

## 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.

## STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS

Pub. L. 102-241, §51, Dec. 19, 1991, 105 Stat. 2227, directed Secretary of Transportation and Secretary of Commerce, not later than one year after Dec. 19, 1991, to submit to Congress a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq., 1447 et seq., 33 U.S.C. 1401 et seq., 2801 et seq.) could be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration.

**§ 1438. Repealed. Pub. L. 100-627, title II, § 203(1), Nov. 7, 1988, 102 Stat. 3214**

Section, Pub. L. 92-532, title III, §308, as added Pub. L. 98-498, title I, §102, Oct. 19, 1984, 98 Stat. 2303, authorized appropriations for fiscal years 1985 to 1988.

**§ 1439. Regulations**

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

(Pub. L. 92-532, title III, §308, formerly §309, as added Pub. L. 98-498, title I, §102, Oct. 19, 1984, 98 Stat. 2303; renumbered §308, Pub. L. 100-627, title II, §203(2), Nov. 7, 1988, 102 Stat. 3214; Pub. L. 106-513, §9, Nov. 13, 2000, 114 Stat. 2387.)

## 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 by providing the public with information about the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities of the national marine sanctuary.

**(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.

(Pub. L. 92-532, title III, §309, as added Pub. L. 100-627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3214; amended Pub. L. 102-587, title II, §2108, Nov. 4, 1992, 106 Stat. 5045; Pub. L. 106-513, §10, Nov. 13, 2000, 114 Stat. 2388.)

## PRIOR PROVISIONS

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—

(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the

permit is issued, including costs of monitoring the conduct of the activity; and

(C) an amount which represents the fair market value of the use of the sanctuary resource.

##### (3) Use of fees

Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

(A) for issuing and administering permits under this section; and

(B) for expenses of managing national marine sanctuaries.

##### (4) Waiver or reduction of fees

The Secretary may accept in-kind contributions in lieu of a fee under paragraph (2)(C), or waive or reduce any fee assessed under this subsection for any activity that does not derive profit from the access to or use of sanctuary resources.

##### (e) Violations

Upon violation of a term or condition of a permit issued under this section, the Secretary may—

(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

(2) assess a civil penalty in accordance with section 1437 of this title; or

(3) both.

##### (f) Reports

Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

##### (g) Fishing

Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

(Pub. L. 92-532, title III, §310, as added Pub. L. 100-627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3214; amended Pub. L. 106-513, §11, Nov. 13, 2000, 114 Stat. 2389.)

#### AMENDMENTS

2000—Subsec. (b). Pub. L. 106-513, §11(1), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106-513, §11(1), (2), redesignated subsec. (b) as (c) and substituted “insurance, or post an equivalent bond,” for “insurance” in par. (4). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106-513, §11(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(2)(C). Pub. L. 106-513, §11(3), substituted “resource.” for “resource and a reasonable return to the United States Government.”

Subsec. (d)(3)(B). Pub. L. 106-513, §11(4), struck out “designating and” after “expenses of”.

Subsec. (d)(4). Pub. L. 106-513, §11(5), added par. (4).

Subsecs. (e) to (g). Pub. L. 106-513, §11(1), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

#### § 1442. Cooperative agreements, donations, and acquisitions

##### (a) Agreements and grants

The Secretary may enter into cooperative agreements, contracts, or other agreements