

(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. 2388.)

#### 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 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.

(Pub. L. 92-532, title III, §311, as added Pub. L. 100-627, title II, §203(3), Nov. 7, 1988, 102 Stat. 3215; amended Pub. L. 102-587, title II, §2109, Nov. 4, 1992, 106 Stat. 5045; Pub. L. 104-283, §9(d), Oct. 11, 1996, 110 Stat. 3367; Pub. L. 106-513, §12, Nov. 13, 2000, 114 Stat. 2389.)

#### 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, financial agreements, grants, contracts, or other agreements with 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).

1996—Pub. L. 104-283 made technical amendment to directory language of Pub. L. 102-587. See 1992 Amendment note below.

1992—Pub. L. 102-587, as amended by Pub. L. 104-283, amended section generally. Prior to amendment, section read as follows:

“(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with any nonprofit organization—

“(1) to aid and promote interpretive, historical, scientific, and educational activities; and

“(2) for the solicitation of private donations for the support of such activities.

“(b) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter.”

#### ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES

Section 2204 of title II of Pub. L. 102-587, which was formerly set out as a note under this section, was renumbered section 316 of Pub. L. 92-532, The National Marine Sanctuaries Act, by Pub. L. 104-283, §6(a), Oct. 11, 1996, 110 Stat. 3364, and is classified to section 1445b of this title.

#### **§ 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 any 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.