.C. §§ 1361–1423h

Marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. 16 U.S.C. § 1361(6). The Act establishes the Marine Mammal Commission, 16 U.S.C. § 1401, which shall recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and recommend to the Secretary of Commerce, other appropriate federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of the Act, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to this chapter. 16 U.S.C. § 1402(a).

Under Section 119 of the Act, the Secretary of Commerce may enter into cooperative agreements with Alaska Native organizations to conserve marine mammals and provide co-management of subsistence use by Alaska Natives. Agreements entered into under this section may include grants to Alaska Native organizations for, among other purposes: (1) collecting and analyzing data on marine mammal populations; (2) monitoring the harvest of marine mammals for subsistence use; (3) participating in marine mammal research conducted by the federal government, states, academic institutions, and private organizations; and (4) developing marine mammal co-management structures with federal and state agencies. 16 U.S.C. § 1388. *See* “Memorandum of Agreement for Negotiation of Marine Mammal Protection Act Section 119 Agreements among U.S. Department of Commerce, National Marine Fisheries Service, U.S. Department of the Interior, Fish and Wildlife Service, and Indigenous People’s Council for Marine Mammals.” (October 2006)

National Marine Sanctuaries Act, 16 U.S.C. §§ 1431–1445c-1

The Secretary of Commerce, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this Act and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas. 16 U.S.C.

§ 1435(c). The Secretary of Commerce may enter into cooperative agreements, contracts, or other arrangements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons (including foreign governments) to carry out the purposes and policies of this chapter. 16 U.S.C. § 1442(a). Regulations issued under this Act shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. 16 U.S.C. § 1435(a).

The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries. Such activities may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers. 16 U.S.C. § 1440(c).

Coastal Zone Management Act (CZMA), 16 U.S.C. §§ 1451-1466

Encourage Cooperation and Coordination – Congress has declared that it is national policy for the Secretary of Commerce “to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States.” 16 U.S.C. § 1452(5)

Technical Assistance and Support – The Act also provides that the Secretary of Commerce shall conduct a program of technical assistance and management-oriented research in order to support both State coastal management program amendments and to further international cooperative efforts and technical assistance in coastal zone management. 16 U.S.C. § 1456c(a).

Harmful Algal Bloom and Hypoxia Research and Control Act of 1998, 16 U.S.C. § 1451 note, §§ 601-606, as amended by the Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 2004 (Pub. L. 108-456) and the Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 2014 (Pub. L. 113-124)

The Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 2014, which became law on June 30, 2014, requires the NOAA Administrator, acting through an Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia, to: (1) maintain, enhance, and periodically review a national harmful algal bloom and hypoxia program; and (2) develop and submit to Congress a comprehensive research plan and action strategy to address marine and freshwater harmful algal blooms and hypoxia. Pub. L. 113-124, sections 603A and 603B. It directs the Task Force to promote the development of new technologies for predicting, monitoring, and mitigating harmful algal bloom and hypoxia conditions. Pub. L. 113-124, section 603A(c). It also prescribes additional duties for the NOAA Administrator, including coordinating with the Secretary of State to support international efforts on marine and freshwater

harmful algal bloom and hypoxia information sharing, research, prediction, mitigation, control, and response activities; and identifying additional research, development, and demonstration needs. Pub. L. 113-124, section 603A(d).

Endangered Species Act of 1973, 16 U.S.C. §§ 1531–1543

The Endangered Species Act establishes a comprehensive program to limit harm to and promote the survival and recovery of endangered and threatened species within the United States. Species and their critical habitat are to be protected if, in the case of marine species, the Secretary of Commerce determines, pursuant to regulation, that the species is endangered or threatened because of the present or threatened destruction or modification of its habitat or range; because of overutilization for commercial, recreational, scientific, or educational purposes; because of disease or predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors. 16 U.S.C. § 1533. Federal agencies are also required, through consultation with NOAA Fisheries or Fish and Wildlife Service, to ensure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of designated critical habitat. 16 U.S.C. §§ 1536.

- **Foreign Assistance** – The President may provide development and management assistance to any foreign country that the Secretary of Commerce determines to be necessary or useful to endangered or threatened species conservation. 16 U.S.C. § 1537(a). The Secretary of Commerce, through the Secretary of State, may enter into agreements with foreign countries to conserve threatened and endangered species, as well as encourage foreign persons who import animals or plants to use conservation practices that enhance the habitat of the animals or plants being imported. 16 U.S.C. § 1537(b). The Secretary of Commerce, through the Secretary of State, may also provide personnel or financial assistance in order to cooperate with foreign countries and international organizations in promoting the conservation of fish or wildlife or plants. 16 U.S.C. § 1537(c). The Secretary of Commerce, after consulting with the Secretaries of State and Treasury, may also conduct such law enforcement investigations and research abroad as the Secretary deems necessary in order to conserve endangered or threatened species. 16 U.S.C. § 1537(d).
- **Conservation of Sea Turtles** – The Secretary of State, in consultation with the Secretary of Commerce, shall, with respect to those species of sea turtles the conservation of which is the subject of regulations promulgated by the Secretary of Commerce, initiate negotiations for the development of bilateral or multilateral agreements with other nations for the protection and conservation of such species of sea turtles; initiate negotiations with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which, as determined by the Secretary of Commerce, may adversely affect such species of sea turtles, for the purpose of entering into bilateral and multilateral treaties with such countries to protect such species of sea turtles; initiate the amendment of any existing international treaty for the protection and conservation of such species of sea turtles; and

provide to the Congress a list of each nation which conducts commercial shrimp fishing operations which may affect adversely such species of sea turtles. 16 U.S.C. § 1537 note, Section 609 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990, Pub. L. 101–162 (Nov. 21, 1989).

Magnuson-Stevens Fishery Conservation and Management Act, as amended, 16 U.S.C. §§ 1801–1891d

Congress found and declared it to be a necessary goal to foster international cooperation to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry. 16 U.S.C. § 1801(a)(12). Among the purposes of the Act is the goal of supporting and encouraging the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of any additional agreements as necessary. 16 U.S.C. § 1801(b)(2). It is declared to be the policy of the United States to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation. 16 U.S.C. § 1801(c)(5).

- **Highly Migratory Species** -- With respect to highly migratory species, the Act affirms that the United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view toward ensuring resource conservation and shall promote the achievement of optimum yield of such species throughout their range, both within and beyond the exclusive economic zone of any nation. 16 U.S.C. § 1812(a). If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an overfished stock, or a stock that is approaching a condition of being overfished, the provisions of this chapter in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization. 16 U.S.C. § 1812(c).
- **Bycatch of Protected Living Marine Resources** – To the greatest extent possible, the Secretary of Commerce shall provide appropriate assistance to nations whose fishing vessels are engaged or have been engaged during the preceding year in fishing activities or practices: (i) in waters beyond any national jurisdiction that result in bycatch of a protected living marine resource or that target or incidentally take sharks; or activities (ii) beyond the exclusive economic zone of the United States that result in bycatch of a protected living marine resource shared by the United States. The Secretary shall undertake, where appropriate, cooperative research activities on species statistics and improved harvesting techniques with those nations or organizations; encourage and facilitate the transfer of appropriate technology; and provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans. 16 U.S.C. § 1826k(d).

- **International Monitoring and Compliance** -- The Secretary of Commerce may undertake activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements. These include sharing information on harvesting and processing capacity as well as illegal, unreported and unregulated fishing on the high seas; participating in global and regional efforts to build an international network for monitoring, control, and surveillance of high seas fishing and fishing under regional or global agreements; supporting efforts to create an international registry or database of fishing vessels; enhancing enforcement capabilities; providing technical or other assistance to developing countries to improve their monitoring, control, and surveillance capabilities; and supporting coordinated international efforts to ensure that all large-scale fishing vessels operating on the high seas are required by their flag State to be fitted with vessel monitoring systems. 16 U.S.C. § 1829.
- **International Overfishing** -- When the Secretary of Commerce determines that a fishery is overfished or approaching a condition of being overfished because of excessive international fishing pressure, and that there are no management measures in place to end such overfishing under any international agreement to which the United States is a party, the Secretary of Commerce, in cooperation with the Secretary of State, shall immediately take appropriate action at the international level to end the overfishing; and within 1 year after the Secretary's determination, shall develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock. 16 U.S.C. § 1854(i). [Please note that, because of a textual error, there are two subsections denoted as "(i)." This is the second of those subsections.]
- **Seabird Mortality** -- The Secretary of Commerce, in coordination with the Secretary of the Interior, is authorized to undertake projects in cooperation with industry to improve information and technology to reduce seabird bycatch, including outreach to industry, projects to mitigate seabird mortality, and actions at appropriate international fishery organizations to reduce seabird interactions in fisheries. 16 U.S.C. § 1865(c).
- **Deep Sea Coral Research and Technology Program** – The Secretary of Commerce, in consultation with appropriate regional fishery management councils and in coordination with other federal agencies and educational institutions, shall establish a program (1) to identify existing research on, and known locations of, deep sea corals and to 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, and to 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. 16 U.S.C. § 1884.

Shark Finning Prohibition Act, 16 U.S.C. §§ 1822 note, 1857(1)(P), Pub. L. 106-557, §§ 1-10, as amended

The Secretary of Commerce, acting through the Secretary of State, shall initiate discussions for the purpose of developing bilateral or multilateral agreements with other nations for the prohibition on shark-finning; initiate discussions with all foreign governments that are engaged in shark-finning, for the purposes of collecting information and entering into bilateral and multilateral treaties with such countries; seek agreements calling for an international ban on shark-finning; initiate the amendment of any existing international treaty for the protection and conservation of species of sharks and to which the United States is a party; urge other governments involved in fishing for or importation of shark or shark products to fulfill their obligations to collect biological data; and urge other governments to prepare and submit their respective [National Plan of Action for the Conservation and Management of Sharks](#). Pub. L. 106-557, § 5.

High Seas Driftnet Fishing Moratorium Protection Act, 16 U.S.C. § 1826d-k

Negotiations, Certification of Nations – The Secretary of Commerce, acting through the Secretary of State, shall initiate discussions as soon as possible with all foreign governments that have persons engaged in fishing activities that result in bycatch of a protected living marine resource or result in targeted or incidental bycatch of sharks, where the relevant international organization or the foreign government itself has not adopted a regulatory program to end or reduce such bycatch. 16 U.S.C. § 1826k(a), (b). The goal of this effort is to enter into bilateral and multilateral treaties with such countries to protect such species or to initiate the amendment of any existing international treaty. 16 U.S.C. § 1826k(b). The Secretary shall certify to the Congress biennially whether each such nation has provided the documentary evidence of adoption of a regulatory program for conservation of protected living marine resources. 16 U.S.C. § 1826k(c)(1), (3). Any nation that is not so certified or which receives a negative certification shall be denied port privilege in the U.S. Importation of their fish and fish products into the U.S. will be prohibited; and such nation may be subject to other economic sanctions, consistent with international law. 16 U.S.C. § 1826k(c)(5).

Providing Assistance – To the greatest extent possible, the Secretary of Commerce shall provide appropriate assistance to nations and their international organizations to enable those nations to qualify for certification. The Secretary shall undertake cooperative research activities on species statistics and improved harvesting techniques, to encourage and facilitate the transfer of appropriate technology to those nations or organizations, and to provide assistance to those nations or organizations in designing and implementing appropriate fish harvesting plans. 16 U.S.C. § 1826k(d).

Antarctic Protection Act of 1990, 16 U.S.C. § 2461-2466, as amended by the Antarctic Science, Tourism, and Conservation Act of 1996, Pub. L. 104-227

It is the purpose of this Act, among other things, to urge other nations to join the United States in immediately negotiating one or more new agreements to provide an indefinite ban on all Antarctic mineral resource activities and comprehensive protection for Antarctica and its associated and dependent ecosystems; and to urge all nations to consider a permanent ban on Antarctic mineral resource activities. 16 U.S.C. § 2461(b). The statute originally declared it to be the sense of Congress that the Secretary of State should negotiate international agreements relating to protection of the Antarctic environment.

Madrid Protocol – However, in October 1991, the Protocol on Environmental Protection to the Antarctic Treaty was adopted at Madrid and it received the advice and consent of the U.S. Senate in October 1992. Article 7 of the Protocol prohibited all mineral resource enterprises except for scientific purposes. The Protocol entered into force on January 14, 1998. On October 2, 1996, the President signed the Antarctic, Science, Tourism, and Conservation Act which repealed the direction that had been given to the Secretary of State as being superfluous. The other provisions of the Act described above remain in effect.

The Madrid Protocol, among other things, calls upon the parties to promote cooperative programs of scientific, technical and educational value concerning the protection of the Antarctic environment and dependent and associated ecosystems; to provide appropriate assistance to other Parties in the preparation of environmental impact assessments; and to provide to other Parties upon request information relevant to any potential environmental risk. NOAA is responsible for enforcing the ban on Antarctic mineral activities under the Act. A violation of the Antarctic Protection Act is deemed a violation of the Antarctic Marine Living Resources Convention Act of 1984, 16 U.S.C. §§ 2431-1444, and shall be enforced under that Act by the NOAA Administrator. 16 U.S.C. § 2465. NOAA became the lead agency for the Antarctic Protection Act because of its experience under the Deep Seabed Hard Mineral Resources Act, 30 U.S.C. §§ 1401-1473. *See Antarctic Treaty Protocol on Environmental Protection: Hearings on H.R. 5459 Before the Subcomm. on Oceanography, Great Lakes and the Outer Continental Shelf, Coast Guard and Navigation, and Fisheries and Wildlife Conservation and the Environment of the House Comm. on Merchant Marine and Fisheries, 102d Cong., 2d Sess. 121 (1992).*

Coral Reef Conservation Act of 2000, 16 U.S.C. §§ 6401-6409

The purposes of the Act are to preserve and restore coral reef ecosystems; to promote wise management and sustainable use of these ecosystems; to develop scientific understanding of these ecosystems; and to assist in the preservation of coral reefs by supporting conservation programs, including projects that involve affected local communities and nongovernmental organizations. 16 U.S.C. § 6401. Authority to conduct these activities is granted specifically to the Secretary of Commerce and the NOAA Administrator. 16 U.S.C. § 6409(1); 16 U.S.C. § 6409(7). The NOAA Administrator shall also publish and update a [National Coral Reef Action Strategy](#) as well as an implementation plan. 16 U.S.C. § 6402.

The action strategy shall include, among other topics, international and regional issues. 16 U.S.C. § 6402(b). The Secretary of Commerce may enter into cooperative conservation and management agreements with local, regional, or international programs or partners. 16 U.S.C. § 6406(b)(4). The Secretary of Commerce, through the NOAA Administrator, shall provide grants of financial assistance for projects for the conservation of coral reefs. The NOAA Administrator, after ensuring that no less than forty percent of available funds are provided to Pacific Ocean projects and forty percent to projects in Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea within the maritime areas and zones subject to the jurisdiction and control of the U.S., may award remaining funds to emerging priorities and threats, including international priorities and threats identified by the NOAA Administrator. 16 U.S.C. § 6403(d).

Under Executive Order No. 13089 (June 11, 1998) (“Coral Reef Protection”) The Secretary of State and the Administrator of USAID, in cooperation with other members of the Coral Reef Task Force (which is co-chaired by the NOAA Administrator), 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 Initiative⁵ (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.

Foreign Assistance Act of 1961, as amended, 22 U.S.C. §§ 2151-2431k

Under the Foreign Assistance Act, any agency of the U.S. Government is authorized to furnish services and commodities on an advance-of-funds or reimbursement basis to friendly countries, international organizations, the American Red Cross, and voluntary nonprofit relief agencies registered with and approved by the Agency for International Development (USAID). 22 U.S.C. § 2357. This may include the assignment of an agency employee to perform functions outside the U.S. or the detail of an agency employee to provide technical, scientific advice to a foreign government or to an international organization. 22 U.S.C. §§ 2387-2388, 2390-2392.

- **Environmental and Natural Resources** -- In order to address perceived trends in the degradation of natural resources in developing countries, the President is authorized to furnish assistance under this Act for developing and strengthening the capacity of developing countries to protect and manage their environment and natural resources. Special efforts shall be made to maintain and where possible to restore the land, vegetation, water, wildlife, and other resources upon which depend economic growth and human well-being, especially of the poor. 22 U.S.C. § 2151p
- **Endangered Species** -- The preservation of animal and plant species through the regulation of the hunting and trade in endangered species, through limitations on the pollution of natural ecosystems, and through the protection of wildlife habitats is declared

⁵ An informal partnership of governments, U.N. organizations, multilateral development banks, and environmental and developmental non-government organizations.

to be an important objective of the United States development assistance. Each country development strategy statement or other country plan shall be prepared by the U.S. Agency for International Development and shall include an analysis of the actions necessary in that country to conserve biological diversity, and the extent to which the actions proposed for support by the Agency meet the needs thus identified. Whenever feasible, the objectives of this section shall be accomplished through projects managed by appropriate private and voluntary organizations, or international, regional, or national nongovernmental organizations, which are active in the region or country where the project is located. 22 U.S.C. § 2151q.

In order to preserve biological diversity, the President is authorized to furnish assistance to countries in protecting and maintaining wildlife habitats and in developing sound wildlife management and plant conservation programs. Special efforts should be made to establish and maintain wildlife sanctuaries, reserves, and parks; to enact and enforce anti-poaching measures; and to identify, study, and catalog animal and plant species, especially in tropical environments. 22 U.S.C. § 2151q(b)

The Administrator of the Agency for International Development shall cooperate with appropriate international organizations, both governmental and nongovernmental; look to the World Conservation Strategy as an overall guide for actions to conserve biological diversity; engage in dialogues and exchanges of information with recipient countries which stress the importance of conserving biological diversity; support training and education efforts which improve the capacity of recipient countries to prevent loss of biological diversity; cooperate with and support the relevant efforts of other agencies of the United States Government. 22 U.S.C. § 2151q(g)

There are a number of examples in which NOAA partners with USAID to bring technical, scientific and programmatic assistance to foreign nations, including efforts involving NOAA's Climate Prediction Center and efforts at capacity building. For example, NOAA is providing training in key areas which support the participation of Indonesia and other nations in the Coral Triangle Initiative. This includes Ecosystems-Based Fisheries Management. NOAA is building capacity in Indonesia and elsewhere to provide comprehensive and coordinated fisheries management through enforcement, science, and resource management strengthening and coordination. The activities carried out under this program will contribute to Indonesia's efforts to reduce illegal, unreported and unregulated (IUU) fishing and to strengthen fisheries enforcement. It also included Marine Protected Areas (MPA). NOAA is providing technical expertise to support capacity building for: 1) government agencies; 2) for MPA practitioners in priority landscapes; and 3) fisheries resource managers. NOAA is providing assistance in developing a body of curriculum and a training methodology to support on-going capacity building for MPA practitioners.

Mutual Educational and Cultural Exchange Act of 1961, 22 U.S.C. §§ 2451-2464

The Mutual Educational and Cultural Exchange Act of 1961, as amended, also known as the Fulbright-Hays Act, authorizes U.S. exchange programs as a public diplomacy tool. Its purpose is to increase mutual understanding between the U.S. and other countries and to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations, and the contributions being made toward a peaceful and more fruitful life for people throughout the world; and to promote international cooperation. 22 U.S.C. § 2452. It authorizes grants, contracts, or other mechanisms for educational and cultural exchanges; interchanges and visits between the United States and other countries of scientists, scholars, leaders, and other experts in the fields of environmental science and environmental management; the participation by groups and individuals from other countries in educational, scientific, and technical meetings held under American auspices in or outside the United States; as well as the interchange of technical and scientific material and equipment, the establishment and operation of centers for cultural and technical interchanges, and for U.S. representation at international nongovernmental educational, scientific, and technical meetings 22 U.S.C. § 2452(b).

The Exchange Visitor (J-1) visa is a non-immigrant visa issued by the United States to individuals of other nationalities to participate in work-and study-based exchange visitor programs. More than 350,000 J-1 visa visitors come to the United States each year, including high school and university students, researchers, physicians, and summer work travelers. For example, NOAA Fisheries Office of International Affairs processes J-1 visas for visitors interested in coming to NOAA Fisheries. The International Activities Office of National Weather Service is the focal point for NWS-hosted visiting scientists and researchers who require NOAA-sponsored J1 visas.

Deep Seabed Hard Mineral Resources Act, 30 U.S.C. §§ 1401-1473

The Deep Seabed Hard Mineral Resources Act establishes United States legal regime for exploration and recovery of hard mineral resources in the deep seabed, pending adoption by the United States of an international regime, such as the United Nations Convention on the Law of the Sea (UNCLOS).

International Consultations – The NOAA Administrator, in consultation with the Secretary of State, shall consult with foreign nations that enact, or are preparing to enact, domestic legislation establishing an interim legal framework for exploration and commercial recovery of hard mineral resources with a view to facilitating the designation of such nations as reciprocating states and, as necessary, the negotiation of agreements with such foreign nations. In addition, the NOAA Administrator shall provide such foreign nations with information on environmental impacts of exploration and commercial recovery activities, and shall provide any technical assistance requested in designing regulatory measures to protect the environment. 30 U.S.C. § 1428(f).

The Coast and Geodetic Survey Act, 33 U.S.C. §§ 883a-883l

To improve the efficiency of the National Ocean Survey and to increase engineering and scientific knowledge, the Secretary of Commerce is authorized to conduct developmental work for the improvement of surveying and cartographic methods, instruments, and equipment; and to conduct investigations and research in geophysical sciences (including geodesy, oceanography, seismology, and geomagnetism). 33 U.S.C. § 883d.

The Secretary of Commerce is authorized to enter into cooperative agreements, or any other agreements, with any public or private organization, or individual, for surveys or investigations authorized by this Act, or for performing related surveying and mapping activities, including special-purpose maps, and for the preparation and publication of the results thereof. The Secretary is authorized to establish the terms of any agreement entered into under this section, including the amount of funds to be made available by other organizations, and may contribute that portion of the costs incurred by NOAA, including shiptime and personnel expenses, which the Secretary determines represents the amount of benefits derived by the Administration from the agreement. 33 U.S.C. § 883e.

The NOAA Administrator shall take such actions, including the sponsorship of applied research, as may be necessary to assure the future availability and usefulness of ocean satellite data to the maritime community. 33 U.S.C. § 883j.

Hydrographic Services Improvement Act of 1998, 33 U.S.C. § 892-892d.

This statute directs the NOAA Administrator to acquire and disseminate hydrographic data and provide hydrographic services; promulgate standards for hydrographic data; ensure comprehensive geographic coverage of hydrographic services, in cooperation with other appropriate Federal agencies; maintain a national database of hydrographic data; and participate in the development and implementation of international standards for hydrographic data and hydrographic services. 33 U.S.C. § 892a. The Act provides for a quality assurance program for non-federal navigational products (that is, any publicly or commercially available product produced by a non-Federal entity that includes or displays hydrographic data), 33 U.S.C. § 892b, and for a broad-based Hydrographic Services Review Panel to advise the Administrator on NOAA's duties under the Coast and Geodetic Survey Act and this statute, 33 U.S.C. § 892c.

Ocean and Atmospheric Research and Development, 33 U.S.C. §§ 893-893c (The America COMPETES Reauthorization Act of 2010)

The NOAA Administrator, in consultation with the Director of the National Science Foundation and the Administrator of the NASA, shall establish a coordinated program of ocean, coastal, Great Lakes, and atmospheric research and development, in collaboration with academic

institutions and other nongovernmental entities, that shall focus on the development of advanced technologies and analytical methods that will promote United States leadership in ocean and atmospheric science and competitiveness in the applied uses of such knowledge. 33 U.S.C. § 893(a).

- **NOAA Oceanic and Atmospheric Research and Development** – The NOAA Administrator shall implement programs and activities to identify emerging and innovative research and development priorities to enhance United States competitiveness and to support development of new economic opportunities based on NOAA research, observations, monitoring, modeling, and predictions that sustain ecosystem services. NOAA shall implement programs and activities to promote United States leadership in oceanic and atmospheric science and competitiveness in the applied uses of such knowledge, as well as programs and activities to advance ocean, coastal, Great Lakes, and atmospheric research and development, including potentially transformational research, consistent with NOAA's mission to understand, observe, and model the Earth's atmosphere and biosphere, including the oceans, in an integrated manner. 33 U.S.C. § 893(b).
- **NOAA Educational Program Goals** – The NOAA Administrator shall conduct, develop, support, promote, and coordinate formal and informal educational activities at all levels to enhance public awareness and understanding of ocean, coastal, Great Lakes, and atmospheric science and stewardship by the general public and coastal stakeholders including, in particular, underrepresented groups in ocean and atmospheric science and policy careers. In conducting those activities, the Administrator shall build upon the educational programs and activities of the agency, with consideration given to the goal of promoting the participation of individuals from underrepresented groups in science, technology, engineering and mathematics (STEM) fields and in promoting the acquisition and retention of highly qualified and motivated young scientists to complement and supplement workforce needs. 33 U.S.C. § 893a(a). The education programs developed by NOAA shall, to the extent applicable, carry out and support research-based programs and activities designed to increase student interest and participation in STEM 33 U.S.C. § 893a(b)

National Sea Grant College Program Act, as amended, 33 U.S.C. §§ 1121-1131

The objective of this Act is to increase the understanding, assessment, development, management, utilization, and conservation of the Nation's ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems. 33 U.S.C. § 1121(b). Congress found that NOAA offers the most suitable locus and means for such commitment and engagement through the promotion of activities that will result in greater understanding, assessment, development, management, utilization, and conservation of ocean, coastal, and Great Lakes resources. The most cost-effective way to promote such activities is through continued and

increased Federal support of the establishment, development, management, and operation of programs and projects by sea grant colleges, sea grant institutes, and other institutions, including strong collaborations between NOAA scientists and the research and outreach personnel at academic institutions. 33 U.S.C. §§ 1121(a)(6). The Secretary of Commerce is directed to maintain within NOAA a National Sea Grant College Program. 33 U.S.C. §§ 1123(a).

This Act declares it to be in the national interest to pursue, among other things, a policy that promotes domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues. 33 U.S.C. § 1121(a). The Program shall, among other things, provide support for sea grant programs that comprise a national sea grant college program network, including international projects conducted within such programs and regional and national projects conducted among such programs. 33 U.S.C. § 1123(b)(1). To carry out the provisions of this subchapter, the Secretary of Commerce is authorized to enter into contracts, accept voluntary services, accept funds from other Federal departments, and promulgate rules and regulations as may be necessary and appropriate. 33 U.S.C. § 1123(c)(4)(D)-(G)

Tsunami Warning and Education Act, 33 U.S.C. §§ 3201-3207

The Act establishes a comprehensive program to operate and maintain a Tsunami Forecasting and Warning Program, tsunami warning centers, Tsunami Research Program, and National Tsunami Hazard Mitigation Program. The NOAA Administrator, through the National Weather Service and in consultation with other relevant offices, shall operate a Tsunami Forecasting and Warning Program charged with providing tsunami detection, forecasting and adequate warnings. The Program shall maintain tsunami warning centers; utilize an array of tsunami detection technologies; provide tsunami forecasting capability; maintain data quality and management systems; undertake a cooperative effort among NOAA, the United States Geological Survey, and the National Science Foundation to provide rapid and reliable seismic information from international and domestic seismic networks; provide a capability for the dissemination of warnings to at-risk States; allow for integration of tsunami detection technologies with other environmental observing technologies; and include any technology that NOAA considers appropriate to fulfill the objectives of the program under this section. 33 U.S.C. § 3203.

The NOAA Administrator shall provide technical assistance and training to the Intergovernmental Oceanographic Commission, the World Meteorological Organization, and other international entities, as part of international efforts to develop a fully functional global tsunami forecast and warning system comprising regional tsunami warning networks, modeled on the International Tsunami Warning System of the Pacific. 33 U.S.C. § 3206(a). In addition, the NOAA Administrator shall operate an International Tsunami Information Center (ITIC) to improve tsunami preparedness for all Pacific Ocean nations participating in the International Tsunami Warning System of the Pacific. 33 U.S.C. § 3206(b). The ITIC also monitors international tsunami warning activities around the world; assists member states in establishing national warning systems, and makes information available on current technologies for tsunami warning systems; maintains a library of materials to promulgate knowledge about tsunami in general and for use by the scientific community; and disseminates information, including educational materials and research reports. 33 U.S.C. § 3206(b)(1)-(4). One of the purposes of

the Act is to allow NOAA to improve international coordination for detection and response to tsunamis. 33 U.S.C. § 3202(6).

Federal Ocean Acidification Research and Monitoring Act of 2009, 33 U.S.C. §§ 3701-3708

The statute calls for creation of a joint Interagency Subcommittee, to be chaired by **NOAA**, to develop a strategic research and monitoring plan and to oversee assessment of the potential impacts of ocean acidification on marine organisms and marine ecosystems and to oversee the development of adaptation and mitigation strategies. 33 U.S.C. § 3703(d).

Interagency Subcommittee and Research Plan – The Subcommittee shall coordinate the U.S. research and monitoring program with programs and with scientists from other nations. 33 U.S.C. § 3703(b) The Subcommittee’s research plan shall describe specific activities, such as participation in international research efforts; and make recommendations for the coordination of the ocean acidification research and monitoring activities of the United States with such activities of other nations and international organizations. 33 U.S.C. § 3704(b)

Ocean Acidification Program – The Secretary of Commerce shall establish an ocean acidification program within NOAA to conduct research and monitoring activities consistent with the Subcommittee’s strategic plan, and to provide educational opportunities that encourage an interdisciplinary and international approach to exploring the impacts of ocean acidification. The program shall also provide for coordination of ocean acidification monitoring and impacts research with other appropriate international ocean science bodies such as the Intergovernmental Oceanographic Commission, the International Council for the Exploration of the Sea, the North Pacific Marine Science Organization, and others. 33 U.S.C. §§ 3705(a). In conducting the Program, the Secretary of Commerce (acting through NOAA) may enter into and perform such contracts, leases, grants, or cooperative agreements as may be necessary to carry out the purposes of this chapter on such terms as the Secretary considers appropriate. 33 U.S.C. § 3705(b).

Clean Hulls – Coast Guard Authorization Act of 2010, Title X, 33 U.S.C. §§ 3801-3857

These sections implement the 2001 International Convention on the Control of Anti-Fouling Systems on Ships (Anti-Fouling Convention). The Anti-Fouling Convention governs the use of anti-fouling systems to prevent the build-up of organisms on the surface of ships with the goal of reducing any toxicity risks from these systems.

The Administrator of NOAA is authorized, as is the Secretary of the department in which the Coast Guard operates and the Administrator of the EPA, to undertake scientific and technical research and monitoring pursuant to article 8 of the Anti-Fouling Convention to promote the availability of information concerning scientific and technical activities undertaken in

accordance with the Convention. Article 8 requires member states to promote research on the effect of anti-fouling systems and share information with other member states of the Convention. 33 U.S.C. § 3825.

National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321-4370h

The stated purpose of NEPA is to declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality. 42 U.S.C. § 4321.

Congress, through the act, authorizes federal agencies to support initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment. 42 U.S.C. § 4332(F).

Land Remote-Sensing Policy Act of 1992, 51 U.S.C. §§ 60101-60506, as amended December 18, 2010

Licenses issued by the Secretary of Commerce under this act to operate private remote sensing space systems shall, among other requirements, make available to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government as soon as such data are available and on reasonable terms and conditions. 51 U.S.C. § 60122(b)(2). The Secretary of Commerce and the Landsat Program Management shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying promptly the Secretary of Commerce and the Landsat Program Management of such conditions. 51 U.S.C. § 60147(b)(1). Appropriate United States Government agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid. 51 U.S.C. § 60147(b)(2).