

Public Law 104-283
104th Congress

An Act

To reauthorize the National Marine Sanctuaries Act, and for other purposes.

Oct. 11, 1996

[H.R. 543]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Marine
Sanctuaries
Preservation Act.
16 USC 1431
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Marine Sanctuaries Preservation Act”.

SEC. 2. AMENDMENT OF NATIONAL MARINE SANCTUARIES ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of National Marine Sanctuaries Act (16 U.S.C. 1431-1445a).

SEC. 3. REAUTHORIZATION OF THE NATIONAL MARINE SANCTUARIES ACT.

Section 313 (16 U.S.C. 1444) is amended to read as follows:

“SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Secretary to carry out this title—

- “(1) \$12,000,000 for fiscal year 1997;
- “(2) \$15,000,000 for fiscal year 1998; and
- “(3) \$18,000,000 for fiscal year 1999.”

SEC. 4. MANAGEMENT, RECOVERY, AND PRESERVATION PLAN FOR U.S.S. MONITOR.

16 USC 1445
note.

The Secretary of Commerce shall, within 12 months after the date of the enactment of this Act, prepare and submit to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a long-range, comprehensive plan for the management, stabilization, preservation, and recovery of artifacts and materials of the U.S.S. MONITOR. In preparing and implementing the plan, the Secretary shall to the extent feasible utilize the resources of other Federal and private entities with expertise and capabilities that are helpful.

SEC. 5. PUBLICATION OF NOTICE OF CERTAIN ADVISORY COUNCIL MEETINGS.

Section 315(e)(3) (16 U.S.C. 1445a(e)(3)) is amended by inserting before the period at the end the following: “, except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register”.

SEC. 6. ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES.

16 USC 1431
note, 1442 note,
1445b.

(a) **INCORPORATION OF EXISTING PROVISION.**—Section 316 (16 U.S.C. 1445 note) is redesignated as section 317, section 2204 of the National Marine Sanctuaries Program Amendments Act of 1992 (106 Stat. 5049) is moved so as to appear in the National Marine Sanctuaries Act following section 315, and that moved section is designated as section 316 of the National Marine Sanctuaries Act.

16 USC 1445b.

(b) **AMENDMENT OF INCORPORATED SECTION.**—Section 316, as moved and designated by subsection (a) of this section, is amended as follows:

(1) Subsections (a), (g), and (h) are struck, and subsections (b), (c), (d), (e), and (f) are redesignated as subsections (a), (b), (c), (d), and (e), respectively.

(2) In subsection (a), as so redesignated, the matter preceding paragraph (1) is struck and the following is inserted:

“(a) **AUTHORITY.**—The Secretary may establish a program consisting of—”.

(3) In subsection (a)(5), as so redesignated—

(A) “establishment” is struck and “solicitation” is inserted; and

(B) “fees” is struck and “monetary or in-kind contributions” is inserted.

(4) In subsection (a)(6), as so redesignated—

(A) “fees” is struck and “monetary or in-kind contributions” is inserted;

(B) “paragraph (5)” is struck and “paragraphs (5) and (6)” is inserted;

(C) “assessed” is struck and “collected” is inserted; and

(D) “in an interest-bearing revolving fund” is struck.

(5) In subsection (a)(7), as so redesignated—

(A) “and use” is inserted after “expenditure”;

(B) “fees” is struck and “monetary and in-kind contributions” is inserted; and

(C) “and any interest in the fund established under paragraph (6)” is struck.

(6) In subsection (a), as so redesignated, paragraphs (5),

(6), and (7) are redesignated in order as paragraphs (6), (7), and (8), and the following new paragraph is inserted after paragraph (4):

“(5) the creation, marketing, and selling of products to promote the national marine sanctuary program, and entering into exclusive or nonexclusive agreements authorizing entities to create, market or sell on the Secretary’s behalf;”.

(7) The following new sentence is added at the end of subsection (a), as so redesignated:

“Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.”.

(8) In subsection (e), as so redesignated—

(A) paragraph (2) is struck;

(B) in paragraph (1), “(1)” is struck, and subparagraphs (A), (B), (C), and (D) are redesignated as paragraphs (1), (2), (3), and (4); and

(C) in paragraph (3), as so redesignated, “fee” is struck and “monetary or in-kind contribution” is inserted.

Contracts.

(9) In each of subsections (b), (c), and (d), as so redesignated, by striking “subsection (b)” and inserting “subsection (a)”.

SEC. 7. HAWAIIAN ISLANDS NATIONAL MARINE SANCTUARY.

(a) INCLUSION OF KAHOOLOWE ISLAND WATERS.—Section 2305 of the Hawaiian Islands National Marine Sanctuary Act (16 U.S.C. 1433 note) is amended—

(1) in subsection (a)—

(A) by striking “(A)” and inserting “(a)”; and

(B) by striking “the area described in subsection (b) is” and inserting “the area described in subsection (b)(1) and any area included under subsection (b)(2) are”;

(2) by amending subsection (b)(2) to read as follows:

“(2)(A) Within 6 months after the date of receipt of a request in writing from the Kahoolawe Island Reserve Commission for inclusion within the Sanctuary of the area of the marine environment within 3 nautical miles of the mean high tide line of Kahoolawe Island (in this section referred to as the ‘Kahoolawe Island waters’), the Secretary shall determine whether those waters may be suitable for inclusion in the Sanctuary.

“(B) If the Secretary determines under subparagraph (A) that the Kahoolawe Island waters may be suitable for inclusion within the Sanctuary—

“(i) the Secretary shall provide notice of that determination to the Governor of Hawaii; and

“(ii) the Secretary shall prepare a supplemental environmental impact statement, management plan, and implementing regulations for that inclusion in accordance with this Act, the National Marine Sanctuaries Act, and the National Environmental Policy Act of 1969.”; and

(3) by amending subsection (c) to read as follows:

“(c) EFFECT OF OBJECTION BY GOVERNOR.—(1)(A) If, within 45 days after the date of issuance of the comprehensive management plan and implementing regulations under section 2306, the Governor of Hawaii certifies to the Secretary that the management plan, the implementing regulations, or any term of the plan or regulations is unacceptable, the management plan, regulation, or term, respectively, shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

“(B) If the Secretary considers that an action under subparagraph (A) will affect the Sanctuary in such a manner that the policy or purposes of this title cannot be fulfilled, the Secretary may terminate the designation under subsection (a). At least 30 days before that termination, the Secretary shall submit written notice of the termination to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(2)(A) If, within 45 days after the Secretary issues the documents required under subsection (b)(2)(B)(ii), the Governor of Hawaii certifies to the Secretary that the inclusion of the Kahoolawe Island waters in the Sanctuary or any term of that inclusion is unacceptable—

“(i) the inclusion or the term shall not take effect; and

“(ii) subsection (b)(2) shall not apply during the 3-year period beginning on the date of that certification.

Notices.

“(B) If the Secretary considers that an action under subparagraph (A) regarding a term of the inclusion of the Kahoolawe Island waters will affect the inclusion or the administration of the Kahoolawe Island waters as part of the Sanctuary in such a manner that the policy or purposes of this title cannot be fulfilled, the Secretary may terminate that inclusion.”

(b) **LIMITATION ON USER FEES.**—The Hawaiian Islands National Marine Sanctuary Act (16 U.S.C. 1433 note) is further amended by redesignating section 2307 as section 2308, and by inserting after section 2306 the following new section:

“SEC. 2307. LIMITATION ON USER FEES.

“(a) **LIMITATION.**—The Secretary shall not institute any user fee under this Act or the National Marine Sanctuaries Act for any activity within the Hawaiian Islands National Marine Sanctuary or any use of the Sanctuary or its resources.

“(b) **USER FEE DEFINED.**—In this section, the term ‘user fee’ does not include—

“(1) any fee authorized by section 310 of the National Marine Sanctuaries Act;

“(2) any gift or donation received under section 311 of that Act; and

“(3) any monetary or in-kind contributions under section 316 of that Act.”

16 USC 1433
note.

SEC. 8. FLOWER GARDEN BANKS BOUNDARY MODIFICATION.

(a) **MODIFICATION.**—Notwithstanding section 304 of the National Marine Sanctuaries Act (16 U.S.C. 1434), the boundaries of the Flower Garden Banks National Marine Sanctuary, as designated by Public Law 102-251, are amended to include the area described in subsection (d), popularly known as Stetson Bank. This area shall be part of the Flower Garden Banks National Marine Sanctuary and shall be managed and regulated as though it had been designated by the Secretary of Commerce under the National Marine Sanctuaries Act.

(b) **DEPICTION OF SANCTUARY BOUNDARIES.**—The Secretary of Commerce shall—

(1) prepare a chart depicting the boundaries of the Flower Garden Banks National Marine Sanctuary, as modified by this section; and

(2) submit copies of this chart to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(c) **APPLICATION OF REGULATIONS.**—Regulations issued by the Secretary of Commerce to implement the designation of the Flower Garden Banks National Marine Sanctuary shall apply to the area described in subsection (d), unless modified by the Secretary. This subsection shall take effect 45 days after the date of enactment of this Act.

Effective date.

(d) **AREA DESCRIBED.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the area referred to in subsections (a), (b), and (c) is the area that is—

(A) generally depicted on the Department of the Interior, Minerals Management Service map titled “Western Gulf of Mexico, Lease Sale 143, September 1993, Biologically Sensitive Areas, Map 3 of 3, Final”;

(B) labeled "Stetson" on the High Island Area South Addition diagram on that map; and

(C) within the 52 meter isobath.

(2) **MINOR BOUNDARY ADJUSTMENTS.**—The Secretary of Commerce may make minor adjustments to the boundaries of the area described in paragraph (1) as necessary to protect living coral resources or to simplify administration of the Flower Garden Banks National Marine Sanctuary and to establish precisely the geographic boundaries of Stetson Bank. The adjustments shall not significantly enlarge or otherwise alter the size of the area described in paragraph (1), and shall not result in the restriction of oil and gas activities otherwise permitted outside of the "no activity" zone designated for Stetson Bank as that zone is depicted on the Minerals Management Service map entitled "Final Notice of Sale 161, Western Gulf Mexico, Biological Stipulation Map Package".

(e) **PUBLICATION OF NOTICE.**—

(1) **IN GENERAL.**—The Secretary of Commerce shall, as soon as practicable after the date of the enactment of this Act, publish in the Federal Register a notice describing—

Federal Register,
publication.

(A) the boundaries of the Flower Garden Banks National Marine Sanctuary, as modified by this section, and

(B) any modification of regulations applicable to that Sanctuary that are necessary to implement that modification of the boundaries of the Sanctuary.

(2) **TREATMENT AS NOTICE REQUIRED UNDER NATIONAL MARINE SANCTUARIES ACT.**—A notice published under paragraph (1) shall be considered to be the notice required to be published under section 304(b)(1) of the National Marine Sanctuaries Act (16 U.S.C. 1434(b)(1)).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—Amounts may be appropriated to carry out this section under the authority provided in section 313 of the National Marine Sanctuaries Act, as amended by this Act.

SEC. 9. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) Section 301(b)(2) of the National Marine Sanctuaries Act (16 U.S.C. 1431(b)(2)) is amended by striking the period at the end and inserting a semicolon.

(b) Section 302 of the National Marine Sanctuaries Act (16 U.S.C. 1432) is amended—

(1) in paragraph (6) by striking ", and" at the end of subparagraph (C) and inserting a semicolon; and

(2) in paragraph (7) by striking "and" after the semicolon at the end.

(c) Section 307(e)(1)(A) of the National Marine Sanctuaries Act (16 U.S.C. 1437(e)(1)(A)) is amended by inserting "of 1980" before the period at the end.

(d) Section 2109 of the National Marine Sanctuaries Program Amendments Act of 1992 (106 Stat. 5045) is amended by striking the open quotation marks before "Section 311".

16 USC 1442.

(e) Section 2110(d) of the National Marine Sanctuaries Program Amendments Act of 1992 (106 Stat. 5046) is deemed to have amended section 312(b)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(b)(1)) by inserting "or authorize" after "undertake".

16 USC 1443.

16 USC 1431
note, 1445a.

(f) The material added to the Marine Protection, Research, and Sanctuaries Act of 1972 by section 2112 of the National Marine Sanctuaries Program Amendments Act of 1992 (106 Stat. 5046)—

(1) is deemed to have been added by that section at the end of title III of the Marine Protection, Research, and Sanctuaries Act of 1972; and

(2) shall not be considered to have been added by that section to the end of the Marine Protection, Research, and Sanctuaries Act of 1972.

(g) Section 2202(e) of the National Marine Sanctuaries Program Amendments Act of 1992 (16 U.S.C. 1433 note) is amended by striking "section 304(e)" and inserting "304(d)".

(h) Section 304(b)(3) of the National Marine Sanctuaries Act (16 U.S.C. 1434(b)(3)) is amended—

(1) by striking subparagraphs (B) and (C);

(2) by moving the text of subparagraph (A) so as to begin at the end of the line on which appears the heading for paragraph (3);

(3) by moving clauses (i) and (ii) of subparagraph (A) 2 ems to the left;

(4) by striking "(A) In" and inserting "In";

(5) by striking "(i)" and inserting "(A)"; and

(6) by striking "(ii)" and inserting "(B)".

Washington.

SEC. 10. NORTHWEST STRAITS.

16 USC 1433
note.

No designation of an area in the Northwest Straits in the State of Washington as a national marine sanctuary under the National Marine Sanctuaries Act shall take effect unless that designation is specifically authorized by a law enacted after the date of enactment of this Act.

SEC. 11. DESIGNATION OF GERRY E. STUDDS STELLWAGEN BANK NATIONAL MARINE SANCTUARY. 16 USC 1433
note.

The Stellwagen Bank National Marine Sanctuary shall be known and designated as the "Gerry E. Studds Stellwagen Bank National Marine Sanctuary". Any reference in a law, map, regulation, document, paper, or other record of the United States to that national marine sanctuary shall be deemed to be a reference to the "Gerry E. Studds Stellwagen Bank National Marine Sanctuary".

Approved October 11, 1996.

LEGISLATIVE HISTORY—H.R. 543:

CONGRESSIONAL RECORD, Vol. 142 (1996):

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