106TH CONGRESS
1ST SESSION

S. 1482

To amend the National Marine Sanctuaries Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 1999

Ms. SNOWE (for herself, Mr. KERRY, Mr. MCCAIN, Mr. HOLLINGS, and Mr. BREAUX) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To amend the National Marine Sanctuaries Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Marine Sanctuaries Amendments Act of 1999''.

SEC. 2. AMENDMENT OF NATIONAL MARINE SANCTUARIES ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal to, or repeal of, a section or

other provision, the reference shall be considered to be made to a section or other provision of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.).

SEC. 3. CHANGES IN FINDINGS, PURPOSES, AND POLICIES.

(a) AMENDMENT OF FINDINGS.—Section 301(a) (16 U.S.C. 1431(a)) is amended—

(1) by striking ''research, educational, or aesthetic'' in paragraph (2) and inserting ''scientific, educational, cultural, archaeological, or aesthetic'';

(2) by inserting ''ecosystem'' after ''comprehensive'' in paragraph (3);

(3) by striking ''wise use'' in paragraph (5) and inserting ''sustainable use'';

(4) by striking ''and'' after the semicolon in paragraph (5);

(5) by striking ''protection of these'' in paragraph (6) and inserting ''protecting the biodiversity, habitats, and qualities of such''; and

(6) by inserting ''and the values and ecological services they provide'' in paragraph (6) after ''living resources''.

(b) AMENDMENT OF PURPOSES AND POLICIES.—Section 301(b) (16 1431(b)) is amended—

(1) by striking ''significance;'' in paragraph (1) and inserting ''significance and to manage these areas as the National Marine Sanctuary System;'';

(2) by striking paragraph (3) and inserting the following:

''(3) to maintain natural biodiversity and biological communities, and to protect, and where appropriate, restore, and enhance natural habitats, populations, and ecological processes;'';

(3) by striking ''understanding, appreciation, and wise use of the marine environment;'' in paragraph (4) and inserting ''understanding, and appreciation of the natural, historical, cultural, and archaeological resources of national marine sanctuaries;'';

(4) by redesignating paragraphs (5) through (9) as paragraphs (6) through (10), and inserting after paragraph (4) the following:

''(5) to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas;'';

(5) by striking ''areas;'' in paragraph (8), as redesignated, and inserting ''areas, including the application of innovative management techniques; and'';

(6) by striking ''marine resources; and'' in paragraph (9), as redesignated, and inserting ''marine and coastal resources.''; and

(7) by striking paragraph (10), as redesignated.

SEC. 4. CHANGES IN DEFINITIONS.

Section 302 (16 U.S.C. 1432) is amended—

(1) by striking ''304(a)(1)(C)(v)'' in paragraph (1) and inserting ''304(a)(2)(A)'';

(2) by striking '' 'Magnuson'' in paragraph (2) and inserting '' 'Magnuson-Stevens'';

(3) by striking ''and'' after the semicolon in subparagraph (B) of paragraph (6);

(4) by striking ''resources;'' in subparagraph (C) of paragraph (6) and inserting ''resources; and'';

(5) by inserting after paragraph (6)(C) the following:

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

(6) by striking ''injury;'' in paragraph (7) and inserting ''injury, including enforcement activities related to any incident;''

(7) by striking ''educational, or '' in paragraph (8) and inserting ''educational, cultural, archaeological,'';

(8) by striking ''and'' after the semicolon in paragraph (8);

(9) by striking ''Magnuson Fishery Conservation and Management Act.'' in paragraph (9) and inserting ''Magnuson-Stevens Act;''; and

(10) by adding at the end thereof the following:

''(10) 'system' means the National Marine Sanctuary System established by section 303; and

''(11) 'person' has the meaning given that term by section 1 of title 1, United States Code, but includes a department, agency, and instrumentality of the government of the United States, a State, or a foreign Nation.''.

SEC. 5. CHANGES IN SANCTUARY DESIGNATION STANDARDS.

Section 303 (16 U.S.C. 1433) is amended—

(1) by striking the section caption and inserting the following:

''SEC. 303. NATIONAL MARINE SANCTUARY SYSTEM.'';

(2) by striking subsection (a) and inserting the following:

''(a) ESTABLISHMENT OF SYSTEM.—There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this title.'';

(3) by striking paragraph (3) of subsection (b), and redesignating paragraphs (1) and (2) as paragraphs (2) and (3);

(4) by striking so much of subsection (b) as precedes paragraph (2), as redesignated, and inserting the following:

"(b) SANCTUARY DESIGNATION STANDARDS.—

"(1) IN GENERAL.—Before designating an area of the marine environment as a national marine sanctuary, the Secretary shall find that—

"(A) the area is of special national significance due to its—

"(i) biodiversity;

"(ii) ecological importance;

"(iii) archaeological, cultural, or historical importance; or

"(iv) human-use values;

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

"(C) designation of the area as a national marine sanctuary will facilitate the objectives in subparagraph (B); and

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

(5) by striking "subsection (a)" in paragraph (2), as redesignated, and inserting "paragraph (1)";

(6) by redesignating subparagraphs (E) through (I) of paragraph (2), as redesignated, as paragraphs (F) through (J), and inserting after paragraph (D) the following:

"(E) the areas's scientific value and value for monitoring as a special area of the marine environment;";

(7) by redesignating subparagraphs (H), (I), and (J), as redesignated, as subparagraphs (I), (J), and (K) and by inserting after subparagraph (G), as redesignated, the following:

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

(8) by striking "vital habitats, and resources which generate tourism;" in subparagraph (I), as redesignated, and inserting "and vital habitats;";

(9) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L), and inserting after subparagraph (I) the following:

"(J) the value of the area as an addition to the System;"; and

(10) by striking "Merchant Marine and Fisheries" in subparagraph (A) of paragraph (3), as redesignated, and inserting "Resources";

(11) by inserting after "Administrator" in subparagraph (B) of paragraph (3), as redesignated the following: "of the Environmental Protection Agency,"; and

(12) by adding at the end of subsection (b) the following:

"(4) REQUIRED FINDINGS.—

"(A) NEW DESIGNATIONS.—Before beginning the designation process for any sanctuary that is not a designated sanctuary before January 1, 2000, the Secretary shall make, and submit to the Congress, a finding that each designated sanctuary has—

"(i) an operational level of facilities, equipment, and employees;

"(ii) a list of priorities it considers most urgent and a strategy to address those priorities;

"(iii) a plan and schedule to complete site characterization studies to inventory existing sanctuary resources, including cultural resources; and

"(iv) a plan for enforcement of the Act within its boundaries, including partnerships with adjacent States or other authorities.

"(B) EXCEPTION.—Subparagraph (A) does not apply to any draft management plan, draft environmental impact statement, or proposed regulation for a Thunder Bay National Marine Sanctuary.".

SEC. 6. CHANGES IN PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) CHANGES IN NOTICE REQUIREMENTS.—Section 304(a) (16 U.S.C. 1434(a)) is amended—

(1) by striking paragraph (1)(C) and inserting the following:

"(C) on the same day the notice required by subparagraph (A) is submitted to the Office of the Federal Register, the Secretary shall sub-

mit a copy of the notice and the draft sanctuary designation documents prepared under paragraph (2) to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.";

(2) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), and inserting the following after paragraph (1):

"(2) SANCTUARY DESIGNATION DOCUMENTS.—The Secretary shall prepare sanctuary designation documents on the proposal that include the following:

"(A) A draft environmental impact statement under paragraph (3).

"(B) A management plan document, which the Secretary shall make available to the public, containing—

"(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, re-

source studies, and appropriate strategies for managing sanctuary resources, including innovative approaches such as marine zoning, interpretation and education, research, monitoring and assessment, resource protection, restoration, and enforcement (including surveillance activities for the area);

''(iv) an evaluation of the advantages of cooperative State and Federal management if all or part of a proposed marine sanctuary is within the territorial limits of a State, or is superjacent to the subsoil and seabed within the seaward boundary of a State (as 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; and

''(vi) the regulations proposed under paragraph (1)(A).

"(C) Maps depicting the boundaries of the proposed sanctuary.

"(D) A statement of the basis for the findings made under section 303(b)(2).

"(E) An assessment of the considerations under section 303(b)(1).

"(F) A resource assessment that includes—

"(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) a discussion, prepared after consultation with the Secretary of the Interior, of any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisidiction 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.''.

(b) OTHER NOTICE-RELATED CHANGES.—Section 304(a) (16 U.S.C. 1434(a)) is further amended—

(1) by striking ''as provided by'' in subparagraph (A) of paragraph (3), as redesignated, and inserting ''under'';

(2) by inserting ''cultural, archaeological,'' after ''educational,'' in paragraph (4), as redesignated;

(3) by striking ''only by the same procedures by which the original designation is made.'' in paragraph (4), as redesignated, and inserting ''by following the applicable procedures of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and chapter 5 of title 5, United States Code.'';

(4) by inserting ''this Act and'' after ''objectives of'' in the second sentence of paragraph (6), as redesignated; and

(5) by striking ''Merchant Marine and Fisheries Resources'' in paragraph (7), as redesignated, and inserting ''Resources''.

(c) OTHER CHANGES.—Section 304 (16 U.S.C. 1434) is amended—

(1) by inserting ''or the national system'' in subsection (b)(2) after ''sanctuary'';

(2) by striking ''management techniques,'' in subsection (e) and inserting ''management techniques and strategies,''; and

(3) by striking ''title.'' in subsection (e) and inserting ''title. This review shall include a prioritization of management objectives.''

SEC. 7. CHANGES IN ACTIVITIES PROHIBITED.

Section 306 (16 U.S.C. 1436) is amended—

(1) by striking ''sell,'' in paragraph (2) and inserting ''offer for sale, sell, purchase, import, export,''; and

(2) by striking paragraph (3) and inserting the following:

''(3) interfere with the enforcement of this title by—

''(A) refusing to permit any authorized officer 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 purpose of conducting a search or inspection in connection with the enforcement of this title;

''(B) assaulting, resisting, opposing, impeding, intimidating, or interfering with any au-

thorized officer in the conduct of any search or inspection under this title;

"(C) submitting false information to the Secretary or any officer authorized by the Secretary in connection with any search or inspection under this title; or

"(D) assaulting, resisting, opposing, impeding, intimidating, harassing, bribing, or interfering with any person authorized by the Secretary to implement the provisions of this title; or".

SEC. 8. CHANGES IN ENFORCEMENT PROVISIONS.

Section 307 (16 U.S.C. 1437) is amended—

(1) by redesignating paragraphs (1) through (5) of subsection (b) as paragraphs (2) through (6), and inserting before paragraph (2) the following:

"(1) arrest any person, if there is reasonable cause to believe that the person has committed an act prohibited by section 306(3);";

(2) by redesignating subsections (c) through (j) as subsections (d) through (k), and inserting after subsection (b) the following:

"(c) CRIMINAL OFFENSES.—

"(1) IN GENERAL.—Violation of section 306(3) is punishable by a fine under title 18, United States

Code, imprisonment for not more than 6 months, or both.

"(2) AGGREVATED VIOLATIONS.—If a person in the course of violating section 306(3)—

"(A) uses a dangerous weapon,

"(B) causes bodily injury to any person authorized to enforce this title or to implement its provisions, or

"(C) causes such a person to fear imminent bodily injury,

then the violation is punishable by a fine under title 18, United States Code, imprisonment for not more than 10 years, or both.";

(3) by redesignating subsections (e) through (k), as redesignated, as subsections (f) through (l), respectively, and by inserting after subsection (d), as redesignated, the following:

"(e) JUDICIAL CIVIL PENALTIES.—The Secretary may bring an action to access and collect any civil penalty for which a person is liable under paragraph (d)(1) in the United States district court for the district in which the person from whom the penalty is sought resides, in which such person's principal place of business is located, or where the incident giving rise to civil penalties under this section occurred.";

(4) by inserting ''electronic files,'' after ''books,'' in subsection (h), as redesignated; and

(5) by redesignating subsections (i) through (l), as designated, as subsections (j) through (m), and by inserting after subsection (h), as redesignated, the following:

''(i) NATIONWIDE SERVICE OF PROCESS.—In any action by the United States under this chapter, process may be served in any district where the defendant is found, resides, transacts business, or has appointed an agent for the service of process.''.

SEC. 9. ADDITIONAL REGULATIONS AUTHORITY ADDED.

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

''SEC. 308. REGULATIONS AND SEVERABILITY.

''(a) REGULATIONS.—The Secretary may issue such regulations as may be necessary to carry out this title.

''(b) SEVERABILITY.—If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of this title and of the application of that provision to other persons and circumstances shall not be affected.''.

SEC. 10. CHANGES IN RESEARCH, MONITORING, AND EDUCATION PROVISIONS.

Section 309 (16 U.S.C. 1440) is amended to read as follows:

"SEC. 309. RESEARCH, MONITORING, AND EDUCATION PROGRAMS AND INTERPRETIVE FACILITIES.

"(a) IN GENERAL.—The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs necessary and reasonable to carry out the purposes and policies of this title.

"(b) RESEARCH AND MONITORING.—The Secretary may support, promote, and coordinate appropriate research on, and long-term monitoring of, the resources and human uses of marine sanctuaries, as is consistent with the purposes and policies of this title. In carrying out this subsection the Secretary may consult with Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons, and coordinate with the National Estuarine Research Reserve System.

"(c) EDUCATION AND INTERPRETIVE FACILITIES.—The Secretary may establish facilities or displays—

"(1) to promote national marine sanctuaries and the purposes and policies of this title; and

"(2) either solely or in partnership with other persons, under an agreement under section 311.".

SEC. 11. CHANGES IN SPECIAL USE PERMIT PROVISIONS.

Section 310 (16 U.S.C. 1441) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), and by inserting after subsection (a) the following:

''(b) PUBLIC NOTICE REQUIRED.—The Secretary shall provide appropriate public notice before identifying any activity subject to a special use permit under subsection (a).'';

(2) by striking ''insurance'' in paragraph (4) of subsection (c), as redesignated, and inserting ''insurance, or post an equivalent bond,'';

(3) by striking ''resource and a reasonable return to the United States Government.'' in paragraph (2)(C) of subsection (d), as redesignated, and inserting ''resource.'';

(4) by redesignating paragraph (3) of subsection (d), as redesignated, as paragraph (4), and by inserting after paragraph (2) thereof the following:

''(3) WAIVER OR REDUCTION OF FEES.—The Secretary may waive or reduce fees under this subsection, or accept in-kind contributions in lieu of fees under this subsection, for activities that do not derive profit from the access to and use of sanctuary

resources or that the Secretary considers to be beneficial to the system.''; and

(5) by striking ''designating and'' in paragraph (4)(B) of subsection (d), as redesignated.

SEC. 12. CHANGES IN COOPERATIVE AGREEMENTS PROVISIONS.

Section 311 (16 U.S.C. 1442) is amended—

(1) by adding at the end of subsection (a) the following: ''Notwithstanding any other provision of law to the contrary, the Secretary may apply for, accept, and use grants from Federal agencies, States, local governments, regional agencies, interstate agencies, foundations, or other persons, to carry out the purposes and policies of this title.''; and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), and inserting after subsection (a) the following:

''(b) USE OF STATE AND FEDERAL AGENCY RESOURCES.—The Secretary may, whenever appropriate, use by agreement the personnel, services, or facilities of departments, agencies, and instrumentalities of the government of the United States or of any State or political subdivision thereof on a reimbursable or non-reimbursable basis to assist in carrying out the purposes and policies of this title.''.

SEC. 13. CHANGES IN PROVISIONS CONCERNING DESTRUCTION, LOSS, OR INJURY.

(a) LIABILITY.—Section 312 (16 U.S.C. 1443(a)) is amended—

(1) by striking ''used to destroy, cause the loss of, or injure'' in subsection (a)(2) and inserting ''that destroys, causes the loss of, or injures'';

(2) by inserting ''or vessel'' after ''person'' in subsection (a)(4);

(3) by inserting ''(as defined in section 302(11))'' after ''damages'' in subsection (b)(2);

(4) by striking ''vessel who'' in subsection (c) and inserting ''vessel that'';

(5) by striking ''person may'' in subsection (c) and inserting ''person or vessel may'';

(6) by inserting ''by the Secretary'' after ''used'' in subsection (d); and

(7) by adding at the end of subsection (d) the following:

''(4) STATUTE OF LIMITATIONS.—An action for response costs and damages under subsection (c) may not be brought more than 2 years after the date of completion of the relevant damage assessment and restoration plan prepared by the Secretary.''.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

Section 313 (16 U.S.C. 1444) is amended by striking paragraphs (1), (2), and (3) and inserting the following:

"(1) $30,000,000 for fiscal year 2000;

"(2) $32,000,000 for fiscal year 2001;

"(3) $34,000,000 for fiscal year 2002;

"(4) $36,000,000 for fiscal year 2003; and

"(5) $38,000,000 for fiscal year 2004.".

SEC. 15. CHANGES IN U.S.S. MONITOR PROVISIONS.

Section 314 (16 U.S.C. 1445) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 16. CHANGES IN ADVISORY COUNCIL PROVISIONS.

Section 315 (16 U.S.C. 1446) is amended by striking "provide assistance" in subsection (a) and inserting "advise and make recommendations".

SEC. 17. CHANGES IN THE SUPPORT ENHANCEMENT PROVISIONS.

Section 316 (16 U.S.C. 1447) is amended—

(1) by striking "use" in subsection (a)(4) and inserting "manufacture, reproduction, or other use";

(2) by striking "sanctuaries;" in subsection (a)(4) and inserting "sanctuaries or by persons that enter cooperative agreements with the Secretary under subsection (f);";

(3) by striking ''symbols'' in subsection (a)(6) and inserting ''symbols, including sale of items bearing the symbols,'';

(4) striking ''Secretary; and'' in paragraph (3) of subsection (f), as redesignated, and inserting ''Secretary, or without prior authorization under subsection (a)(4); or''; and

(5) by adding at the end thereof the following:

''(f) AUTHORIZATION FOR NON-PROFIT ORGANIZATION TO SOLICIT SPONSORS.—

''(1) IN GENERAL.—The Secretary may enter into an agreement with a non-profit organization authorizing it to assist in the administration of the sponsorship program established under this section. Under an agreement entered into under this paragraph, the Secretary may authorize the non-profit organization to solicit persons to be official sponsors of the national marine sanctuary program or of individual national marine sanctuaries, upon such terms as the Secretary deems reasonable and will contribute to the successful administration of the sanctuary system. The Secretary may also authorize the non-profit organization to collect the statutory contribution from the sponsor, and, subject to paragraph (2), transfer the contribution to the Secretary.

"(2) REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—Under the agreement entered into under paragraph (1), the Secretary may authorize the nonprofit organization to retain not more than 5 percent of the amount of monetary contributions it receives from official sponsors under the agreement to offset the administrative costs of the organization in soliciting sponsors.".

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