

# National Marine Sanctuaries Act

PORTIONS, AS AMENDED

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This Act became law on October 23, 1972 (Public Law 92-532, 16 U.S.C. 1431-1445) and has been amended 15 times. This description of the Act, as amended, follows the language of the United States Code except that (in common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

16 U.S.C. 1431,  
Findings, purposes,  
and policies; estab-  
lishment of system

16 U.S.C. 1431(a),  
Congressional  
findings

## Section 301

(a) The Congress finds that—

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

(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.

# National Marine Sanctuaries Act

16 U.S.C. 1431(b),  
Purposes and policies

(b) The purposes and policies of this Act 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.

16 U.S.C. 1431(c),  
Establishment of  
system

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

# National Marine Sanctuaries Act

16 U.S.C. 1432,  
Definitions

## Section 302

As used in this Act, the term—

(1) “**draft management plan**” means the plan described in section 304(a)(1)(C)(v) of this Act [16 U.S.C. 1434(a)(1)(C)(v)];

(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) “**damage**” 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 303(b)(2) of this Act [16 U.S.C. 1433(b)(2)];

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

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

# National Marine Sanctuaries Act

(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 303 of this Act [16 U.S.C. 1443];

(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

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

(10) “**System**” means the National Marine Sanctuary System established by section 301 of this Act [16 U.S.C. 1431].

16 U.S.C. 1433,  
Sanctuary designa-  
tion standards

16 U.S.C. 1433(a),  
Standards

## Section 303

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

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

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

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

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

(C) its resource or human-use values;

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

# National Marine Sanctuaries Act

16 U.S.C. 1433(b),  
Factors and consul-  
tations required in  
making determina-  
tions and findings

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

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

(b)(1) For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a) of this section, the Secretary shall consider—

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

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

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

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

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this Act;

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

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

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

# National Marine Sanctuaries Act

(I) the socioeconomic effects of sanctuary designation;

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

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

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

Consultation

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

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

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

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

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson-Stevens Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

(E) other interested persons.

16 U.S.C. 1434,  
Procedures for  
designation and  
implementation

16 U.S.C. 1434(a),  
Sanctuary proposal

16 U.S.C. 1434(a)(2),  
Sanctuary designa-  
tion documents

## Section 304

(Section 304(a)(1), Notice, omitted)

(a)(2) The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:

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

(B) A resource assessment that documents—

# National Marine Sanctuaries Act

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

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

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

Public disclosure by the Secretary of such information shall be consistent with national security regulations.

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

(i) The terms of the proposed designation.

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

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

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

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

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

# National Marine Sanctuaries Act

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

(E) The basis for the determinations made under section 303(a) of this Act [16 U.S.C. 1433(a)] with respect to the area.

(F) An assessment of the considerations under section 303(b)(1) of this Act [16 U.S.C. 1433(b)(1)].

(Section 304(a)(3), Public hearing, omitted)

16 U.S.C. 1434(a)(4),  
Terms of designation

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

(Remainder of paragraph omitted)

(Subsections 304(b) and (c) omitted)

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

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

16 U.S.C. 1434(d),  
Interagency  
cooperation

16 U.S.C. 1434(d)(1),  
Review of agency  
actions

Agency statements  
required

(d)(1)(A) Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

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



# National Marine Sanctuaries Act

16 U.S.C. 1434(d)(2),  
Secretary's recom-  
mended alternatives

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

16 U.S.C. 1434(d)(3),  
Response to  
recommendations

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

16 U.S.C. 1434(d)(4),  
Failure to follow  
alternative

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

16 U.S.C. 1434(e),  
Review of manage-  
ment plans

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

16 U.S.C. 1434(f),  
Limitation on  
designation of new  
sanctuaries

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

16 U.S.C. 1434(f)(1),  
Finding required

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

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

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

# National Marine Sanctuaries Act

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

16 U.S.C. 1434(f)(2),  
Deadline

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

16 U.S.C. 1434(f)(3),  
Limitation on  
application

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

(A) a Thunder Bay National Marine Sanctuary; or

(B) a Northwestern Hawaiian Islands National Marine Sanctuary.

(Section 305 (16 U.S.C. 1435), Application of regulations, international negotiations, and cooperation, omitted)

16 U.S.C. 1436,  
Prohibited activities

## Section 306

It is unlawful for any person to—

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

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

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

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

(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this Act or any such authorized officer in the conduct of any search or inspection performed under this Act; or

# National Marine Sanctuaries Act

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

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

(Sections 307 and 308 omitted)

## Section 309

16 U.S.C. 1440,  
Research, monitoring,  
and education

16 U.S.C. 1440(a),  
In general

16 U.S.C. 1440(b),  
Research and  
monitoring

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

(b)(i) 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.

Availability of results

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

16 U.S.C. 1440(c),  
Education

(c)(i) 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.

Educational activities

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

# National Marine Sanctuaries Act

16 U.S.C. 1440(d),  
Interpretive facilities  
Facility requirement

(d)(1) The Secretary may develop interpretive facilities near any national marine sanctuary.

(2) 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.

16 U.S.C. 1440(e),  
Consultation and  
coordination

(e) 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.

16 U.S.C. 1441,  
Special use permits

## Section 310

16 U.S.C. 1441(a),  
Issuance of permits

(a) 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.

16 U.S.C. 1441(b),  
Public notice  
required

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

16 U.S.C. 1441(c),  
Permit terms

(c) 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

# National Marine Sanctuaries Act

(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.

(Section 310(d), Fees, omitted)

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

16 U.S.C. 1441(e),  
Violations

(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 307 of this Act [16 U.S.C. 1437]; or

(3) both.

16 U.S.C. 1441(f),  
Reports

(f) 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.

(Remaining text of this section and  
the remaining sections of this Act omitted)