

REFERENCES IN TEXT

Other subchapters of this chapter, referred to in subsec. (a)(1), was 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), is Pub. L. 97-79, Nov. 16, 1981, 95 Stat. 1073, which enacted chapter 53 (§3371 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 of this title, amended section 1540 of this title and section 42 of Title 18, Crimes and Criminal Procedure, repealed sections 667e and 851 to 856 of this title and sections 43, 44, 3054, and 3112 of Title 18, and enacted provisions set out as notes under sections 1540 and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 Section¹ \$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.

(Pub. L. 92-522, title V, §509, as added Pub. L. 109-479, title IX, §902(a), Jan. 12, 2007, 120 Stat. 3665.)

CHAPTER 32—MARINE SANCTUARIES

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§ 1431. Findings, purposes, and policies; establishment of system**(a) Findings**

The Congress finds that—

¹ So in original. Probably should not be capitalized.

(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;

(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 and sustainable 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.

(Pub. L. 92-532, title III, §301, Oct. 23, 1972, 86 Stat. 1061; Pub. L. 96-332, §1, Aug. 29, 1980, 94 Stat. 1057; Pub. L. 98-498, title I, §102, Oct. 19, 1984, 98 Stat. 2296; Pub. L. 102-587, title II, §2101, Nov. 4, 1992, 106 Stat. 5039; Pub. L. 104-283, §9(a), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106-513, §3, Nov. 13, 2000, 114 Stat. 2381.)

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)(3). Pub. L. 106-513, §3(c)(2), (4), 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)(2), (4), 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)(3), (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)(3), (5), redesignated par. (7) as (8) 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)(2), (3), (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. (a)(4). Pub. L. 102-587, §2101(a)(2), inserted “, research,” after “conservation” and struck out “and” at end.

Subsec. (a)(6). Pub. L. 102-587, §2101(a)(3), (4), added par. (6).

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. 98-498 amended section generally, substituting provisions relating to Congressional declaration of findings, purposes and policies for provisions defining “Secretary” and “State”. See section 1432 of this title.

1980—Pub. L. 96-332 inserted provisions defining “State”.

SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106-513, §1, Nov. 13, 2000, 114 Stat. 2381, provided that: “This Act [enacting section 1445c of this title and amending this section and sections 1432 to 1434, 1436, 1437, and 1439 to 1445b of this title] may be cited as the ‘National Marine Sanctuaries Amendments Act of 2000’.”

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-283, §1, Oct. 11, 1996, 110 Stat. 3363, provided that: “This Act [amending this section and sections 1432, 1434, 1437, 1442, 1443, 1444, 1445a, and 1445b of this title, renumbering provisions set out as a note under section 1442 of this title as section 1445b of this title, enacting provisions set out as notes under this section and sections 1433 and 1445 of this title, and amending provisions set out as a note under section 1433 of this title] may be cited as the ‘National Marine Sanctuaries Preservation Act’.”

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-587, §1, Nov. 4, 1992, 106 Stat. 5039, provided that: “This Act [see Tables for classification] may be cited as the ‘Oceans Act of 1992’.”

Pub. L. 102-587, title II, §2001, Nov. 4, 1992, 106 Stat. 5039, provided that: “This title [enacting section 1445a of this title, amending this section and sections 1432 to 1437, 1440, 1442 to 1444, 1452 to 1456b, and 1458 to 1462 of this title, enacting provisions set out as notes under this section and sections 1433, 1442, and 1445 of this title, and amending provisions set out as a note under section 1433 of this title] may be cited as the ‘National Marine Sanctuaries Program Amendments Act of 1992’.”

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-498, title I, §101, Oct. 19, 1984, 98 Stat. 2296, provided that: “This title [enacting sections 1435 to 1439 of this title and amending this section and sections 1432 to 1434 of this title] may be cited as the ‘Marine Sanctuaries Amendments of 1984’.”

SHORT TITLE

Pub. L. 92-532, title III, §317, formerly §316, as added by Pub. L. 102-587, title II, §2112, Nov. 4, 1992, 106 Stat.

5047; renumbered §317 of title III, Pub. L. 104-283, §§6(a), 9(f), Oct. 11, 1996, 110 Stat. 3364, 3368; amended Pub. L. 106-562, title III, §307(b), Dec. 23, 2000, 114 Stat. 2807, provided that: "This title [enacting this chapter] may be cited as the 'National Marine Sanctuaries Act'."

CONGRESSIONAL FINDINGS, POLICY, AND DECLARATION
OF PURPOSE

For statement of Congressional findings, policy, and declaration of purpose of Pub. L. 92-532 which enacted this chapter and chapter 27 of Title 33, Navigation and Navigable Waters, see section 1401 of Title 33.

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL
ACTIONS

For provisions relating to environmental effects abroad of major federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

FEDERAL COMPLIANCE WITH POLLUTION CONTROL
STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

PREVENTION, CONTROL, AND ABATEMENT OF
ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, which related to the prevention, control, and abatement of environmental pollution at Federal facilities, was revoked by Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42.

EX. ORD. NO. 13158. MARINE PROTECTED AREAS

Ex. Ord. No. 13158, May 26, 2000, 65 F.R. 34909, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America and in furtherance of the purposes of the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*), National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee) [16 U.S.C. 668dd-668ee], National Park Service Organic Act (16 U.S.C. 1 *et seq.*), National Historic Preservation Act (16 U.S.C. 470 *et seq.*), Wilderness Act (16 U.S.C. 1131 *et seq.*), Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Coastal Zone Management Act [of 1972] (16 U.S.C. 1451 *et seq.*), Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act [of 1972] (16 U.S.C. 1362 [1361] *et seq.*), Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*), National Environmental Policy Act [of 1969], as amended (42 U.S.C. 4321 *et seq.*), Outer Continental Shelf Lands Act (42 [43] U.S.C. 1331 *et seq.*), and other pertinent statutes, it is ordered as follows:

SECTION 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 conservation 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.

SEC. 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.

SEC. 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.

SEC. 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) 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 of the United 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 the 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.

SEC. 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.

SEC. 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.

SEC. 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 5030 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].

SEC. 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.

§ 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, consistent with international law;

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

(II) the value of the lost use 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, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary; and

¹ See References in Text note below.