

110<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6537

To reauthorize and amend the National Marine Sanctuaries Act to establish a National Marine Sanctuary System, to strengthen and clarify management authorities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2008

Ms. BORDALLO (for herself, Ms. ROS-LEHTINEN, Mr. KILDEE, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, Mr. FARR, Ms. WOOLSEY, Mrs. CHRISTENSEN, Ms. LEE, Mr. FORTUÑO, Ms. HIRONO, and Mr. KLEIN of Florida) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To reauthorize and amend the National Marine Sanctuaries Act to establish a National Marine Sanctuary System, to strengthen and clarify management authorities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sanctuary Enhance-  
5 ment Act of 2008”.

1 **SEC. 2. REFERENCES.**

2 Except as otherwise expressly provided, whenever in  
3 this Act an amendment or repeal is expressed in terms  
4 of an amendment to, or repeal of, a section or other provi-  
5 sion, the reference shall be considered to be made to such  
6 section or other provision of the National Marine Sanc-  
7 tuaries Act (16 U.S.C. 1431 et seq.).

8 **SEC. 3. CLARIFICATION OF FINDINGS, PURPOSES, AND**  
9 **POLICIES.**

10 (a) FINDINGS.—Section 301(a) (16 U.S.C. 1431(a))  
11 is amended—

12 (1) by redesignating paragraphs (3) and (4) as  
13 paragraphs (5) and (6), respectively, and by insert-  
14 ing after paragraph (2) the following:

15 “(3) the marine environment consists of numer-  
16 ous ecoregions and ecosystems, the boundaries of  
17 which are based on geomorphologic and oceano-  
18 graphic processes and the distribution of living and  
19 nonliving resources in the marine environment;

20 “(4) scientific research has confirmed the value  
21 of protected areas in the ocean, which serve to—

22 “(A) increase the number, biomass, den-  
23 sity, and diversity of living resources both in-  
24 side and outside the protected areas;

25 “(B) maintain ecosystems that are resist-  
26 ant and resilient to a variety of environmental

1 threats such as global climate change, pollution,  
2 coastal development, habitat alteration, and  
3 overfishing; and

4 “(C) create spillover and export of eggs,  
5 larvae, and juvenile and adult fish, shellfish,  
6 and plants which can repopulate adjacent  
7 areas;”; and

8 (2) in paragraph (6) (as so redesignated) by  
9 striking “managed” and inserting “and manages  
10 them, together with marine national monuments,”.

11 (b) PURPOSES AND POLICIES.—Section 301(b) (16  
12 U.S.C. 1431(b)) is amended to read as follows:

13 “(b) PURPOSES AND POLICIES.—The purposes and  
14 policies of this title are—

15 “(1) to identify and designate as national ma-  
16 rine sanctuaries areas of the marine environment  
17 that are of special national significance;

18 “(2) to manage the System with the primary  
19 purpose being the long-term protection and con-  
20 servation of the living and nonliving resources of the  
21 System;

22 “(3) to include within the System areas that  
23 collectively represent the full range of the Nation’s  
24 marine ecoregions, ecological communities and

1 unique habitats, and diverse maritime heritage re-  
2 sources;

3 “(4) to provide authority for comprehensive and  
4 coordinated protection, conservation, and adaptive  
5 management of the System, and the activities there-  
6 in affecting the System, in a manner that supports  
7 ecosystem-based management and recognizes exist-  
8 ing regulatory authorities and uncertainties in our  
9 scientific understanding of the marine environment;

10 “(5) to maintain the natural biological commu-  
11 nities in the national marine sanctuaries, and to pro-  
12 tect, and, where appropriate, restore and recover  
13 natural habitats, populations, and ecological proc-  
14 esses;

15 “(6) to enhance public awareness, under-  
16 standing, appreciation, and sustainable use of the  
17 marine environment, and the natural, historical, cul-  
18 tural, and archeological resources of the System;

19 “(7) to support, promote, and coordinate sci-  
20 entific research on, and long-term monitoring of, the  
21 resources of the System;

22 “(8) to the extent compatible with the primary  
23 purpose of resource protection, to allow the regu-  
24 lated public and private uses of the resources of the

1 System that are not prohibited pursuant to this title  
2 or other authorities;

3 “(9) to develop and implement coordinated  
4 plans for the protection and management of areas in  
5 the System with appropriate Federal agencies, State  
6 and local governments, Indian tribes, Regional Fish-  
7 ery Management Councils, and international organi-  
8 zations, and other public and private stakeholders  
9 concerned with the continuing health and resilience  
10 of the System;

11 “(10) to create models of, and incentives for,  
12 ways to conserve and manage System resources, in-  
13 cluding the application of adaptive or innovative  
14 management techniques, such as the utilization of  
15 zoning or other temporal or spatial strategies, in-  
16 cluding use of marine reserves; and

17 “(11) to cooperate with global programs en-  
18 couraging conservation of marine resources.”.

19 **SEC. 4. COMPONENTS AND MISSION OF NATIONAL MARINE**  
20 **SANCTUARY SYSTEM.**

21 Section 301(c) (16 U.S.C. 1431(c)) is amended to  
22 read as follows:

23 “(c) ESTABLISHMENT AND MISSION OF NATIONAL  
24 MARINE SANCTUARY SYSTEM.—

1           “(1) ESTABLISHMENT.—There is established  
2           the National Marine Sanctuary System, which shall  
3           be managed by the Secretary through the Office of  
4           National Marine Sanctuaries and consist of—

5                   “(A) national marine sanctuaries des-  
6                   ignated by the Secretary in accordance with  
7                   this title or authorized or established by an Act  
8                   of Congress; and

9                   “(B) marine national monuments.

10           “(2) MISSION.—The mission of the System is  
11           to protect, conserve, preserve, restore, and recover  
12           the biodiversity, ecological integrity, and cultural  
13           legacy of the living and nonliving resources within  
14           the System for the benefit of present and future  
15           generations.”.

16 **SEC. 5. AMENDMENTS TO DEFINITIONS.**

17           (a) IN GENERAL.—Section 302 (16 U.S.C. 1432) is  
18           amended by striking “and” after the semicolon at the end  
19           of paragraph (9), by striking the period at the end of para-  
20           graph (10) and inserting a semicolon, and by adding at  
21           the end the following new paragraphs:

22                   “(11) ‘Indian tribe’ has the same meaning  
23                   given that term in section 4 of the Indian Self-De-  
24                   termination and Education Assistance Act (25  
25                   U.S.C. 450b);

1           “(12) ‘marine ecoregion’ means a large area of  
2 the marine environment that contains a geographi-  
3 cally distinct assemblage of natural communities  
4 that—

5                   “(A) share a large majority of their species  
6 and ecological processes;

7                   “(B) share similar environmental condi-  
8 tions; and

9                   “(C) interact ecologically in ways that are  
10 critical for their long-term persistence;

11           “(13) ‘marine national monument’ means a na-  
12 tional monument or any portion thereof established  
13 by the President pursuant to the Act of June 8,  
14 1906 (chapter 3060; 16 U.S.C. 431), popularly  
15 known as the Antiquities Act of 1906, that is—

16                   “(A) assigned as a management responsi-  
17 bility of the Secretary; and

18                   “(B) managed as a unit within the System;

19           “(14) ‘maritime heritage resource’ means any  
20 shipwreck or other site or object that is of archae-  
21 ological, historical, or cultural significance found in,  
22 on, or under the seabed of the marine environment  
23 of the United States; and

24           “(15) ‘System resource’ means any living or  
25 nonliving resource of the System that contributes to

1 the conservation, recreational, ecological, historical,  
2 educational, cultural, archeological, scientific, or aes-  
3 thetic value of the System.”.

4 (b) CONFORMING AMENDMENTS.—Such section is  
5 further amended—

6 (1) by striking “sanctuary resource” each place  
7 it appears and inserting “System resource”;

8 (2) by striking “sanctuary resources” each  
9 place it appears and inserting “System resources”;  
10 and

11 (3) in section 302(6)(C) (16 U.S.C. 1432) by  
12 striking “resources,” and inserting “System re-  
13 sources;”.

14 **SEC. 6. LIVING AND NONLIVING RESOURCE CLASSIFICA-**  
15 **TION, IDENTIFICATION, AND INVENTORY.**

16 Section 303 (16 U.S.C. 1433) is amended by adding  
17 at the end the following new subsections:

18 “(c) LIVING AND NONLIVING RESOURCE CLASSI-  
19 FICATION, IDENTIFICATION, AND INVENTORY.—

20 “(1) IN GENERAL.—The Secretary shall pre-  
21 pare an ecological classification of the Nation’s ma-  
22 rine environment and an identification of maritime  
23 heritage resources, and maintain and update such  
24 classification as a national inventory of marine



1       ecoregions and maritime heritage resources under  
2       the jurisdiction of the United States.

3               “(2) METHODOLOGIES AND GUIDELINES.—

4       Within 12 months after the date of enactment of  
5       this subsection, the Secretary, in consultation with  
6       other Federal agencies, coastal states, Indian tribes,  
7       Regional Fishery Management Councils and other  
8       regional organizations, and other nongovernmental  
9       scientific, professional, conservation, archaeological,  
10      and cultural resource organizations, and other advi-  
11      sors with relevant expertise and data as the Sec-  
12      retary considers necessary, shall develop and adopt  
13      appropriate methodologies and guidelines for the fol-  
14      lowing:

15               “(A) CLASSIFICATION OF ECOREGIONS.—

16              Classification of specific marine ecoregions, in-  
17              cluding ecological subunits, and identification of  
18              nationally significant marine resources and bio-  
19              logical communities therein, based upon the  
20              best available scientific information.

21               “(B) MARITIME HERITAGE RESOURCE

22              IDENTIFICATION.—Identification of nonliving  
23              submerged archaeological, historical, and cul-  
24              tural resources, in a manner that—

1           “(i) is consistent with other relevant  
2           Federal and State laws and regulations  
3           and utilize to the greatest extent prac-  
4           ticable existing information; and

5           “(ii) allows for the Secretary to with-  
6           hold such information if the public release  
7           of such information could threaten or jeop-  
8           ardize the long-term protection, preserva-  
9           tion, conservation, or stewardship of any  
10          maritime heritage resource.

11          “(3) REPORT.—Within three years after the  
12          date of enactment of this section, the Secretary shall  
13          submit a report to the Congress that includes—

14               “(A) charts, maps, and other scientific, ar-  
15               chaeological, historical, hydrographic, geo-  
16               graphic, ecological, biological, oceanographic, or  
17               other information that classify or identify with-  
18               in the exclusive economic zone, in accordance  
19               with the guidelines and methodologies adopted  
20               under paragraph (2)—

21                       “(i) all marine ecoregions; and

22                       “(ii) maritime heritage resource areas;

23               “(B) identification of areas of the marine  
24               environment of the exclusive economic zone that  
25               could not be classified due to a lack of scientific

1 data necessary to meet the methodology and  
2 guidelines developed under paragraph (2)(A);  
3 and

4 “(C) other relevant information the Sec-  
5 retary considers necessary to identify and de-  
6 scribe marine ecoregions and marine heritage  
7 resource areas of the exclusive economic zone.

8 “(4) REPORT REVISIONS.—The Secretary  
9 shall—

10 “(A) provide for the regular review and re-  
11 assessment of the classification methodologies  
12 and guidelines and identification of marine  
13 ecoregions and maritime heritage resource  
14 areas; and

15 “(B) based upon new scientific information  
16 and analysis, submit to Congress revised re-  
17 ports as the Secretary determines necessary.

18 “(d) SITE SELECTION REPORT AND LIST.—

19 “(1) IN GENERAL.—No later than one year  
20 after the date of submittal of the report required  
21 under subsection (c), the Secretary, in consultation  
22 with other Federal agencies, States, Indian tribes,  
23 Regional Fishery Management Councils, academic,  
24 scientific, professional or conservation, organiza-  
25 tions, and other stakeholders, shall issue a report

1 identifying discrete areas of the marine environment  
2 within the territorial waters of the United States  
3 that the Secretary may consider for potential des-  
4 ignation as marine sanctuaries. The report shall in-  
5 clude—

6 “(A) sites representing the spectrum of  
7 various classifications of marine ecoregions,  
8 subunits, biological communities, and habitats;

9 “(B) sites representing maritime heritage  
10 resource areas;

11 “(C) the best available scientific, archae-  
12 ological, historical, and other information re-  
13 garding the status and condition of marine re-  
14 sources that would benefit from designation as  
15 a national marine sanctuary; and

16 “(D) a site selection list that identifies and  
17 justifies priority sites for active consideration  
18 by the Secretary for designation as national  
19 marine sanctuaries pursuant to this section and  
20 section 304.

21 “(2) UPDATES.—The Secretary shall update  
22 the site selection list under paragraph (1)(D) no  
23 later than five years after the date of publication of  
24 the initial report required under this subsection and  
25 every five years thereafter.

1       “(e) SYSTEM EXPANSION GOAL.—In order to fulfill  
2 the purposes of this title, the Secretary shall strive to  
3 achieve the goal of including in the System by 2030, that  
4 number of sites that will incorporate a full range of the  
5 Nation’s marine ecoregions and rare and unique marine  
6 habitats, and a full range of maritime heritage resource  
7 areas. The Secretary shall report to the Congress on  
8 progress toward this goal, with such explanation as may  
9 be necessary and appropriate, no later than January 15  
10 of 2011 and of every second year thereafter.”.

11 **SEC. 7. REVISIONS TO DESIGNATION PROCEDURES.**

12       (a) FISHING REGULATIONS.—Section 304 (16 U.S.C.  
13 1434) is amended in subsection (a) by striking paragraph  
14 (5) and inserting the following:

15               “(5) FISHING REGULATIONS.—If the Secretary  
16 determines that it is necessary to regulate any fish-  
17 ing activities within a proposed sanctuary to meet  
18 the mission of the System and the purposes under  
19 this title, the Secretary shall include in the sanc-  
20 tuary designation documents under paragraph (2)  
21 regulations for such activities, that are—

22                       “(A) compatible with the purposes of the  
23 sanctuary;

24                       “(B) compatible with the mission of the  
25 System and the purposes of this title; and

1           “(C) approved or prepared by the Sec-  
2           retary in accordance with section 308(b).”.

3           (b) DEADLINES.—Section 304 (16 U.S.C. 1434) is  
4 amended—

5           (1) in subsection (a)(6), in the second sentence,  
6           by striking “forty-five day period of continuous ses-  
7           sion of Congress” and inserting “60-calendar-day  
8           period”;

9           (2) in subsection (b)(1)—

10           (A) in the third sentence, by “30 months”  
11           and inserting “24 months”; and

12           (B) in the fifth sentence, by striking  
13           “forty-five days of continuous session of Con-  
14           gress” and inserting “60 calendar days”; and

15           (3) by striking subsection (b)(3).

16           (c) EFFECTIVENESS OF DESIGNATION.—Section  
17 304(b)(2) (16 U.S.C. 1434(b)(2)) is amended by inserting  
18 “as unacceptable” after “not certified”.

19           (d) REVIEW OF MANAGEMENT PLANS.—Section 304  
20 (16 U.S.C. 1434) is further amended—

21           (1) by striking subsections (c) and (d), and re-  
22           designating subsection (e) as subsection (c); and

23           (2) in subsection (c) (as so redesignated)—

24           (A) in the first sentence—

1 (i) by striking “five years” the first  
2 place it appears and inserting “seven  
3 years”; and

4 (ii) by striking “five years” the second  
5 place it appears and inserting “ten years”;

6 (B) in the first sentence, by inserting “or  
7 marine national monument” after “sanctuary”;  
8 and

9 (C) by amending the second sentence to  
10 read as follows: “This review shall include a  
11 prioritization of management objectives, and a  
12 review, in consultation with the appropriate Re-  
13 gional Fishery Management Councils, States  
14 and Indian tribes, regarding the impacts of  
15 fishing activities on other System resources and  
16 the adequacy and effectiveness of fishing regu-  
17 lations within the sanctuary or marine national  
18 monument.”.

19 (e) REPEAL OF LIMITATION ON DESIGNATION OF  
20 NEW NATIONAL MARINE SANCTUARIES.—Section 304(f)  
21 (16 U.S.C. 1434(f)) is repealed.

22 **SEC. 8. INTERNATIONAL NEGOTIATIONS.**

23 Section 305(b) (16 U.S.C. 1435(b)) is amended by  
24 striking “any national marine sanctuary and to promote  
25 the purposes for which the sanctuary is established” and

1 inserting “any unit within the System and to promote the  
2 purposes for which the unit is established. In the case of  
3 a jointly managed Marine National Monument, the Sec-  
4 retary of State shall also consult with any other Federal  
5 or non-Federal government agencies and officials that are  
6 co-trustees for such Marine National Monument.”.

7 **SEC. 9. CLARIFYING PROHIBITED ACTIVITIES AND**  
8 **STRENGTHENING ENFORCEMENT.**

9 (a) PROHIBITED ACTIVITIES.—Section 306 (16  
10 U.S.C. 1436) is amended—

11 (1) by striking paragraph (1) and inserting the  
12 following:

13 “(1) destroy, cause the loss of, or injure any  
14 System resource managed under law or regulations  
15 for a sanctuary or marine national monument;”;

16 (2) in paragraph (2) by striking “sanctuary re-  
17 source” and inserting “System resource”;

18 (3) in paragraph (3)(C)—

19 (A) by striking “knowingly and willfully”;  
20 and

21 (B) by inserting after “title” the second  
22 place it appears the following: “or any false in-  
23 formation in a report or a permit application  
24 submitted pursuant to regulations adopted  
25 under section 308”.



1           (4) by striking “or” after the semicolon at the  
2 end of paragraph (3)(C), by striking the period at  
3 the end of paragraph (4) and inserting “: or”, and  
4 by adding at the end the following:

5           “(5) in any area administered as part of the  
6 System—

7           “(A) directly discharge into a sanctuary or  
8 marine national monument sewage effluent or  
9 solid waste resulting from less than secondary  
10 treatment, other than—

11           “(i) fish, fish parts, and chumming  
12 materials resulting from, and while con-  
13 ducting otherwise lawful, fishing activities;  
14 or

15           “(ii) biodegradable effluents or mate-  
16 rials incidental to vessel use and mainte-  
17 nance that comply with otherwise applica-  
18 ble Federal standards;

19           “(B) disturb or remove maritime heritage  
20 resources;

21           “(C) explore for, lease, develop, produce, or  
22 extract mineral resources;

23           “(D) disturb, construct on, or alter the  
24 seabed, including—

1           “(i) engaging in bottom trawling in a  
2           sanctuary designated before January 1,  
3           2009, unless the Secretary has determines  
4           that such activity can be conducted in a  
5           manner that does not violate paragraph  
6           (1); and

7           “(ii) engaging in bottom trawling in a  
8           sanctuary designated on or after that date;  
9           “(E) release toxic or hazardous materials;  
10          “(F) detonate explosives; or  
11          “(G) intentionally introduce or release non-  
12          native species.”.

13          (b) STRENGTHENING ENFORCEMENT.—Section 307  
14 (16 U.S.C. 1437) is amended—

15           (1) in subsection (b)(2) by striking “sanctuary  
16           resource” and inserting “System resource”;

17           (2) in subsection (c)(1)—

18           (A) by inserting “(other than a foreign  
19           government or any entity of such a govern-  
20           ment)” after “A person”; and

21           (B) by inserting “knowingly” after “if the  
22           person”;

23           (3) in subsection (c)(2) by striking “6 months”  
24           and inserting “2 years”;

1 (4) in subsection (d)(1) by striking “\$100,000”  
2 and inserting “\$250,000”;

3 (5) in subsection (e)(1) by striking “sanctuary  
4 resource” and inserting “System resource”;

5 (6) in subsection (e)(3) by striking “(3) DIS-  
6 POSAL OF SANCTUARY RESOURCES.—Any sanctuary  
7 resource” and inserting “(3) DISPOSAL OF SYSTEM  
8 RESOURCES.—Any System resource”;

9 (7) in subsection (e)(4) by inserting “or System  
10 resources” after “sanctuary resources”; and

11 (8) in subsection (j) by striking “sanctuary re-  
12 source” each place it appears and inserting “System  
13 resource”.

14 **SEC. 10. CONSOLIDATION OF REGULATIONS.**

15 Section 308 (16 U.S.C. 1439) is amended to read as  
16 follows:

17 **“SEC. 308. REGULATIONS.**

18 “(a) IN GENERAL.—The Secretary may issue such  
19 regulations as may be necessary to carry out this title.

20 Such regulations may apply to—

21 “(1) a national marine sanctuary;

22 “(2) a marine national monument; or

23 “(3) the System.

24 “(b) FISHING REGULATIONS.—

1           “(1) IN GENERAL.—If the Secretary determines  
2           that regulations for fishing activities are necessary  
3           for the designation of a new sanctuary or to manage  
4           fishing activities within an existing or proposed  
5           sanctuary or a marine national monument, if appli-  
6           cable under the terms of its designation by the  
7           President, to protect System resources, the Sec-  
8           retary shall notify and request the appropriate Re-  
9           gional Fishery Management Council (in this sub-  
10          section referred to as the ‘Council’) to prepare such  
11          draft regulations for fishing activities within the  
12          boundaries (or proposed boundaries) of such sanc-  
13          tuary or monument.

14           “(2) ACTION BY THE COUNCIL.—

15           “(A) COUNCIL SUBMISSION.—Within the  
16           180-day period beginning on the date of notifi-  
17           cation by the Secretary, the Council shall sub-  
18           mit to the Secretary—

19                   “(i) draft fishing regulations for the  
20                   proposed sanctuary or existing sanctuary  
21                   or marine national monument; or

22                   “(ii) a determination that regulations  
23                   for fishing activities within the proposed  
24                   sanctuary or existing sanctuary or marine  
25                   national monument are not necessary.

1           “(B) EXTENSION OF DEADLINE.—Upon a  
2 written request by the Council, the Secretary  
3 may grant one extension of time for the submis-  
4 sion under subparagraph (A), if the Secretary  
5 determines that exigent circumstances will pre-  
6 vent the Council from completing its work with-  
7 in the period referred to in that subparagraph.  
8 The extension shall be for a period that does  
9 not exceed 90 days.

10           “(C) COUNCIL PROCEDURE AND STAND-  
11 ARDS FOR PREPARING DRAFT FISHING REGULA-  
12 TIONS.—In preparing draft fishing regulations  
13 under this section, the Council shall comply  
14 with the Secretary’s request and utilize estab-  
15 lished administrative procedures to prepare  
16 fishery management plans that are consistent  
17 and compatible with the purposes of a proposed  
18 national marine sanctuary designation, or the  
19 management plans for an existing sanctuary or  
20 marine national monuments, as applicable, the  
21 mission of the System, and the purposes and  
22 policies of this title.

23           “(3) ACTIONS BY THE SECRETARY.—

24           “(A) TECHNICAL ASSISTANCE.—Upon the  
25 request of the Council, the Secretary may pro-

1           vide technical assistance to the Council to clar-  
2           ify and expedite procedures, coordinate reviews  
3           with other Federal agencies, and provide sci-  
4           entific and technical expertise.

5           “(B) REVIEW OF COUNCIL SUBMISSION.—  
6           Within 60 days after receiving a response from  
7           the Council in accordance with paragraph (2),  
8           the Secretary shall—

9                   “(i) determine if the response ful-  
10                  fills—

11                           “(I) the management objectives  
12                           of the proposed sanctuary or the ex-  
13                           isting sanctuary or marine national  
14                           monument;

15                           “(II) the mission of the System;  
16                           and

17                           “(III) the purposes of this title;  
18                           and

19                           “(ii) provide in writing to the Council  
20                           an explanation of the factors that contrib-  
21                           uted to this determination.

22           “(C) APPROVAL BY THE SECRETARY.—If  
23           the Secretary determines that the Council’s re-  
24           sponse is sufficient to meet the criteria under  
25           subparagraph (A), the Secretary shall accept

1 the Council's draft fishing regulations and issue  
2 them as proposed regulations under this title.

3 “(D) DISAPPROVAL BY THE SECRETARY.—

4 If the Secretary determines that the Council's  
5 response under paragraph (2) insufficient to  
6 meet the criteria under subparagraph (B)(i), or  
7 if the Council fails to submit a response in ac-  
8 cordance with paragraph (2), the Secretary  
9 shall prepare any necessary regulations for fish-  
10 ing activities in a proposed sanctuary or exist-  
11 ing sanctuary or marine national monument  
12 under this title.

13 “(4) AMENDMENTS TO FISHING REGULA-  
14 TIONS.—Any amendments to regulations affecting  
15 fishing activities within the System shall be drafted,  
16 approved, and issued in the same manner as the  
17 original regulations.

18 “(5) COOPERATION AND CONSULTATION WITH  
19 OTHER FISHERY MANAGEMENT ENTITIES.—The Sec-  
20 retary and the Councils shall cooperate and consult  
21 with other appropriate State fishery management  
22 authorities and Indian tribes with rights or respon-  
23 sibilities within a proposed sanctuary or an existing  
24 sanctuary or marine national monument at the ear-

1       liest practicable stage when drafting any fishery reg-  
2       ulations under this subsection.

3       “(c) ACCESS AND VALID RIGHTS.—

4               “(1) PREEXISTING RIGHTS.—Nothing in this  
5       title shall be construed as terminating or granting to  
6       the Secretary the right to terminate any valid lease,  
7       permit, license, or right of subsistence use or access  
8       that is in existence on the date of designation of any  
9       sanctuary.

10              “(2) EXERCISE OF RIGHTS.—The exercise of  
11       rights or authorities within the System under a  
12       lease, permit, license, or right is subject to regula-  
13       tion by the Secretary consistent with the mission of  
14       the System and the purposes of this title.”.

15   **SEC. 11. RESEARCH AND MONITORING.**

16       (a) RESEARCH AND MONITORING, GENERALLY.—  
17       Section 309(b)(1) (16 U.S.C. 1440(b)(1)) is amended—

18              (1) in subparagraph (A)—

19                      (A) by striking “sanctuary resources” and  
20                      inserting “System resources”; and

21                      (B) by inserting “or marine national  
22                      monuments” after “national marine sanc-  
23                      tuaries”;

24              (2) in subparagraph (B), by striking “sanctuary  
25       resources” and inserting “System resources”; and



1           (3) in subparagraph (C), by striking “resources  
2           of national marine sanctuaries” and inserting “mari-  
3           time heritage resources of the System”.

4           (b) LIMITATION ON RELEASE OF RESULTS.—Section  
5 309(b)(2) (16 U.S.C. 1440(b)(2)) is amended to read as  
6 follows:

7           “(2) AVAILABILITY OF INFORMATION.—

8           “(A) AVAILABILITY OF RESULTS.—The re-  
9           sults of research and monitoring conducted,  
10           supported, or permitted by the Secretary under  
11           this subsection shall be made available to the  
12           public, unless such information is protected  
13           from public disclosure under any other provi-  
14           sion of law or is withheld pursuant to subpara-  
15           graph (B).

16           “(B) AUTHORITY TO WITHHOLD CERTAIN  
17           INFORMATION.—The Secretary may withhold  
18           from disclosure to the public information de-  
19           scribed in subparagraph (A), if the Secretary—

20           “(i) determines that such disclosure to  
21           the public may result in the destruction,  
22           loss of, or injury to any System resource;  
23           and

1                   “(ii) specifies who may have access to  
2                   the information for the purpose of imple-  
3                   menting this title.”.

4           (c) EDUCATION.—Section 309(c) (16 U.S.C.  
5 1440(c)) is amended—

6                   (1) in paragraph (1)—

7                           (A) in the first sentence, by inserting “,  
8                           marine national monuments,” after “national  
9                           marine sanctuaries”; and

10                           (B) in the second sentence, by striking  
11                           “national marine sanctuaries and”; and

12                   (2) in paragraph (2), by inserting “or marine  
13                   national monument” after “national marine sanc-  
14                   tuary”.

15           (d) INTERPRETIVE FACILITIES.—Section 309(d) (16  
16 U.S.C. 1440(d)) is amended—

17                   (1) in paragraph (1), by inserting “or marine  
18                   national monument” after “national marine sanc-  
19                   tuary”; and

20                   (2) in paragraph (2)—

21                           (A) by inserting “or marine national  
22                           monument” after “national marine sanctuary”;  
23                           and

24                           (B) by striking “the national marine sanc-  
25                           tuary” and inserting “the System”.

1 **SEC. 12. CLARIFICATION OF USE PERMITS AND INTER-**  
2 **AGENCY COOPERATION.**

3 (a) IN GENERAL.—Section 310 (16 U.S.C. 1441) is  
4 amended to read as follows:

5 **“SEC. 310. PERMITS.**

6 “(a) IN GENERAL.—The Secretary may allow for the  
7 conduct of activities that would otherwise be prohibited  
8 by this title, other than activities prohibited under sub-  
9 paragraph (B), (C), (E), (F), or (G) of section 306(5),  
10 or regulations issued under this title through, in accord-  
11 ance with such regulations, the issuance of—

12 “(1) special use permits for the conduct of con-  
13 cession or commercial-oriented activities dependent  
14 on System resources; or

15 “(2) general use permits for other activities.

16 “(b) FINDINGS REQUIRED.—The Secretary may not  
17 issue a permit under this section for a proposed activity  
18 unless the Secretary finds that—

19 “(1) the proposed activity is compatible with—

20 “(A) the mission of the System and the  
21 purposes and policies of this title; and

22 “(B) the purposes for which the applicable  
23 unit of the System was designated or estab-  
24 lished;

1           “(2) there is no practicable alternative to con-  
2           ducting the activity within or over the applicable  
3           unit of the System;

4           “(3) the proposed activity will promote sustain-  
5           able public use and increase public understanding  
6           and appreciation of System resources; and

7           “(4) the proposed activity will cause no neg-  
8           ligible or irreversible harm to any System resource.

9           “(c) TERMS AND CONDITIONS.—The Secretary shall  
10          impose reasonable terms and conditions on activities con-  
11          ducted under a permit issued under this section to ensure  
12          protection of System resources and to fulfill the mission  
13          of the System and the purposes and policies under this  
14          title.

15          “(d) SPECIAL USE PERMITS.—

16                 “(1) IN GENERAL.—A special use permit issued  
17          under subsection (a)(1)—

18                         “(A) shall authorize the conduct of an ac-  
19                         tivity only if that activity is compatible with the  
20                         purposes for which the sanctuary or marine na-  
21                         tional monument is designated and with protec-  
22                         tion of sanctuary resources or System resource;

23                         “(B) shall not authorize the conduct of any  
24                         activity for a period of more than 5 years un-  
25                         less renewed by the Secretary;

1           “(C) shall require that activities carried  
2           out under the permit be conducted in a manner  
3           that does not destroy, cause the loss of, or in-  
4           jure sanctuary resources or System resources;  
5           and

6           “(D) shall require the permittee to—

7                   “(i) purchase and maintain com-  
8                   prehensive general liability insurance, or  
9                   post an equivalent bond, against claims  
10                  arising out of activities conducted under  
11                  the permit; and

12                   “(ii) agree to hold the United States  
13                  harmless against such claims.

14           “(2) TERMS AND CONDITIONS.—The Secretary  
15           shall include in a special use permit under sub-  
16           section (a)(1) that authorizes the conduct of a spe-  
17           cific activity such terms and conditions as the Sec-  
18           retary determines to be necessary for access to and  
19           use of any sanctuary resource or System resource  
20           under the permit.

21           “(3) PUBLIC NOTICE AND COMMENT RE-  
22           QUIRED.—The Secretary shall provide appropriate  
23           public notice before identifying any category of activ-  
24           ity subject to a special use permit under subsection

1 (a)(1), and shall allow for adequate opportunity for  
2 public comment on permit applications.

3 “(e) FEES.—

4 “(1) ASSESSMENT AND COLLECTION.—The Sec-  
5 retary may assess and collect fees for the conduct of  
6 any activity under a permit issued under this sec-  
7 tion.

8 “(2) AMOUNT.—The amount of a fee under this  
9 subsection shall be equal to the sum of—

10 “(A) costs incurred, or expected to be in-  
11 curred, by the Secretary in issuing the permit;

12 “(B) costs incurred, or expected to be in-  
13 curred, by the Secretary as a direct result of  
14 the conduct of the activity for which the permit  
15 is issued, including costs of monitoring the con-  
16 duct of the activity; and

17 “(C) an amount that represents the fair  
18 market value of the use of the System resource  
19 concerned, if applicable in the context of the  
20 permitted use.

21 “(3) USE OF FEES.—Amounts collected by the  
22 Secretary in the form of fees under this section shall  
23 be used by the Secretary—

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

1 “(B) for expenses of managing the System.

2 “(4) IN-LIEU CONTRIBUTIONS; REDUCTION AND  
3 WAIVER.—The Secretary may accept in-kind con-  
4 tributions in lieu of a fee under paragraph (2)(C),  
5 or waive or reduce any fee assessed under this sub-  
6 section for any activity that does not derive profit  
7 from the access to or use of System resources.

8 “(f) VIOLATIONS.—Upon violation of a term or condi-  
9 tion of a permit issued under this section, the Secretary  
10 may—

11 “(1) suspend or revoke the permit without com-  
12 pensation to the permittee and without liability to  
13 the United States;

14 “(2) assess a civil penalty in accordance with  
15 section 307; or

16 “(3) both.

17 “(g) REPORTS.—Each person issued a permit under  
18 this section shall submit an annual report to the Secretary  
19 not later than December 31 of each year which describes  
20 activities conducted under that permit and revenues, if  
21 any, derived from such activities during the year.

22 “(h) INTERAGENCY COOPERATION.—

23 “(1) REVIEW OF AGENCY ACTIONS.—

24 “(A) IN GENERAL.—Federal agency ac-  
25 tions within or outside of a national marine

1 sanctuary or marine national monument, in-  
2 cluding private or other non-Federal activities  
3 authorized by a Federal license, lease, or per-  
4 mit, that are likely to destroy, cause the loss of,  
5 or injure any System resource, are subject to  
6 consultation in advance with the Secretary in  
7 accordance with regulations issued by the Sec-  
8 retary.

9 “(B) AGENCY STATEMENTS REQUIRED.—

10 Subject to any regulations the Secretary may  
11 establish, the head of each Federal agency pro-  
12 posing an action described in subparagraph (A)  
13 shall provide to the Secretary a written state-  
14 ment describing the action and its potential ef-  
15 fects on System resources at the earliest prac-  
16 ticable time, but in no case later than 120 days  
17 before the final approval of the action unless  
18 such Federal agency and the Secretary agree to  
19 a different schedule.

20 “(2) SECRETARY’S RECOMMENDED ALTER-

21 NATIVES.—If the Secretary finds that a Federal  
22 agency action is likely to destroy, cause the loss of,  
23 or injure a System resource, the Secretary shall,  
24 within 45 days after receiving complete information  
25 on the proposed agency action, recommend reason-



1       able and prudent alternatives, that can be taken by  
2       the Federal agency in implementing the agency ac-  
3       tion and that will protect System resources. Such al-  
4       ternatives may include conduct of the action at a  
5       different location or imposition of additional restric-  
6       tions as considered necessary by the Secretary.

7               “(3) RESPONSE TO RECOMMENDATIONS.—The  
8       head of an agency who receives the Secretary’s rec-  
9       ommended alternatives under paragraph (2) shall  
10       promptly consult with the Secretary on the alter-  
11       natives. If the agency head decides not to follow the  
12       alternatives, the agency head shall provide the Sec-  
13       retary with a written statement explaining the rea-  
14       sons for that decision.

15              “(4) FAILURE TO FOLLOW ALTERNATIVE.—If  
16       the head of a Federal agency takes an action other  
17       than an alternative recommended by the Secretary  
18       and such action results in the destruction of, loss of,  
19       or injury to a System resource, the head of the  
20       agency shall promptly prevent and mitigate further  
21       damage and restore or replace the System resource  
22       in a manner approved by the Secretary.”.

23       (b) REGULATIONS.—The Secretary of Commerce  
24       shall issue regulations implementing section 310(h) of the  
25       National Marine Sanctuaries Act, as amended by this sec-

1 tion, by not later than 1 year after the date of the enact-  
2 ment of this Act.

3 **SEC. 13. APPLICATION OF AUTHORITY TO MARINE NA-**  
4 **TIONAL MONUMENTS AND WITHIN THE SYS-**  
5 **TEM.**

6 (a) COOPERATIVE AGREEMENTS, DONATIONS, AND  
7 ACQUISITIONS.—Section 311 (16 U.S.C. 1442) is amend-  
8 ed—

9 (1) in subsection (c), by striking “designating  
10 and administering national marine sanctuaries” and  
11 inserting “designating sanctuaries and administering  
12 sanctuaries and marine national monuments”; and

13 (2) in subsection (e), by striking “State or  
14 other Federal agency” and inserting “any Federal  
15 agency or instrumentality of the United States, any  
16 State, local government, Indian tribe, territory or  
17 possession of the United States, or any political sub-  
18 division thereof, or any foreign government or inter-  
19 national organization,”.

20 (b) DESTRUCTION OR LOSS OF, OR INJURY TO, SYS-  
21 TEM RESOURCES.—Section 312 (16 U.S.C. 1443) is  
22 amended—

23 (1) in the section heading by striking “**SANC-**  
24 **TUARY RESOURCES**” and inserting “**SYSTEM RE-**  
25 **SOURCES**”;

1           (2) by striking “sanctuary resource” each place  
2 it appears and inserting “System resource”;

3           (3) by striking “sanctuary resources” each  
4 place it appears and inserting “System resources”;  
5 and

6           (4) in subsection (d)(2)(E), by inserting “or  
7 marine national monuments” after “national marine  
8 sanctuaries”.

9           (c) ADVISORY COUNCILS.—Section 315 (16 U.S.C.  
10 1445a) is amended—

11           (1) in subsection (a), by inserting “and marine  
12 national monuments” after “national marine sanc-  
13 tuaries”;

14           (2) in subsection (c), by striking “For sanc-  
15 tuaries designated” and inserting “For sanctuaries  
16 and marine national monuments designated or oth-  
17 erwise established”; and

18           (3) in subsection (e)(3), by inserting “or marine  
19 national monument” after “national marine sanc-  
20 tuary”.

21           (d) ENHANCING SUPPORT FOR THE SYSTEM.—Sec-  
22 tion 316 (16 U.S.C. 1445b) is amended—

23           (1) in the section heading by striking “**NA-**  
24 **TIONAL MARINE SANCTUARIES**” and inserting  
25 “**THE SYSTEM**”;

1           (2) by striking “the national marine sanctuary  
2 program” each place it appears and inserting “the  
3 System”;

4           (3) in subsection (a)—

5           (A) by inserting “or marine national  
6 monuments” after “individual national marine  
7 sanctuaries” each place it appears;

8           (B) in paragraph (8), by inserting “and  
9 marine national monuments” after “national  
10 marine sanctuaries”; and

11          (C) in the matter following paragraph  
12 (8)—

13           (i) by inserting “or marine national  
14 monument” after “individual national ma-  
15 rine sanctuary”; and

16           (ii) by inserting “or monument” after  
17 “that sanctuary”;

18          (4) in subsection (c), by inserting “or marine  
19 national monuments” after “sanctuaries”;

20          (5) in subsection (e)(1), by inserting “or marine  
21 national monument” after “sanctuary”;

22          (6) in subsection (f), by inserting “, marine na-  
23 tional monument, or” after “sanctuary”; and

24          (7) in subsection (g)—

25           (A) in paragraph (1)—

1 (i) by striking “the national marine  
2 sanctuary system or of individual national  
3 marine sanctuaries” and inserting “the  
4 System or of individual national marine  
5 sanctuaries or marine national monu-  
6 ments”; and

7 (ii) by striking “the sanctuary sys-  
8 tem” and inserting “the System”; and

9 (B) in paragraph (3)(B) by striking “2 or  
10 more related sanctuaries” and inserting “, 2 or  
11 more related sanctuaries or marine national  
12 monuments, or the System”.

13 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

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

16 **“SEC. 313. AUTHORIZATION OF APPROPRIATIONS.**

17 “There are authorized to be appropriated to the Sec-  
18 retary—

19 “(1) to carry out this title—

20 “(A) \$60,000,000 for fiscal year 2009;

21 “(B) \$65,000,000 for fiscal year 2010;

22 “(C) \$70,000,000 for fiscal year 2011;

23 “(D) \$75,000,000 for fiscal year 2012;

24 and

25 “(E) \$80,000,000 for fiscal year 2013;

1           “(2) for construction projects at national ma-  
2           rine sanctuaries or marine national monuments,  
3           \$20,000,000 for each of fiscal years 2009, 2010,  
4           2011, 2012, and 2013; and  
5           “(3) to implement section 303(c) of this title,  
6           \$5,000,000.”.

7 **SEC. 15. CONFORMING AMENDMENT TO REFERENCES TO**  
8           **RENAMED COMMITTEE.**

9           Section 304 (16 U.S.C. 1434) is amended by striking  
10 “Committee on Resources” and inserting “Committee on  
11 Natural Resources” each place it appears in subsections  
12 (a)(1)(C), (a)(16), and (b)(2)(A).

○