§ 1423e. Votes taken by the United States section on matters before the Commission

In accordance with paragraph 3 of article 8 of the Agreement, the United States section, made up of commissioners appointed by the President, shall vote on any issue before the United States-Russia Polar Bear Commission only if there is no disagreement between the United States commissioners regarding the vote.


§ 1423f. Implementation of actions taken by the Commission

(a) In general

The Secretary shall take all necessary actions to implement the decisions and determinations of the Commission under paragraph 7 of article 8 of the Agreement.

(b) Taking limitation

Not later than 60 days after the date on which the Secretary receives notice of the determination of the Commission of an annual taking limit, or of the adoption by the Commission of other restriction on the taking of polar bears for subsistence purposes, the Secretary shall publish a notice in the Federal Register announcing the determination or restriction.


§ 1423g. Application with other subchapters of chapter

(a) In general

The authority of the Secretary under this subchapter is in addition to, and shall not affect—

(1) the authority of the Secretary under other subchapters of this chapter or the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.) or the exemption for Alaskan natives under section 1371(b) of this title as applied to other marine mammal populations; or

(2) the authorities provided under subchapter III of this chapter.

(b) Certain provisions inapplicable

The provisions of subchapters II through V of this chapter do not apply with respect to the implementation or administration of this subchapter, except as specified in section 1423h of this title.


REFERENCES IN TEXT

Other subchapters of this chapter, referred to in subsec. (a)(1), in the original a reference to “other titles of this Act” meaning Pub. L. 92–522. Subchapter I of this chapter consists of sections of Pub. L. 92–522 that are not part of a title of that Act.

The Lacey Act Amendments of 1981, referred to in subsec. (a)(1), in Pub. L. 97–79, Nov. 16, 1981, 95 Stat. 1073, which enacted chapter 53 (§ 3171 et seq.) of this title, amended section 1540 of this title and section 42 of Title 18, Crimes and Criminal Procedure, repealed sections 667e and 851 to 856 of this title and sections 43, 44, 3054, and 3112 of Title 18, and enacted provisions set out as notes under sections 1540 and 3371 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3371 of this title and Tables.

§ 1423h. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Secretary to carry out the functions and responsibilities of the Secretary under this subchapter and the Agreement $1,000,000 for each of fiscal years 2006 through 2010.

(b) Commission

There are authorized to be appropriated to the Secretary to carry out functions and responsibilities of the United States Section $150,000 for each of fiscal years 2006 through 2010.

(c) Alaskan cooperative management program

There are authorized to be appropriated to the Secretary to carry out this subchapter and the Agreement in Alaska $150,000 for each of fiscal years 2006 through 2010.


CHAPTER 32—MARINE SANCTUARIES

Sec. 1431. Findings, purposes, and policies; establishment of system.

1432. Definitions.

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1445a. Advisory Councils.

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1445c. Dr. Nancy Foster Scholarship Program.

1445c–1. Dr. Nancy Foster Scholarship Program.

§ 1431. Findings, purposes, and policies; establishment of system

(a) Findings

The Congress finds that—

(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark; and

(2) certain areas of the marine environment possess conservation, recreational, ecological,
historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some cases international, significance; (3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment; and (4) a Federal program which establishes areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities as national marine sanctuaries managed as the National Marine Sanctuary System will— (A) improve the conservation, understanding, management, and wise and sustainable use of marine resources; (B) enhance public awareness, understanding, and appreciation of the marine environment; and (C) maintain for future generations the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas.

(b) Purposes and policies
The purposes and policies of this chapter are— (1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System; (2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities; (3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes; (4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System; (5) to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas; (6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities; (7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas; (8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and (9) to cooperate with global programs encouraging conservation of marine resources.

(c) Establishment of system
There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this chapter.

Amendments
2000—Pub. L. 106–513, § 3(a), inserted “; establishment of system” at end of section catchline.
Subsec. (a)(2), Pub. L. 106–513, § 3(b)(1), substituted “scientific, educational, cultural, archeological, or esthetic” for “research, educational, or esthetic”.
Subsec. (a)(3), Pub. L. 106–513, § 3(b)(2), inserted “and” at end.
Subsec. (a)(4) to (6), Pub. L. 106–513, § 3(b)(3), added par. (4) and struck out former pars. (4) to (6) which read as follows: “(4) a Federal program which identifies special areas of the marine environment will contribute positively to marine resources conservation, research, and management; “(5) such a Federal program will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and “(6) protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations.”
Subsec. (b)(1), Pub. L. 106–513, § 3(c)(1), substituted “significance and to manage these areas as the National Marine Sanctuary System;” for “significance;”.
Subsec. (b)(2), Pub. L. 106–513, § 3(c)(2), added par. (3) and struck out former par. (3) which read as follows: “to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;”.
Subsec. (b)(4), Pub. L. 106–513, § 3(c)(3), added par. (4) and struck out former par. (4) which read as follows: “to enhance public awareness, understanding, appreciation, and wise use of the marine environment;”.
Subsec. (b)(5) to (7), Pub. L. 106–513, § 3(c)(4), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively. Former par. (7) redesignated (8).
Subsec. (b)(8), Pub. L. 106–513, § 3(c)(5), redesignated par. (7) as (6) and substituted “areas, including the application of innovative management techniques;” and “for “areas;”. Former par. (8) redesignated (9).
Subsec. (b)(9), Pub. L. 106–513, § 3(c)(6), redesignated par. (8) as (9), substituted a period for “; and”, and struck out former par. (9) which read as follows: “to maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.”
Subsec. (c), Pub. L. 106–513, § 3(d), added subsec. (c).
1996—Subsec. (b)(2), Pub. L. 104–283 substituted a semicolon for a period at end.
1992—Subsec. (a)(2), Pub. L. 102–587, § 2101(a)(1), inserted “, and in some cases international,” after “national”.
Subsec. (b), Pub. L. 102–587, § 2101(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The purposes and policies of this chapter are—
“(1) to identify areas of the marine environment of special national significance due to their resource or human-use values;

“(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas that will complement existing regulatory authorities;

“(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas;

“(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

“(5) to facilitate, to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities.”

1984—Pub. L. 98–398 amended section generally, substituting provisions relating to Congressional declaration of findings, purposes and policies for provisions defining “Secretary” and “State”.

1988—Pub. L. 100–504 amended section generally, renumbering provisions set out as notes under this title as section 1445b of this title.

1990—Pub. L. 101–388 renumbered section 1436b of this title as 1436b–1 and section 1437a of this title as 1437a–1.


1999—Pub. L. 106–587, title II, § 2001, Nov. 4, 1999, 113 Stat. 1422, provided that: “This Act [amending this section and sections 1432, 1432a, 1433, 1433a, 1434, 1434a, 1434b, 1435, 1435a, 1436, 1436a, 1437, 1437a, 1438, 1438a, 1439, 1439a, 1440, 1440a, 1441, 1441a, 1442, 1442a, 1443, 1445, 1445a, 1445b, 1445c, and 1445d of this title] may be cited as the ‘National Marine Sanctuaries Act of 2000’.”

For provisions relating to environmental effects of major federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 5617, set out as a note under section 4321 of Title 42, The Public Health and Welfare.


SEC. 1. Purpose. This Executive Order will help protect the significant natural and cultural resources within the marine environment for the benefit of present and future generations by strengthening and expanding the Nation’s system of marine protected areas (MPAs). An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conserva-
tion of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations.

To this end, the purpose of this order is to, consistent with domestic and international law: (a) strengthen the management, protection, and conservation of existing marine protected areas and establish new or expanded MPAs; (b) develop a scientifically based, comprehensive national system of MPAs representing diverse U.S. marine ecosystems, and the Nation's natural and cultural resources; and (c) avoid causing harm to MPAs through federally conducted, approved, or funded activities.

Sic. 2. Definitions. For the purposes of this order: (a) "Marine protected area" means any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.
(b) "Marine environment" means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law.
(c) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

Sic. 3. MPA Establishment, Protection, and Management. Each Federal agency whose authorities provide for the establishment or management of MPAs shall take appropriate actions to enhance or expand protection of existing MPAs and establish or recommend, as appropriate, new MPAs. Agencies implementing this section shall consult with the agencies identified in subsection 4(a) of this order, consistent with existing requirements.

Sic. 4. National System of MPAs. (a) To the extent permitted by law and subject to the availability of appropriations, the Department of Commerce and the Department of the Interior, in consultation with the Department of Defense, the Department of State, the United States Agency for International Development, the Department of Transportation, the Environmental Protection Agency, the National Science Foundation, and other pertinent Federal agencies shall develop a national system of MPAs. They shall coordinate and share information, tools, and strategies, and provide guidance to enable and encourage the use of the following in the exercise of each agency's respective authorities to further enhance and expand protection of existing MPAs and to establish or recommend new MPAs, as appropriate:
(1) science-based identification and prioritization of natural and cultural resources for additional protection;
(2) integrated assessments of ecological linkages among MPAs, including ecological reserves in which consumptive uses of resources are prohibited, to provide synergistic benefits;
(3) a biological assessment of the minimum area where consumptive uses would be prohibited that is necessary to preserve representative habitats in different geographic areas of the marine environment;
(4) an assessment of threats and gaps in levels of protection currently afforded to natural and cultural resources, as appropriate;
(5) practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs;
(6) identification of emerging threats and user conflicts affecting MPAs and appropriate, practical, and equitable management solutions, including effective enforcement strategies, to eliminate or reduce such threats and conflicts;
(7) an assessment of the economic effects of the preferred management solutions; and
(8) identification of opportunities to improve linkages with, and technical assistance to, international marine protected area programs.

(b) In carrying out the requirements of section 4 of this order, the Department of Commerce and the Department of the Interior shall consult with those States that contain portions of the marine environment, the Commonwealth of Puerto Rico, the Virgin Islands, the purpose states, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, tribes, Regional Fishery Management Councils, and other entities, as appropriate, to promote coordination of Federal, State, territorial, and tribal actions to establish and manage MPAs.
(c) In carrying out the requirements of this section, the Department of Commerce and the Department of the Interior shall seek expert advice and recommendations of non-Federal scientists, resource managers, and other interested persons and organizations through a Marine Protected Area Federal Advisory Committee. The Committee shall be established by the Department of Commerce.
(d) The Secretary of Commerce and the Secretary of the Interior shall establish and jointly manage a website for information on MPAs and Federal agency reports required by this order. They shall also publish and maintain a list of MPAs that meet the definition of MPA for the purposes of this order.
(e) The Department of Commerce's National Oceanic and Atmospheric Administration shall establish a Marine Protected Area Center to carry out, in cooperation with the Department of the Interior, the requirements of subsection 4(a) of this order, coordinate the website established pursuant to subsection 4(d) of this order, and partner with governmental and nongovernmental entities to conduct necessary research, analysis, and exploration. The goal of the MPA Center shall be, in cooperation with the Department of the Interior, to develop a framework for a national system of MPAs, and to provide Federal, State, territorial, tribal, and local governments with the information, technologies, and strategies to support the system. This national system framework and the work of the MPA Center is intended to support, not interfere with, agencies' independent exercise of their own existing authorities.
(f) To better protect beaches, coasts, and the marine environment from pollution, the Environmental Protection Agency (EPA), relying upon existing Clean Water Act [33 U.S.C. 1251 et seq.] authorities, shall expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment. Such regulations may include the identification of areas that warrant additional pollution protections and the enhancement of marine water quality standards. The EPA shall consult with the Federal agencies identified in subsection 4(a) of this order, States, territories, tribes, and the public in the development of such new regulations.

Sic. 5. Agency Responsibilities. Each Federal agency whose actions affect the natural or cultural resources that are protected by an MPA shall identify such actions. To the extent permitted by law and to the maximum extent practicable, each Federal agency, in taking such actions, shall avoid harm to the natural and cultural resources that are protected by an MPA. In implementing this section, each Federal agency shall refer to the MPAs identified under subsection 4(d) of this order.

Sic. 6. Accountability. Each Federal agency that is required to take actions under this order shall prepare and make public annually a concise description of actions taken by it in the previous year to implement the order, including a description of written comments by any person or organization stating that the agency has not complied with this order and a response to such comments by the agency.

Sic. 7. International Law. Federal agencies taking actions pursuant to this Executive Order must act in accordance with international law, and with Presidential Proclamation 5928 of December 27, 1988, on the Territorial Sea of the United States of America [43 U.S.C. 1331 note], Presidential Proclamation 5938 of March 10, 1983, on the Exclusive Economic Zone of the United States of America [16 U.S.C. 1453 note], and Presidential Proclamation 7219 of September 2, 1999, on the
Contiguous Zone of the United States [43 U.S.C. 1331 note].

Sic. 8. General. (a) Nothing in this order shall be construed as altering existing authorities regarding the establishment of Federal MPAs in areas of the marine environment subject to the jurisdiction and control of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and Indian tribes.

(b) This order does not diminish, affect, or abrogate Indian treaty rights or United States trust responsibilities to Indian tribes.

(c) This order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

EXTENSION OF TERM OF MARINE PROTECTED AREAS FEDERAL ADVISORY COMMITTEE


Previous extension of term of Marine Protected Areas Federal Advisory Committee was contained in the following prior Executive Order:


§ 1432. Definitions

As used in this chapter, the term—

(1) “draft management plan” means the plan described in section 1434(a)(1)(C)(v)1 of this title;

(2) “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(3) “marine environment” means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone as defined in the Magnuson-Stevens Act;

(4) “Secretary” means the Secretary of Commerce;

(5) “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;

(6) “damages” includes—

(A) compensation for—

(i)(D) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

(ii) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

(B) the cost of damage assessments under section 1443(b)(2) of this title;

(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;

(D) the cost of curation and conservation of archeological, historical, and cultural sanctuary resources; and

(E) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a sanctuary resource;

(7) “response costs” means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 1443 of this title;

(8) “sanctuary resource” means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, archeological, scientific, or aesthetic value of the sanctuary; and

(9) “exclusive economic zone” means the exclusive economic zone as defined in the Magnuson-Stevens Act; and

(10) “System” means the National Marine Sanctuary System established by section 1431 of this title.


REFERENCES IN TEXT

Section 1434(a)(1)(C) of this title, referred to in par. (1), was amended generally by Pub. L. 106–513, § 6(a), Nov. 13, 2000, 114 Stat. 2383, and, as so amended, no longer contains a cl. (v).


AMENDMENTS


Par. (6)(D), (E). Pub. L. 106–513, § 4(a), added subpars. (D) and (E).

Par. (7). Pub. L. 106–513, § 4(b), inserted “‘including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 1443 of this title’ after ‘loss, or injury’”.

Par. (8). Pub. L. 106–513, § 4(c), substituted “‘educational, cultural, archeological, scientific,’ for ‘research, educational,’”.


§ 1433 SANCTUARY DESIGNATION STANDARDS

(a) Standards

The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that—

(1) the designation will fulfill the purposes and policies of this chapter;

(2) the area is of special national significance due to—

(A) its conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or esthetic qualities;

(B) the communities of living marine resources it harbors; or

(C) its resource or human-use values;

(3) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(4) designation of the area as a national marine sanctuary will facilitate the objectives stated in paragraph (3); and

(5) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

(b) Factors and consultations required in making determinations and findings

(1) Factors

For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a), the Secretary shall consider—

(A) the area’s natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area’s historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area’s resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) the existing State and Federal regulatory and management authorities applica-


1996—Subsec. (b). Pub. L. 98–375 substituted provision that Secretary submit a biennial report on or before March 1 of every other year beginning in 1984 for provisions that Secretary submit an annual report on or before November 1 of each year, and substituted reference to previous two fiscal years for reference to previous fiscal year. 1984—Pub. L. 98–498 added section generally, substituting provisions which set forth definitions for provisions which related to the designation of sanctuaries. See section 1433 of this title.


1980—Subsec. (b). Pub. L. 96–332, § 2(2), designated existing provisions as par. (1), struck out provision that a designation under this section would become effective sixty days after it was published unless the Governor of any State involved, before the expiration of the sixty-day period, certified to Secretary that the designation, or a specified portion thereof, was unacceptable to his State, in which case the designated sanctuary would not include the area certified as unacceptable until such time as the Governor withdrew his certification of unacceptability, and added par. (2).


title to the area and the adequacy of those authorities to fulfill the purposes and policies of this chapter;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area’s scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the System.

(2) Consultation

In making determinations and findings, the Secretary shall consult with—

(A) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson-Stevens Act (16 U.S.C. 1832) that may be affected by the proposed designation; and

(E) other interested persons.


Subsec. (b)(3). Pub. L. 106–513, § 5(b)(2), struck out heading and text of par. (3). Prior to amendment, text read as follows: “In making determinations and findings, the Secretary shall draft, as part of the environmental impact statement referred to in section 1434(a)(2) of this title, a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses. The Secretary, in consultation with the Secretary of the Interior, shall draft a resource assessment section for the report regarding any commercial, governmental, or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior. The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.”


Subsec. (b)(3). Pub. L. 102–587, § 2103(b)(2), inserted “(1434(a)(2))” for “(1434(a)(1))”, inserted “governmental,” after “other commercial” and after “any commercial”, and inserted at end: “The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.”
§ 1434. Procedures for designation and implementation

(a) Sanctuary proposal

(1) Notice

In proposing to designate a national marine sanctuary, the Secretary shall—

(A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;

(B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and

(C) no later than the day on which the notice required under subparagraph (A) is submitted to the Office of the Federal Register, submit a copy of that notice and the draft sanctuary designation documents prepared pursuant to paragraph (2), including an executive summary, to the Committee on Resources of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Governor of each State in which any part of the proposed sanctuary would be located.

(2) Sanctuary designation documents

The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:

(A) A draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A resource assessment that documents—

(i) present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses;

(ii) after consultation with the Secretary of the Interior, any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisdiction of the Department of the Interior; and

(iii) information prepared in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary.

(C) A draft management plan for the proposed national marine sanctuary that includes the following:

(i) The terms of the proposed designation.

(ii) Proposed mechanisms to coordinate existing regulatory and management authorities within the area.

(iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including interpretation and education, innovative management strategies, research, monitoring and assessment, resource protection, restoration, enforcement, and surveillance activities.

(iv) An evaluation of the advantages of cooperative State and Federal management if all or part of the proposed sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(v) An estimate of the annual cost to the Federal Government of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education.

(vi) The proposed regulations referred to in paragraph (1)(A).

(D) Maps depicting the boundaries of the proposed sanctuary.

(E) The basis for the determinations made under section 1433(a) of this title with respect to the area.

(F) An assessment of the considerations under section 1433(b)(1) of this title.

(3) Public hearing

No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national marine sanctuary for the purpose of receiving the views of interested parties.

(4) Terms of designation

The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

(5) Fishing regulations

The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council’s action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

(6) Committee action

After receiving the documents under subsection (a)(1)(C), the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the documents. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the documents, either Committee issues a report concerning matters addressed in the documents, the Secretary shall consider this report before publishing a notice declaring the site to be an active candidate for sanctuary designation.

(b) Taking effect of designations

(1) Notice

In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published. No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6). The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of
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(c) Access and valid rights

that is in existence on the date of designation of right to terminate any valid lease, permit, license, or right of subsistence use or of access as terminating or granting to the Secretary the authority of the State.

(d) Interagency cooperation

(2) Withdrawal of designation

If the Secretary considers that actions taken under paragraph (1) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary or System cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not certified under paragraph (1) shall take effect.

(3) Procedures

In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) and paragraph (1) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

(c) Access and valid rights

(1) Nothing in this chapter shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.

(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

(d) Interagency cooperation

(1) Review of agency actions

(A) In general

Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

(B) Agency statements required

Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

(2) Secretary’s recommended alternatives

If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall, within 45 days of receipt of complete information on the proposed agency action, recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) Response to recommendations

The agency head who receives the Secretary’s recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

(4) Failure to follow alternative

If the head of a Federal agency takes an action other than an alternative recommended by the Secretary and such action results in the destruction of, loss of, or injury to a sanctuary resource, the head of the agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by the Secretary.

(e) Review of management plans

Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this chapter. This review shall include a prioritization of management objectives.

(f) Limitation on designation of new sanctuaries

(1) Finding required

The Secretary may not publish in the Federal Register any sanctuary designation notice or regulations proposing to designate a new sanctuary, unless the Secretary has published a finding that—

(A) the addition of a new sanctuary will not have a negative impact on the System; and

(B) sufficient resources were available in the fiscal year in which the finding is made to—

(i) effectively implement sanctuary management plans for each sanctuary in the System; and

(ii) complete site characterization studies and inventory known sanctuary resources, including cultural resources, for each sanctuary in the System within 10 years after the date that the finding is made if the resources available for those activities are maintained at the same level for each fiscal year in that 10-year period.

(2) Deadline

If the Secretary does not submit the findings required by paragraph (1) before February 1, 2004, the Secretary shall submit to the Con-
gress before October 1, 2004, a finding with respect to whether the requirements of subparagraphs (A) and (B) of paragraph (1) have been met by all existing sanctuaries.

(3) Limitation on application

Paragraph (1) does not apply to any sanctuary designation documents for—

(A) a Thunder Bay National Marine Sanctuary; or

(B) a Northwestern Hawaiian Islands National Marine Sanctuary.

(4) Periodic review

The Department of Commerce shall—

subsec. (b)(2). Pub. L. 106-513, §8(c), inserted "or System" after "of the sanctuary";

subsec. (d)(4). Pub. L. 106-513, §8(d), added par. (4);

subsec. (e). Pub. L. 106-513, §8(e), substituted "management techniques and strategies," for "management techniques," and inserted at end "This review shall include a prioritization of management objectives."


subsec. (g)(2). Pub. L. 106-502 substituted "subparagraphs (A) and (B) of paragraph (1)" for "paragraph (2)".

1996—Subsec. (b)(3). Pub. L. 104-283 struck out ""(A)"" before ""In computing the forty-five-day"", redesignated (i), (1), and (ii) as subpars. (A) and (B), respectively, adjusted margins, and struck out former subpars. (B) and (C) which read as follows:

"(B) When the committee to which a joint resolution has been referred has reported such a resolution, it shall at any time thereafter be in order to move to proceed to the consideration of the resolution. The motion shall be privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to."

"(C) This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure described in the case of resolutions described in this subsection. This subsection supersedes other rules only to the extent that they are inconsistent therewith, and is enacted with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House."

1992—Subsec. (a)(1)(C). Pub. L. 102-587, §2104(a)(2), substituted "documents, including an executive summary, consisting of—" for "a prospectus on the proposal which shall contain—".

subsec. (a)(5). Pub. L. 102-587, §2104(a)(3), substituted "Exclusive Economic Zone" for "United States Fishery Conservation Zone" and inserted at end "The Secretary shall also cooperate with other appropriate fishery management authorities having rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations."


subsec. (b)(1). Pub. L. 102-587, §2104(b)(1), substituted at end; in case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or any of its terms shall not take effect in the area of the sanctuary lying within the seaward boundary of the State, and in any other case in which the designation or any of its terms is unacceptable, in which case the designation or any of its terms shall not take effect in the area of the sanctuary lying within the seaward boundary of the State, "the dash after "unless" and subpars. (A) and (B) which read as follows:

"(A) the designation or any of its terms is disapproved by enactment of a joint resolution of disapproval described in paragraph (3) or

"(B) in the case of a natural marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or any of its terms shall not take effect in the area of the sanctuary lying within the seaward boundary of the State."

1990—Subsec. (a)(1)(C). Pub. L. 101-508, §2104(a)(1), substituted "Executive Economic Zone" for "United States Fishery Conservation Zone" and inserted at end "The Secretary shall also cooperate with other appropriate fishery management authorities having rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations."

2000—Subsec. (a)(1)(C). Pub. L. 106-513, §205(b)(1), struck out "the Secretary shall" before "submit a copy".

\section{Amendments}

\subsection*{Supplementary Amendments to \textsuperscript{1434} Title 16—Conservation}

\begin{itemize}
  \item \textsuperscript{1952}Subsec. (a)(4)(C). Pub. L. 102-587, §2104(b)(1), substituted "actions taken under paragraph (1)" for "actions taken under paragraph (1)(A) or (B)" and "terms of the designation not disapproved under paragraph (1)(A) or (B)" for "terms of the designation not disapproved under paragraph (1)(B)".
  \item \textsuperscript{1996}Subsec. (b)(3), (4). Pub. L. 105-562, §2104(b)(3), redesignated par. (4) as (3) and struck out former par. (3) which defined a Congressional resolution of disapproval for purposes of this subsection.
\end{itemize}
(a) Regulations

This chapter and the regulations issued under section 1434 of this title 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. No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—

(1) generally recognized principles of international law;

(2) an agreement between the United States and the foreign state of which the person is a citizen;

(3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.

(b) Negotiations

The Secretary of State, in consultation with the Secretary of the Treasury and other appropriate Federal agencies, shall cooperate with other governments and international organizations to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.

(c) International cooperation

The Secretary, 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 chapter and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas.

\[\text{So in original. Probably should be "multilateral".}\]

AMENDMENTS


INTERNATIONAL COOPERATION

For direction that the Secretary of State seek effective international action and cooperation through the development of appropriate international rules and regulations in support of the policy of this chapter and chapter 27 of Title 33, Navigation and Navigable Waters, see section 1419 of Title 33.

\[\text{§ 1436. Prohibited activities}\]

It is unlawful for any person to—

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

(2) possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this chapter by—

(A) refusing to permit any officer authorized to enforce this chapter to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this chapter;

\[\text{\textsuperscript{1}So in original. Probably should be "multilateral".}\]

§ 1435. Application of regulations; international negotiations and cooperation
(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this chapter or any such authorized officer in the conduct of any search or inspection performed under this chapter; or

(C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this chapter in connection with any search or inspection conducted under this chapter; or

(4) violate any provision of this chapter or any regulation or permit issued pursuant to this chapter.


AMENDMENTS


Par. (3). Pub. L. 106–513, § 7(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “interfere with the enforcement of this chapter; or”.

1992—Pub. L. 102–587 amended section generally. Prior to amendment, section read as follows: “The Secretary shall conduct research and educational programs as are necessary and reasonable to carry out the purposes and policies of this chapter.”

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 1437. Enforcement

(a) In general

The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this chapter.

(b) Powers of authorized officers

Any person who is authorized to enforce this chapter may—

(1) board, search, inspect, and seize any vessel suspected of being used to violate this chapter or any regulation or permit issued under this chapter and any equipment, stores, and cargo of such vessel;

(2) seize wherever found any sanctu ary resource taken or retained in violation of this chapter or any regulation or permit issued under this chapter;

(3) seize any evidence of a violation of this chapter or of any regulation or permit issued under this chapter;

(4) execute any warrant or other process issued by any court of competent jurisdiction;

(5) exercise any other lawful authority; and

(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 1436(3) of this title.

(c) Criminal offenses

(1) Offenses

A person is guilty of an offense under this subsection if the person commits any act prohibited by section 1436(3) of this title.

(2) Punishment

Any person that is guilty of an offense under this subsection—

(A) except as provided in subparagraph (B), shall be fined under title 18, imprisoned for not more than 6 months, or both; or

(B) in the case of a person who in the commission of such an offense uses a dangerous weapon, engages in conduct that causes bodily injury to any person authorized to enforce this chapter or any person authorized to implement the provisions of this chapter, or places any such person in fear of imminent bodily injury, shall be fined under title 18, imprisoned for not more than 10 years, or both.

(d) Civil penalties

(1) Civil penalty

Any person subject to the jurisdiction of the United States who violates this chapter or any regulation or permit issued under this chapter shall be liable to the United States for a civil penalty of not more than $100,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(2) Notice

No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

(3) In rem jurisdiction

A vessel used in violating this chapter or any regulation or permit issued under this chapter shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(4) Review of civil penalty

Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

(5) Collection of penalties

If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) Compromise or other action by Secretary

The Secretary may compromise, modify, or remit, with or without conditions, any civil
penalty which is or may be imposed under this section.

(e) Forfeiture

(1) In general

Any vessel (including the vessel’s equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this chapter or of any regulation or permit issued under this chapter shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off.

(2) Application of the customs laws

The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this chapter.

(3) Disposal of sanctuary resources

Any sanctuary resource seized pursuant to this chapter may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

(4) Presumption

For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this chapter or of any regulation or permit issued under this chapter were taken or retained in violation of this chapter or of a regulation or permit issued under this chapter.

(f) Payment of storage, care, and other costs

(1) Expenditures

(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title 42.

(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this chapter or any regulation or permit issued under this chapter.

(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—

(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;

(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this chapter or any regulation or permit issued under this chapter; and

(iii) manage and improve any other national marine sanctuary.

(2) Liability for costs

Any person assessed a civil penalty for a violation of this chapter or of any regulation or permit issued under this chapter, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

(g) Subpoenas

In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, electronic files, and documents, and may administer oaths.

(h) Use of resources of State and other Federal agencies

The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary’s responsibilities under this section.

(i) Coast Guard authority not limited

Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14.

(j) Injunctive relief

If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 1443 of this title, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

(k) Area of application and enforceability

The area of application and enforceability of this chapter includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty of the United States, and the United States exclusive economic zone, consistent with international law.

1 See References in Text note below.
(l) Nationwide service of process

In any action by the United States under this chapter, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process.


REFERENCES IN TEXT

Section 89 of title 14, referred to in subsec. (l), was redesignated section 522 of title 14 by Pub. L. 115–282, title I, §105(b), Dec. 4, 2018, 132 Stat. 4200, and references to section 89 of title 14 deemed to refer to such redesignated section, see section 123(b)(1) of Pub. L. 115–282, set out as a References to Sections of Title 14 as Redesignated by Pub. L. 115–282 note preceding section 101 of Title 14, Coast Guard.

Presidential Proclamation 5928 of December 27, 1988, referred to in subsec. (k), is set out as a note under section 1331 of Title 43, Public Lands.

AMENDMENTS


Subsecs. (c) to (f). Pub. L. 106–513, §8(b), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively. Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 106–513, §8(b), added subsec. (g) as (g) and inserted “electronic files,” after “books.” Former subsec. (g) redesignated (h).

Subsecs. (h) to (k). Pub. L. 106–513, §8(b), redesignated subsecs. (g) to (j) as (h) to (k), respectively.


1992—Subsec. (c)(1), Pub. L. 102–587, §2107(a)(1), substituted “$100,000” for “$50,000”.

Subsec. (c)(3). Pub. L. 102–587, §2107(a)(2), struck out “and may be proceeded against in any district court of the United States having jurisdiction” after “assessed for such violation” and inserted at end “Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.”

Subsec. (d)(1). Pub. L. 102–587, §2107(b), inserted at end “The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off.”

Subsec. (e)(1). Pub. L. 102–587, §2107(c), added par. (1) and struck out former par. (1) which read as follows: “In general.—Notwithstanding any other law, the Secretary may use amounts received under this section in the form of civil penalties, forfeitures of property, and costs imposed under paragraph (2) to pay—

(A) the reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such property or sanctuary resource was seized; and

(B) a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this chapter or of any regulation or permit issued under this chapter.”


1988—Pub. L. 100–627 amended section generally, substituting provisions consisting of subsections (a) to (l) relating to enforcement activities in general, powers of authorized officers, civil penalties, forfeiture, payment of storage, care, and other costs, subpoenas, use of resources of State and other Federal agencies, Coast Guard authority, and injunctive relief for former provisions consisting of subsections (a) to (c) relating to enforcement activities in general, civil penalties, and jurisdiction.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 469(b), 551(d), 553(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS


$1439. Regulations

The Secretary may issue such regulations as may be necessary to carry out this chapter.


PRIOR PROVISIONS

A prior section 308 of Pub. L. 92–532 was classified to section 1438 of this title, prior to repeal by section 203(1) of Pub. L. 100–627.

AMENDMENTS

2000—Pub. L. 106–513 amended section catchline and text generally. Prior to amendment, text read as follows: “If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this Act and of the application of such provision to other persons and circumstances shall not be affected thereby.”

$1440. Research, monitoring, and education

(a) In general

The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with subsections (b) and (c) and the purposes and policies of this chapter.

(b) Research and monitoring

(1) In general

The Secretary may—
(A) support, promote, and coordinate research on, and long-term monitoring of, sanctuary resources and natural processes that occur in national marine sanctuaries, including exploration, mapping, and environmental and socioeconomic assessment; (B) develop and test methods to enhance degraded habitats or restore damaged, injured, or lost sanctuary resources; and (C) support, promote, and coordinate research on, and the conservation, curation, and public display of, the cultural, archeological, and historical resources of national marine sanctuaries.

(2) Availability of results

The results of research and monitoring conducted, supported, or permitted by the Secretary under this subsection shall be made available to the public.

(c) Education

(1) In general

The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries and the System. Efforts supported, promoted, or coordinated under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

(2) Educational activities

Activities under this subsection may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers.

(d) Interpretive facilities

(1) In general

The Secretary may develop interpretive facilities near any national marine sanctuary.

(2) Facility requirement

Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

(e) Consultation and coordination

In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) and developing interpretive facilities under subsection (d), the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

The Secretary may develop interpretive facilities near any national marine sanctuary.

(2) Facility requirement

Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

(f) Interpretive facilities

(1) In general

The Secretary may develop interpretive facilities near any national marine sanctuary.

(2) Facility requirement

Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

(g) Consultation and coordination

In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) and developing interpretive facilities under subsection (d), the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

Prior Section

A prior section 309 of Pub. L. 92–532 was renumbered section 308 and is classified to section 1439 of this title.

Amendments

2000—Pub. L. 106–513 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) In general.—The Secretary shall conduct research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of this chapter.

“(b) Promotion and Coordination of Sanctuary Use.—The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of national marine sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons to promote use of one or more sanctuaries for research, monitoring, and education, including coordination with the National Estuarine Research Reserve System.”

1992—Pub. L. 102–587 amended section generally. Prior to amendment, section read as follows: “The Secretary shall take such action as is necessary to promote and coordinate the use of national marine sanctuaries for research purposes, including—

“(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting marine research, give priority to research involving national marine sanctuaries; and

“(2) consulting with other Federal and State agencies to promote use by such agencies of one or more sanctuaries for marine research.”

§ 1441. Special use permits

(a) Issuance of permits

The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

(1) to establish conditions of access to and use of any sanctuary resource; or

(2) to promote public use and understanding of a sanctuary resource.

(b) Public notice required

The Secretary shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a).

(c) Permit terms

A permit issued under this section—

(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

(4) shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

(d) Fees

(1) Assessment and collection

The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

(2) Amount

The amount of a fee under this subsection shall be equal to the sum of—
§ 1442. Cooperative agreements, donations, and acquisitions

(a) Agreements and grants

The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this chapter.

(b) Authorization to solicit donations

The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this chapter.

(c) Donations

The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

(d) Acquisitions

The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this chapter.

(e) Use of resources of other government agencies

The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services, or facilities of such agency on a reimbursable or nonreimbursable basis, to assist in carrying out the purposes and policies of this chapter.

(f) Authority to obtain grants

Notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, the Secretary may apply for, accept, and use grants from other Federal agencies, States, local governments, regional agencies, interstate agencies, foundations, or other persons, to carry out the purposes and policies of this chapter.


AMENDMENTS

2000—Subsec. (a). Pub. L. 106–513, § 12(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this chapter.”

Subsecs. (e), (f). Pub. L. 106–513, § 12(b), added subsecs. (e) and (f).

§ 1443. Destruction or loss of, or injury to, sanctuary resources

(a) Liability

(1) Liability to United States

Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

(B) interest on that amount calculated in the manner described under section 2705 of title 33.

(2) Liability in rem

Any vessel used to destroy, cause the loss of, or injure a sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury. The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.

(3) Defenses

A person is not liable under this subsection if that person establishes that—

(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

(C) the destruction, loss, or injury was negligible.

(4) Limits to liability

Nothing in sections 4281–4289 of the Revised Statutes of the United States or section 30706 of title 46 shall limit the liability of any person under this chapter.

(b) Response actions and damage assessment

(1) Response actions

The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) Damage assessment

The Secretary shall assess damages to sanctuary resources in accordance with section 1432(6) of this title.

(c) Civil actions for response costs and damages

(1) The Attorney General, upon request of the Secretary, may commence a civil action against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

(2) An action under this subsection may be brought in the United States district court for any district in which—

(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

(B) the vessel is located, in the case of an action against a vessel; or

(C) the destruction of, loss of, or injury to a sanctuary resource occurred.

(d) Use of recovered amounts

Response costs and damages recovered by the Secretary under this section shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title 42, and used as follows:

(1) Response costs

Amounts recovered by the United States for costs of response actions and damage assessments under this section shall be used, as the Secretary considers appropriate—

(A) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and

(B) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any sanctuary resource.

(2) Other amounts

All other amounts recovered shall be used, in order of priority—

(A) to restore, replace, or acquire the equivalent of the sanctuary resources that were the subject of the action, including for costs of monitoring and the costs of curation and conservation of archeological, historical, and cultural sanctuary resources;

(B) to restore degraded sanctuary resources of the national marine sanctuary that was the subject of the action, giving priority to sanctuary resources and habitats that are comparable to the sanctuary resources that were the subject of the action; and

(C) to restore degraded sanctuary resources of other national marine sanctuaries.

(3) Federal-State coordination

Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2)(A) and (B) in accordance with the court decree or settlement agreement and an agreement entered into by the Secretary and the Governor of that State.
(e) Statute of limitations

An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the sanctuary resources to which the action relates.


REFERENCES IN TEXT

Sections 4281 to 4289 of the Revised Statutes of the United States, referred to in subsec. (a)(4), were classified to sections 181 to 188 of the former Appendix to Title 46, Shipping, and section 175 of former Title 46. Sections 4281 to 4289 of the Revised Statutes were repealed and restated in chapter 305 of Title 46, Shipping, by Pub. L. 109–304, §§6(c), 19, Oct. 6, 2006, 120 Stat. 1509, 1710. Section 4288 of the Revised Statutes (section 175 of former Title 46) was repealed by act Oct. 9, 1940, ch. 777, §7, 54 Stat. 1208. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

CODIFICATION

In subsec. (a)(4), “section 30706 of title 46” substituted for “section 3 of the Act of February 13, 1893,” on authority of Pub. L. 109–304, §§6(c), 19, Oct. 6, 2006, 120 Stat. 1509, 1710. Section 4288 of the Revised Statutes (section 175 of former Title 46) was repealed by act Oct. 9, 1940, ch. 777, §7, 54 Stat. 1208. For disposition of sections of the former Appendix to Title 46, see Disposition Table preceding section 101 of Title 46.

AMENDMENTS

Subsec. (c). Pub. L. 106–513, §13(a), designated existing provisions as par. (1), struck out “in the United States district court for the appropriate district” after “civil action”, and added par. (2).
Subsec. (d)(1), (2). Pub. L. 106–513, §13(b), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) Response costs and damage assessments.—Twenty percent of amounts recovered under this section, up to a maximum balance of $750,000, shall be used to finance response actions and damage assessments by the Secretary.

“(2) Restoration, replacement, management, and improvement.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

“(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

“(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

“(C) to manage and improve any other national marine sanctuary.”

1992—Subsec. (a)(1). Pub. L. 102–587, §2110(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In general.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.”
Subsec. (a)(2). Pub. L. 102–587, §2110(b), inserted at end “The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.”
Subsec. (d). Pub. L. 102–587, §2107(d)(1), struck out “and civil penalties under section 1437 of this title” after “Secretary under this section”.
Subsec. (d)(3), (4). Pub. L. 102–587, §§2107(d)(2), 2110(e), redesignated par. (4) as (3), inserted “the court decree or settlement agreement” after “in accordance with”, and struck out former par. (3) which read as follows: “Amounts recovered under section 1437 of this title in the form of civil penalties shall be used by the Secretary in accordance with paragraph (2)(B) and (C) of this subsection.”

$1444. Authorization of appropriations

There are authorized to be appropriated to the Secretary—

(1) to carry out this chapter—

(A) $32,000,000 for fiscal year 2001;

(B) $34,000,000 for fiscal year 2002;

(C) $36,000,000 for fiscal year 2003;

(D) $38,000,000 for fiscal year 2004;

(E) $40,000,000 for fiscal year 2005, and


(Pub. L. 92–532, title III, §313, as added Pub. L. 100–627, title II, §205(c), Nov. 7, 1988, 102 Stat. 3217, provided that: “Amounts in the form of damages received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(b) of the Act [16 U.S.C. 1432(b)] (as amended by this Act)) shall be subject to section 312 of the Act [16 U.S.C. 1443] (as amended by this Act).”

$1445. U.S.S. Monitor artifacts and materials

(a) Congressional policy

In recognition of the historical significance of the wreck of the United States ship Monitor to...
coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

(b) Disclaimer

This section shall not affect the following:

(1) Responsibilities of Secretary

The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

(2) Authority of Secretary

The authority of the Secretary to designate the Mariner’s Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).

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

Pub. L. 104–283, § 4, Oct. 11, 1996, 110 Stat. 3363, provided that: ‘‘The Secretary of Commerce shall, within 12 months after the date of the enactment of this Act [Oct. 11, 1996], prepare and submit to the Committee on Resources [now Committee on Natural 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.’’

GRAVEYARD OF THE ATLANTIC ARTIFACTS


‘‘(a) ACQUISITION OF SPACE.—Pursuant to section 314 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1445) and consistent with the Cooperative Agreement entered into in October, 1989, between the National Oceanic and Atmospheric Administration and the Mariner’s Museum of Newport News, Virginia, the Secretary of Commerce shall make a grant for the acquisition of space in Hatteras Village, North Carolina, for—

‘‘(1) the display and interpretation of artifacts recovered from the area of the Atlantic Ocean adjacent to North Carolina generally known as the Graveyard of the Atlantic, including artifacts recovered from the Monitor National Marine Sanctuary; and

‘‘(2) administration and operations of the Monitor National Marine Sanctuary.

‘‘(b) AUTHORIZATION.—To carry out the responsibilities of the Secretary of Commerce under this section, there are authorized to be appropriated to the Secretary of Commerce a total of $800,000 for fiscal years 1993 and 1994, to remain available until expended.

‘‘(c) FEDERAL SHARE.—Not more than two-thirds of the cost of space acquired under this section may be paid with amounts provided pursuant to this section.’’

§ 1445a. Advisory Councils

(a) Establishment

The Secretary may establish one or more advisory councils (in this section referred to as a ‘‘Advisory Council’’) to advise and make recommendations to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

(b) Membership

Members of the Advisory Councils may be appointed from among—

(1) persons employed by Federal or State agencies with expertise in management of natural resources;

(2) members of relevant Regional Fishery Management Councils established under section 1852 of this title; and

(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

(c) Limits on membership

For sanctuaries designated after November 4, 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

(d) Staffing and assistance

The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

(e) Public participation and procedural matters

The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

(2) Emergency meetings may be held at the call of the chairman or presiding officer.

(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register, 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.

(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

REFERENCES IN TEXT

amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS
Subsec. (b)(2), Pub. L. 106–513, §19(b)(5), made technical amendment to reference in original act which appears in text as reference to section 1852 of this title.
Subsec. (e)(3). Pub. L. 104–283, §5, inserted before period at end ‘‘, 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’’.

§1445b. Enhancing support for national marine sanctuaries
(a) Authority
The Secretary may establish a program consisting of—
(1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries or the System;
(2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;
(3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;
(4) the authorization by the Secretary of the manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol, by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;
(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;
(6) the solicitation and collection by the Secretary of monetary or in-kind contributions from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);
(7) the retention of any monetary or in-kind contributions collected under paragraphs (5) and (6) by the Secretary; and
(8) the expenditure and use of any monetary and in-kind contributions, without appropriation, by the Secretary to designate and manage national marine sanctuaries.

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.

(b) Contract authority
The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (a).

(c) Restrictions
The Secretary may restrict the use of the symbols published under subsection (a), and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

(d) Property of United States
Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (a) is deemed to be the property of the United States.

(e) Prohibited activities
It is unlawful for any person—
(1) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national marine sanctuary, except to the extent that a person who is not so designated may do so;
(2) to represent himself or herself to be an official sponsor absent a designation by the Secretary;
(3) to manufacture, reproduce, or otherwise use any symbol adopted by the Secretary under subsection (a)(1), including to sell any item bearing such a symbol, unless authorized by the Secretary under subsection (a)(4) or subsection (f);
(4) to violate any regulation promulgated by the Secretary under this section.

(f) Collaborations
The Secretary may authorize the use of a symbol adopted by the Secretary under subsection (a)(1) of this section by any person engaged in a collaborative effort with the Secretary to carry out the purposes and policies of this chapter and to benefit a national marine sanctuary or the System.

(g) Authorization for non-profit partner organization to solicit sponsors
(1) In general
The Secretary may enter into an agreement with a non-profit partner organization authorizing it to assist in the administration of the sponsorship program established under this section. Under an agreement entered into under this paragraph, the Secretary may authorize the non-profit partner organization to solicit persons to be official sponsors of the national marine sanctuary system or of individual national marine sanctuaries, upon such terms as the Secretary deems reasonable and will contribute to the successful administration of the sanctuary system. The Secretary may also authorize the non-profit partner organization to collect the statutory contributions from the sponsor, and, subject to paragraph (2), transfer the contribution to the Secretary.

(2) Reimbursement for administrative costs
Under the agreement entered into under paragraph (1), the Secretary may authorize the non-profit partner organization to retain not more than 5 percent of the amount of mon-
etary contributions it receives from official sponsors under the agreement to offset the administrative costs of the organization in soliciting sponsors.

(3) **Partner organization defined**

In this subsection, the term ‘partner organization’ means an organization that—

(A) draws its membership from individuals, private organizations, corporations, academic institutions, or State and local governments; and

(B) is established to promote the understanding of, education relating to, and the conservation of the resources of a particular sanctuary or 2 or more related sanctuaries.


**CODIFICATION**

Section was set out as a note under section 1442 of this title prior to renumbering by Pub. L. 104–283.

**AMENDMENTS**


Subsec. (a)(4). Pub. L. 106–513, § 17(2), substituted “manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol,” for “use of any symbol published under paragraph (1)”.

Subsec. (e)(3). Pub. L. 106–513, § 17(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “to manufacture, reproduce, or use any symbol adopted by the Secretary absent designation as an official sponsor and without payment of a monetary or in-kind contribution to the Secretary; and”.

Subsecs. (f), (g). Pub. L. 106–513, § 17(4), added subsecs. (f) and (g).

1996—Subsec. (a). Pub. L. 104–283, § 6(b)(7), inserted at end “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.”

Pub. L. 104–283, § 6(b)(2), substituted “Authority” for “Project” as heading and “The Authority may establish a program consisting of” for “The project shall consist of” in introductory provisions.

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (b) as (a) and struck out former subsec. (a) which read as follows: “Beginning on November 4, 1992, the Secretary shall conduct a 2-year pilot project to enhance funding for designation and management of national marine sanctuaries.”

Subsec. (a)(5). Pub. L. 104–283, § 6(b)(6), added par. (5).

Former par. (5) redesignated (6).

Pub. L. 104–283, § 6(b)(3), substituted “solicitation” for “establishment” and “monetary or in-kind contributions” for “fees”.

Subsec. (a)(6). Pub. L. 104–283, § 6(b)(6), redesignated par. (5) as (6), Former par. (6) redesignated (7).

Pub. L. 104–283, § 6(b)(4), substituted “monetary or in-kind contributions collected” for “fees assessed” and “paragraphs (5) and (6)” for “paragraph (5)” and struck out “in an interest-bearing revolving fund” after “by the Secretary”.

Subsec. (a)(7). Pub. L. 104–283, § 6(b)(6), redesignated par. (6) as (7), Former par. (7) redesignated (8).

Pub. L. 104–283, § 6(b)(5), inserted “and use” after “expenditure”, substituted “monetary and in-kind contributions” for “fees”, and struck out “and any interest in the fund established under paragraph (6)” before “without appropriation”.

Subsec. (a)(8). Pub. L. 104–283, § 6(b)(6), redesignated par. (7) as (8).

Subsec. (b). Pub. L. 104–283, § 6(b)(9), substituted “subsection (a)” for “subsection (b)”.

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (c) as (b), Former subsec. (b) redesignated (a).

Subsec. (c). Pub. L. 104–283, § 6(b)(9), substituted “subsection (a)” for “subsection (b)”.

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (d) as (c), Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 104–283, § 6(b)(9), substituted “subsection (a)” for “subsection (b)”.

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (e) as (d), Former subsec. (d) redesignated (c).

Subsec. (e). Pub. L. 104–283, § 6(b)(8), struck out paragraph “(1)” before “It is unlawful”, redesignated subpars. (A) to (D) as pars. (1) to (4), respectively, in the preceding part, (3) substituted “monetary or in-kind contribution” for “fee”, and struck out former par. (2) which read as follows: “Violation of this subsection shall be considered a violation of this chapter.”

Pub. L. 104–283, § 6(b)(1), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 104–283, § 6(b)(1), redesignated subsec. (f) as (e).

Subsec. (g). Pub. L. 104–283, § 6(b)(1), struck out heading and text of subsec. (g). Text read as follows: “No later than 30 months after November 4, 1992, the Secretary shall submit a report on the pilot project to Congress regarding the success of the program in providing additional funds for management and operation of national marine sanctuaries.”

Subsec. (h). Pub. L. 104–283, § 6(b)(1), struck out heading and text of subsec. (h). Text read as follows: “In this section—

(1) the term ‘national marine sanctuary’ or ‘national marine sanctuaries’ means a national marine sanctuary or sanctuaries designated under this chapter, or by other law in accordance with this chapter;

(2) the term ‘official sponsor’ means any person designated by the Secretary who is authorized to manufacture, reproduce, or use any symbol created, adopted, and published in the Federal Register under this section for a fee paid to the Secretary; and

(3) the term ‘Secretary’ means the Secretary of Commerce.”

§ 1445c. Dr. Nancy Foster Scholarship Program

(a) **Establishment**

The Secretary shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in oceanography, marine biology or maritime archeology, to be known as Dr. Nancy Foster Scholarships.

(b) **Purposes**

The purposes of the Dr. Nancy Foster Scholarship Program are—

(1) to recognize outstanding scholarship in oceanography, marine biology, or maritime archeology, particularly by women and members of minority groups; and

(2) to encourage independent graduate level research in oceanography, marine biology, or maritime archeology.

(c) **Award**

Each Dr. Nancy Foster Scholarship—

(1) shall be used to support graduate studies in oceanography, marine biology, or maritime archeology at a graduate level institution of higher education; and

(2) shall be awarded in accordance with guidelines issued by the Secretary.

(d) **Distribution of funds**

The amount of each Dr. Nancy Foster Scholarship shall be provided directly to a recipient se-
lected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by a graduate level institution of higher education.

(e) **Funding**

Of the amount available each fiscal year to carry out this chapter, the Secretary shall award 1 percent as Dr. Nancy Foster Scholarships.

(f) **Scholarship repayment requirement**

The Secretary shall require an individual receiving a scholarship under this section to repay the full amount of the scholarship to the Secretary if the Secretary determines that the individual, in obtaining or using the scholarship, engaged in fraudulent conduct or failed to comply with any term or condition of the scholarship.

(g) **Maritime archeology defined**

In this section the term “maritime archeology” includes the curation, preservation, and display of maritime artifacts.

(Ref. Text)

For similar provisions relating to the Dr. Nancy Foster Scholarship Program, see section 1445c–1 of this title.

§ 1445c–1. Dr. Nancy Foster Scholarship Program

(a) **Establishment**

The Secretary of Commerce shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in marine biology, oceanography, or maritime archeology, including the curation, preservation, and display of maritime artifacts, to be known as “Dr. Nancy Foster Scholarships”.

(b) **Purpose**

The purpose of the Dr. Nancy Foster Scholarship Program is to recognize outstanding scholarship in marine biology, oceanography, or maritime archeology, particularly by women and members of minority groups, and encourage independent graduate level research in such fields of study.

(c) **Award**

Each Dr. Nancy Foster Scholarship award—

(1) shall be used to support a candidate’s graduate studies in marine biology, oceanography, or maritime archeology at a sponsoring institution; and

(2) shall be made available to individual candidates in accordance with guidelines issued by the Secretary.

(d) **Distribution of funds**

The amount of each Dr. Nancy Foster Scholarship shall be provided directly to each recipient selected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by the sponsoring institution.

(e) **Funding**

The Secretary shall make 1 percent of the amount appropriated each fiscal year to carry out the National Marine Sanctuaries Act [16 U.S.C. 1431 et seq.] available for Dr. Nancy Foster Scholarships.

(f) **Scholarship repayment requirement**

Repayment of the award shall be made to the Secretary in the case of fraud or noncompliance.

(g) **Maritime archeology defined**

In this section the term “maritime archeology” includes the curation, preservation, and display of maritime artifacts.

(Ref. Text)

For similar provisions relating to the Dr. Nancy Foster Scholarship Program, see section 1445c–1 of this title.

CHAPTER 32A—REGIONAL MARINE RESEARCH PROGRAMS

Sec. 1447. Purposes.

1447a. Definitions.

1447b. Regional Marine Research Boards.

1447c. Regional research plans.

1447d. Research grant program.

1447e. Report on research program.

1447f. Authorization of appropriations.

§ 1447. Purposes

The purpose of this chapter is to establish regional research programs, under effective Federal oversight, to—

(1) set priorities for regional marine and coastal research in support of efforts to safeguard the water quality and ecosystem health of each region; and

(2) carry out such research through grants and improved coordination.

(Ref. Text)

§ 1447a. Definitions

As used in this chapter, the term—

(1) “Board” means any Regional Marine Research board established pursuant to section 1447b(a) of this title;

(2) “Federal agency” means any department, agency, or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government and any government corporation;

(3) “local government” means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law;

(4) “marine and coastal waters” means estuaries, waters of the estuarine zone, including

1So in original. Probably should be capitalized.