

NATIONAL MARINE SANCTUARIES ENHANCEMENT ACT OF  
1999

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JULY 12, 1999.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. YOUNG of Alaska, from the Committee on Resources,  
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 1243]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1243) to reauthorize the National Marine Sanctuaries Act, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “National Marine Sanctuaries Enhancement Act of 1999”.

**TITLE I—NATIONAL MARINE SANCTUARIES**

**SEC. 101. AMENDMENT OF NATIONAL MARINE SANCTUARIES ACT.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment 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. 102. FINDINGS; PURPOSES AND POLICIES.**

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

(1) in paragraph (2) by inserting “cultural, archaeological,” after “educational,”; and

(2) in paragraph (5) by inserting “of national marine sanctuaries managed as the National Marine Sanctuary System” after “program”.

(b) PURPOSES AND POLICIES.—Section 301(b) (16 U.S.C. 1431) is amended—

(1) in paragraph (1) by inserting before the semicolon at the end the following: “; and to manage these areas as the National Marine Sanctuary System”; and

(2) in paragraph (4) by inserting before the semicolon at the end the following: “and of the natural, historical, cultural, and archaeological resources of the National Marine Sanctuary System”.

**SEC. 103. DEFINITIONS.**

Section 302 (16 U.S.C. 1432) is amended as follows:

(1) Paragraph (2) is amended by striking “Magnuson Fishery” and inserting “Magnuson-Stevens Fishery”;

(2) Paragraph (6) is amended by striking “and” after the semicolon at the end of subparagraph (B), by inserting “and” after the semicolon at the end of subparagraph (C), and by adding after subparagraph (C) the following:

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

(3) Paragraph (7) is amended by inserting “, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 312” after “injury”.

(4) In paragraph (8) by inserting “cultural, archaeological,” after “educational,”.

(5) In paragraph (9) by striking “Fishery Conservation and Management”.

(6) By striking “and” after the semicolon at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a semicolon, and by adding at the end the following:

“(10) ‘person’ means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government; and

“(11) ‘System’ means the National Marine Sanctuary System established by section 303.”.

**SEC. 104. ESTABLISHMENT OF NATIONAL MARINE SANCTUARY SYSTEM; SANCTUARY DESIGNATION STANDARDS.**

(a) ESTABLISHMENT OF NATIONAL MARINE SANCTUARY SYSTEM.—Section 303 (16 U.S.C. 1433(a)) is amended by striking the heading for the section and all that follows through “(a) STANDARDS.—” and inserting before the remaining matter of subsection (a) the following:

**“SEC. 303. NATIONAL MARINE SANCTUARY SYSTEM.**

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

(b) SANCTUARY DESIGNATION STANDARDS.—Section 303(b)(1) (16 U.S.C. 1433(b)(1)) is amended by striking “and” at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting a semicolon, and by adding at the end the following:

“(J) the area’s value as a site for monitoring and assessment activities; and

“(K) the value of the area as an addition to the System.”.

(c) REPEAL.—Section 303(b)(3) (16 U.S.C. 1433(3)) is repealed.

**SEC. 105. PROCEDURES FOR SANCTUARY DESIGNATION AND IMPLEMENTATION.**

(a) SUBMISSION OF NOTICE OF PROPOSED DESIGNATION TO CONGRESS.—Section 304(a)(1)(C) (16 U.S.C. 1434(a)(1)(C)) is amended to read as follows:

“(C) no later than the day on which the notice required under subparagraph (A) is submitted to Office of the Federal Register, the Secretary shall submit a copy of that notice and the draft sanctuary designation documents prepared pursuant to section 304(a)(2) to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate;”.

(b) SANCTUARY DESIGNATION DOCUMENTS.—Section 304(a)(2) (16 U.S.C. 1434(a)(2)) is amended to read as follows:

“(2) SANCTUARY DESIGNATION DOCUMENTS.—The Secretary shall prepare 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)(i) A resource assessment report documenting present and potential uses of the area proposed to be designated as a national marine sanctuary, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses.

“(ii) The Secretary, in consultation with the Secretary of the Interior, shall draft and include in the report a resource assessment section regarding any commercial, governmental, or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior.

“(iii) The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft and include in the report a resource assessment section that includes any information on past, present, or proposed future disposal or discharge of materials in the vicinity of the area proposed to be designated as a national marine sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.

“(C) A 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 proposed sanctuary.

“(iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including innovative approaches such as marine zoning, interpretation and education, 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) The proposed regulations referred to in paragraph (1)(A).

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

“(E) The basis of the findings made under section 303(a)(2) with respect to the area.

“(F) An assessment of the considerations under section 303(b)(1).

“(G) 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.”

(c) TERMS OF DESIGNATION.—Section 304(a)(4) (16 U.S.C. 1434(a)(4)) is amended by inserting “cultural, archaeological,” after “educational.”

(d) WITHDRAWAL OF DESIGNATION.—Section 304(b)(2) (16 U.S.C. 1434(b)(2)) is amended by inserting “or System” after “sanctuary”.

(e) FEDERAL AGENCY ACTIONS AFFECTING SANCTUARY RESOURCES.—Section 304(d) (16 U.S.C. 1434(d)) is amended by adding at the end the following:

“(4) FAILURE TO FOLLOW ALTERNATIVE.—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 or 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.”

(f) LIMITATION ON DESIGNATION OF NEW SANCTUARIES.—Section 304 (16 U.S.C. 1434) is amended by adding at the end the following:

“(f) LIMITATION ON DESIGNATION OF NEW SANCTUARIES.—

“(1) FUNDING REQUIRED.—The Secretary may not prepare any sanctuary designation documents for a proposed designation of a national marine sanctuary, unless the Secretary has published a finding that—

“(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

“(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.

“(2) LIMITATION ON APPLICATION.—Paragraph (1) does not apply to any sanctuary designation documents for a Thunder Bay National Marine Sanctuary.”.

**SEC. 106. PROHIBITED ACTIVITIES.**

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

(1) in the matter preceding paragraph (1) by inserting “for any person” after “unlawful”;

(2) in paragraph (2) by inserting “offer for sale, purchase, import, export,” after “sell”; and

(3) by amending paragraph (3) to read as follows:

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

“(A) refusing to permit any officer authorized to enforce this title to board a vessel subject to such person’s control for the purposes of conducting any search or inspection in connection with the enforcement of this title;

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

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

**SEC. 107. ENFORCEMENT.**

(a) POWERS OF AUTHORIZED OFFICERS TO ARREST.—Section 307(b) (16 U.S.C. 1437(b)) is amended by striking “and” after the semicolon at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting “; and”, and by adding at the end the following:

“(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 306(3).”.

(b) CRIMINAL OFFENSES.—Section 307 (16 U.S.C. 1437) is amended by redesignating subsections (c) through (j) in order as subsections (d) through (k), and by inserting after subsection (b) the following:

“(c) CRIMINAL OFFENSES.—

“(1) OFFENSES.—A person is guilty of an offense under this subsection if the person commits any act prohibited by section 306(3).

“(2) PUNISHMENT.—Any person that is guilty of an offense under this subsection—

“(A) except as provided in subparagraph (B), shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both; or

“(B) in the case a person who in the commission of such an offense uses a dangerous weapon, engages in conduct that causes bodily injury to any person authorized to enforce this title or any person authorized to implement the provisions of this title, or places any such person in fear of imminent bodily injury, shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.”.

(c) SUBPOENAS OF ELECTRONIC FILES.—Subsection (g) of section 307 (16 U.S.C. 1437), as redesignated by this section, is amended by inserting “electronic files,” after “books,”.

**SEC. 108. MONITORING.**

(a) PROVISION OF SUPPORT OR COORDINATION.—Section 309(a) (16 U.S.C. 1440(a)) is amended by inserting “, support, or coordinate” after “conduct”.

(b) SANCTUARY RESOURCE CENTERS.—Section 309 (16 U.S.C. 1440) is amended by adding at the end the following:

“(c) SANCTUARY RESOURCE CENTERS.—(1) The Secretary may establish facilities to promote national marine sanctuaries and the purposes and policies of this title.

“(2) The Secretary may establish a facility under this subsection in partnership with any person located near a national marine sanctuary, pursuant to an agreement under section 311.”.

**SEC. 109. SPECIAL USE PERMITS.**

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

(1) in subsection (b)(4), by inserting “, or post an equivalent bond,” after “general liability insurance”;

(2) by amending subsection (c)(2)(C) to read as follows:

“(C) an amount that represents the fair market value of the use of the sanctuary resources.”;

(3) in subsection (c)(3)(B), by striking “designating and”;

(4) in subsection (c) by inserting after paragraph (3) the following:

“(4) WAIVER OR REDUCTION OF FEES.—The Secretary may accept in-kind contributions in lieu of a fee under paragraph (2)(C), or waive or reduce any fee assessed under this subsection for any activity that does not derive profit from the use of sanctuary resources.”; and

(5) by adding at the end the following:

“(g) NOTICE.—The Secretary shall provide public notice of any determination that a category of activity may require a special use permit under this section.”.

**SEC. 110. AGREEMENTS, DONATIONS, AND ACQUISITIONS.**

(a) AGREEMENTS AND GRANTS.—Section 311(a) (16 U.S.C. 1442(a)) is amended to read as follows:

“(a) AGREEMENTS AND GRANTS.—The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title.”.

(b) USE OF RESOURCES FROM OTHER GOVERNMENT AGENCIES.—Section 311 (16 U.S.C. 1442) is amended by adding at the end the following:

“(e) USE OF RESOURCES OF OTHER GOVERNMENT AGENCIES.—The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services or facilities of such agency on a reimbursable or non-reimbursable basis, to assist in carrying out the purposes and policies of this title.

“(f) AUTHORITY TO OBTAIN GRANTS.—Notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, the Secretary may apply for, accept, and use grants from other Federal agencies, States, local governments, regional agencies, interstate agencies, foundations, or other persons, to carry out the purposes and policies of this title.”.

**SEC. 111. DESTRUCTION OF, LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.**

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

(1) in subsection (c)—

(A) by inserting “(1)” before the first sentence;

(B) in paragraph (1) (as so designated) in the first sentence by striking “in the United States district court for the appropriate district”; and

(C) by adding at the end the following:

“(2) An action under this subsection may be brought in the United States district court for any district in which—

“(A) the defendant is located, resides, or is doing business, in the case of an action against a person;

“(B) the vessel is located, in the case of an action against a vessel; or

“(C) the destruction of, loss of, or injury to a sanctuary resource occurred.”;

and

(2) by adding at the end the following:

“(e) STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the sanctuary resources to which the action relates.”.

**SEC. 112. AUTHORIZATION OF APPROPRIATIONS.**

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

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

“There are authorized to be appropriated to the Secretary—

“(1) to carry out this title, \$26,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004; and

“(2) for construction projects at national marine sanctuaries, \$3,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004.”.

**SEC. 113. ADVISORY COUNCILS.**

Section 315(a) (16 U.S.C. 1445a(a)) is amended by striking “provide assistance to” and inserting “advise”.

**SEC. 114. USE OF NATIONAL MARINE SANCTUARY PROGRAM SYMBOLS.**

Section 316 (16 U.S.C. 1445b) is amended—

(1) in subsection (a)(4) by striking “use of any symbol published under paragraph (1)” and inserting “manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol.”;

(2) by amending subsection (e)(3) to read as follows:

“(3) to manufacture, reproduce, or otherwise use any symbol adopted by the Secretary under subsection (a)(1), including to sell any item bearing such a symbol, unless authorized by the Secretary under subsection (a)(4) or subsection (f); or”; and

(3) by adding at the end the following:

“(f) COLLABORATIONS.—The Secretary may authorize the use of a symbol adopted by the Secretary under subsection (a)(1) by any person engaged in a collaborative effort with the Secretary to carry out the purposes and policies of this title and to benefit a national marine sanctuary or the System.”.

**SEC. 115. CLERICAL AMENDMENTS.**

(a) CORRECTION OF REFERENCES TO FORMER COMMITTEE.—The following provisions are amended by striking “Merchant Marine and Fisheries” and inserting “Resources”:

(1) Section 303(b)(2)(A) (16 U.S.C. 6 1433(b)(2)(A)).

(2) Section 304(a)(6) (16 U.S.C. 1434(a)(6)).

(3) Section 314(b)(1) (16 U.S.C. 1445(b)(1)).

(b) CORRECTION OF REFERENCES TO RENAMED ACT.—

Section 315(b)(2) (16 U.S.C. 1445a(b)(2)) is amended by striking “Fishery Conservation and Management”.

(c) MISCELLANEOUS.—Section 312(a)(1) (16 U.S.C. 1443(a)(1)) is amended by striking “UNITED STATES” and inserting “UNITED STATES”.

## TITLE II—RESERVES

**SEC. 201. POLICIES AND PURPOSES.**

(a) DECLARATION OF POLICY.—Section 303 of Public Law 94–370 (16 U.S.C. 1452) is amended by striking “and” after the semicolon in paragraph (5), by striking the period at the end of paragraph (6) and inserting a semicolon, and by adding at the end the following:

“(7) to use Federal, State, and community partnerships developed through the system established by section 315 to improve the understanding, stewardship, and management of coastal areas; and

“(8) to encourage the development, application, and transfer to local, State, and Federal resources managers of innovative coastal and estuarine resources management technologies and techniques that promote the long-term conservation of coastal and estuarine resources.”.

(b) PURPOSE.—

(1) IN GENERAL.—Section 315(a) of such Act (16 U.S.C. 1461(a)) is amended by adding at the end the following: “The purpose of each national estuarine reserve and of the System is to improve the understanding, stewardship, and management of coastal areas.”.

(2) DEFINITION.—Section 304(8) of such Act (16 U.S.C. 1453(8)) is amended to read as follows:

“(8) The term ‘national estuarine reserve’ means an area that is a national estuarine reserve under section 315.”.

**SEC. 202. AREAS THAT MAY BE DESIGNATED.**

Section 315(b) of such Act (16 U.S.C. 1461(b)) is amended by adding at the end the following:

“An area designated under this section may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, that constitutes, to the extent feasible, a natural unit.”.

**SEC. 203. DONATIONS.**

Section 315(e) of such Act (16 U.S.C. 1461(e)) is amended by adding at the end the following:

“(4)(A) The Secretary may—

“(i) enter into cooperative agreements or contracts, with, or make grants to, any nonprofit organization established to benefit a national estuarine reserve, authorizing the organization to solicit donations to carry out projects, other

than general administration of the reserve or the System, that are consistent with the purpose of the reserve and the System; and

“(ii) accept donations of funds and services for use in carrying out projects, other than general administration of a national estuarine reserve or the System, that are consistent with the purpose of the reserve and the System.

“(B) Donations accepted under this paragraph shall be considered as a gift or bequest to or for the use of the United States for carrying out this section.”.

**SEC. 204. EVALUATIONS.**

Section 315(f)(1) of such Act (16 U.S.C.1461(f)(1)) is amended by inserting “coordination with State programs established under section 306,” after “including”.

**SEC. 205. AUTHORIZATION.**

Section 318(a) of such Act (16 U.S.C. 1464(a)) is amended by striking “and” after the semicolon at the end of paragraph (1)(C), and by striking paragraph (2) and inserting the following:

“(2) for grants under section 315—

“(A) \$7,000,000 for fiscal year 2000;

“(B) \$8,000,000 for fiscal year 2001;

“(C) \$9,000,000 for fiscal year 2002;

“(D) \$10,000,000 for fiscal year 2003; and

“(E) \$11,000,000 for fiscal year 2004; and

“(3) for grants for construction projects at national estuarine reserves designated under section 315, \$12,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004.”.

Amend the title so as to read:

A bill to reauthorize and amend the National Marine Sanctuaries Act, and for other purposes.

PURPOSE OF THE BILL

The purpose of H.R. 1243, as ordered reported, is to reauthorize and amend the National Marine Sanctuaries Act, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The National Marine Sanctuaries Act of 1972 (NMSA, 16 U.S.C. 1431 et seq.) was passed as Title III of Public Law 92-532. The NMSA authorizes the Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration (NOAA), to designate and manage areas of the marine environment with nationally significant aesthetic, ecological, historical, or recreational values as National Marine Sanctuaries. The purposes and policies of the NMSA state multiple goals: to protect marine resources, such as coral reefs, sunken historical vessels or unique habitats, while facilitating all compatible public and private uses of those resources. The current authorization of appropriations expires on September 30, 1999.

NOAA administers the National Marine Sanctuary Program through the Marine Sanctuaries Division of the Office of Ocean and Coastal Resource Management. Twelve areas have been designated as National Marine Sanctuaries (Table 1). They range in size from less than one square mile (Fagatele Bay in American Samoa) to over 5,300 square miles (Monterey Bay in California) and include nearshore coral reefs, open ocean and shipwrecks. Six of the 12 sanctuaries have been designated since 1990. One additional area, Thunder Bay, Michigan, is an active candidate for designation. These sanctuaries support valuable commercial activities such as fishing and kelp harvesting while providing areas for public education, monitoring, research, and sportfishing.

**Table 1. Existing and Proposed National Marine Sanctuaries**

<b>SITE NAME</b>	<b>LOCATION</b>	<b>SIZE (Sq. Miles)</b>	<b>DESIGNATION DATE<sup>1</sup></b>
Channel Islands	CA	1658	September 1980
Cordell Bank	CA	526	May 1989
Fagatele Bay	AS	0.25	April 1986
<i>Florida Keys<sup>2</sup></i>	<i>FL</i>	<i>3674</i>	<i>November 1990</i>
<i>Flower Garden Banks</i>	<i>TX/LA</i>	<i>56</i>	<i>January 1992</i>
<i>Gerry E. Studds Stellwagen Bank</i>	<i>MA</i>	<i>842</i>	<i>November 1992</i>
Gray's Reef	GA	23	January 1981
Gulf of the Farallones	CA	1255	January 1981
<i>Hawaiian Islands Humpback Whale</i>	<i>HI</i>	<i>1370</i>	<i>November 1992</i>
USS Monitor	NC	1	January 1975
<i>Monterey Bay</i>	<i>CA</i>	<i>5328</i>	<i>September 1992</i>
Olympic Coast	WA	3310	July 1994
Thunder Bay	MI	808	Target: October 1999

<sup>1</sup> Italics denotes statutory designation by Congress.

<sup>2</sup> The Florida Keys National Marine Sanctuary was designated by Congress in Public Law 101-605. The designation incorporated the areas previously designated as the Key Largo (1975) and Looe Key (1981) National Marine Sanctuaries.



The Secretary may designate an area as a National Marine Sanctuary if the area meets the criteria established in the NMSA. Sanctuary designations must consider the site's aesthetic, conservation, ecological, recreational, educational, historical and research values. Congress has the authority to review a sanctuary designation before it becomes final. In the case of a sanctuary which is located partially or wholly within the seaward boundary of any State, the Governor of that State has the authority to fully or partially block designation in State waters. Congress has legislatively designated five National Marine Sanctuaries, and has passed legislation relating to several others.

The NMSA protects areas designated as National Marine Sanctuaries in several ways. First, the NMSA provides civil penalties for persons who destroy, cause the loss of, or injure sanctuary resources protected under a sanctuary's regulations. Persons who interfere with the enforcement of sanctuary regulations also face civil penalties. Sanctuaries are covered by strict vessel liability provisions, which apply to oil spills, groundings, or other actions that damage marine sanctuary resources. Second, the NMSA requires that federal agencies conducting activities likely to affect sanctuary resources consult with the Secretary of Commerce. Third, legislation establishing a sanctuary can also limit activities there. For example, amendments to the NMSA prohibit offshore oil and gas leasing within the Monterey Bay National Marine Sanctuary.

Sanctuaries are managed on a site-by-site basis according to detailed sanctuary management plans, prepared NOAA and published in the Federal Register. The Secretary is authorized to establish advisory councils to provide assistance in designating and managing National Marine Sanctuaries. In most cases, advisory councils are established prior to designation, and may remain active after designation. Six sanctuaries currently have actively operating advisory councils. The Secretary also works with appropriate Regional Fishery Management Councils established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to prepare fishing regulations for sanctuaries within the U.S. 200-mile Exclusive Economic Zone.

H.R. 1243 would reauthorize the National Marine Sanctuary Program for five years at the Administration's fiscal year 2000 funding request levels. This includes \$26 million to operate the sanctuaries and \$3 million for construction projects at the sanctuaries annually. Although the NMSA has been in existence for 27 years, not all of the existing sanctuary management plans have been fully implemented. NOAA believes that only 31 percent of sanctuary sites have reached a "baseline operational level." The increased authorization is needed to improve operations at existing sanctuaries, which have been chronically underfunded. The Committee believes that this level of funding will allow the agency to bring the National Marine Sanctuary Program up to the minimum funding level required to operate the existing sanctuaries, make progress on site characterizations, improve outreach and local involvement at the sites, and plan for future needs. The construction funds will be used to develop sanctuary visitor centers in cooperation with other federal agencies and existing aquaria, museums, universities and other facilities.

The Committee is concerned with the operation, administration and maintenance of existing sanctuaries. To address this concern, H.R. 1243 prohibits NOAA from designating additional sanctuaries or undertaking any new efforts to propose additional sanctuaries until the Secretary can determine that the addition of a new sanctuary will not have a negative impact on existing sanctuaries and that sufficient funding is available to effectively implement sanctuary management plans and make progress towards completing site characterization studies within 10 years.

Title II of H.R. 1243 reauthorizes the National Estuarine Research Reserve System for five years. Authorization of appropriations for the System expires on September 30, 1999. The reserves are well-established federal and State partnerships funded through NOAA's Office of Ocean and Coastal Resources Management, Estuarine Reserves Division. Day-to-day management of the reserves remains the responsibility of State and local authorities. The System was established as part of the 1972 Coastal Zone Management Act (16 U.S.C. 1451 et seq.) to protect key areas suitable for study, monitoring and public education activities related to coastal issues and estuarine habitat. National Estuarine Research Reserves are not affiliated with the National Estuary Program administered by the Environmental Protection Agency under the Clean Water Act.

Estuaries are vibrant, dynamic ecosystems that provide habitat for many plant, animal and important fish species. In addition to acting as nurseries for juvenile fish and wintering grounds for migratory waterfowl, these coastal wetlands provide flood control benefits and protect shorelines from storm damage. Despite their importance, many estuaries suffer from degraded habitat, poor water quality, harmful algal blooms and face increasing development pressure. The problems faced by these systems are poorly understood and the values these areas provide are often difficult to quantify. The National Estuarine Research Reserve System is an important component of this Nation's resource protection and management efforts. Currently, the System consists of 23 reserves in 20 States and territories, covering nearly 1,000,000 acres of land and water habitat (Table 2). The acreage of the System is expected to increase with the addition of four new reserves into the System in the near future.

**Table 2. Existing and Proposed National Estuarine Research Reserves**

SITE NAME	LOCATION	SIZE (Acres)	DATE EST.	AGENCY PARTNER
ACE Basin	SC	140,312	1992	South Carolina Department of Natural Resources
Apalachicola	FL	193,758	1979	Florida Department of Environmental Protection
Chesapeake Bay - VA	VA	4,435	1991	Virginia Institute of Marine Science of the College of William and Mary
Chesapeake Bay - MD	MD	4,820	1985	Maryland Department of Natural Resources
Delaware	DE	911	1993	Delaware Department of Natural Resources and Environmental Control
Elkhorn Slough	CA	1,400	1979	California Department of Fish and Game
Grand Bay*	MS	15,000	<i>In progress</i>	Mississippi Department of Marine Resources and Mississippi State University
Great Bay	NH	5,280	1989	New Hampshire Fish and Game Department
Guana-Tolomato-Matanzas*	FL	55,000	<i>In progress</i>	Florida Department of Environmental Protection
Hudson River	NY	4,838	1982	New York State Department of Environmental Conservation
Jobos Bay	PR	2,883	1981	Department of Natural and Environmental Resources of Puerto Rico
Kachemak Bay	AK	365,000	1999	Alaska Dept. of Fish and Game
Mullica River - Great Bay (Jacques Cousteau)	NJ	156,000	1997	Institute of Marine and Coastal Sciences, Rutgers University and New Jersey Department of Environmental Protection
Narragansett Bay	RI	4,950	1980	Rhode Island Department of Environmental Management

North Inlet - Winyah Bay	SC	11,500	1992	Belle W. Baruch Institute for Marine Biology and Coastal Research, University of South Carolina
North Carolina	NC	10,000	1985	North Carolina Division of Coastal Management
Old Woman Creek	OH	571	1980	Ohio Department of Natural Resources Division of Natural Areas and Preserves
Padilla Bay	WA	11,200	1980	Washington State Dept. of Ecology
Rookery Bay	FL	12,500	1978	Florida Department of Environmental Protection
<i>San Francisco Bay*</i>	CA	8,647	<i>In progress</i>	<i>San Francisco State University</i>
Sapelo Island	GA	17,950	1976	Georgia Department of Natural Resources
South Slough	OR	4,700	1974	Oregon Division of State Lands
<i>St. Lawrence River*</i>	NY	5,728	<i>In progress</i>	<i>New York State Department of State</i>
Tijuana River	CA	2,500	1982	California Department of Parks and Recreation
Waquoit Bay	MA	2,250	1988	Massachusetts Department of Environmental Management - Division of Forest & Parks
Weeks Bay	AL	3,000	1986	Alabama Department of Economic and Community Affairs
Wells	ME	1,600	1986	Maine Reserve Management Authority

\* *Italics denote proposed designation*

## COMMITTEE ACTION

H.R. 1243 was introduced by Congressmen Jim Saxton (R-NJ) on March 24, 1999. The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Fisheries Conservation, Wildlife and Oceans. On May 6, 1999, the Subcommittee held a hearing on the bill. Testimony was received from Ms. Sally Yozell, Deputy Assistant Secretary for Oceans and Atmosphere (NOAA) and Dr. Jane Lubchenco, Distinguished Professor of Zoology at Oregon State University. The Department of Commerce submitted its official views on H.R. 1243 on May 26, 1999. The Administration generally supported the legislation, but enumerated several concerns regarding the language of the sanctuary designation moratorium. On May 27, 1999, the Subcommittee met to mark up the bill. Mr. Saxton offered an amendment in the nature of a substitute which addressed many of the Administration's concerns. The amendment was adopted by voice vote, and the bill, as amended, was ordered favorably reported to the Full Committee on Resources by voice vote. On June 9, 1999, the Full Resources Committee met to consider the bill. Mr. Saxton offered an amendment in the nature of a substitute to resolve remaining issues and revise the language pertaining to the sanctuary designation moratorium. This amendment was adopted by voice vote. The bill, as amended, was then ordered favorably reported to the House of Representatives by voice vote.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short title*

The short title of H.R. 1243 is the "National Marine Sanctuary Enhancement Act of 1999."

## TITLE I NATIONAL MARINE SANCTUARIES

*Section 101. Amendment of National Marine Sanctuaries Act*

Except as otherwise provided, all references in Title I of H.R. 1243 refer to the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.).

*Section 102. Findings; purposes and policies*

This section amends the findings, purposes and policies of the NMSA to include maintaining and preserving "cultural and archeological resources" in addition to "natural and living resources." Section 102 also establishes the existing sanctuaries as the National Marine Sanctuary System for the purpose of managing the sanctuaries as a system.

*Section 103. Definitions*

Section 103 amends Section 302 of the NMSA to correct the reference to the Magnuson-Stevens Fishery Conservation and Management Act, and amend the definition of "damages" to include "the cost of curation and conservation of archeological, historical, and cultural sanctuary resources." The term "response costs" is amended to include "costs related to seizure, forfeiture, storage, or disposal arising from liability under a response action." Under this

definition of response costs, the Secretary is allowed to collect the costs of seizure, forfeiture, storage and disposal incurred by the federal government as part of a response effort. The term “sanctuary resource” is amended to include cultural and archaeological values. This section also creates new definitions for the terms “person” and “System.” The term “person” is identical to that used in the Magnuson-Stevens Fishery Conservation and Management Act. “System” means the National Marine Sanctuary System established in Section 104 of H.R. 1243.

*Section 104. Establishment of National Marine Sanctuary System; sanctuary designation standards*

Section 104 amends Section 303 of the NMSA to incorporate the existing sanctuaries into the National Marine Sanctuary System and add two new factors for consideration by the Secretary when proposing new sanctuaries. Prior to designating a new sanctuary, the Secretary must consider the area’s value as a site for ocean assessment and monitoring, and the benefits to the System of adding the proposed sanctuary. Section 104 also moves the requirements pertaining to the resource assessment report to NMSA Section 304. This move consolidates the information needed for sanctuary designation and implementation of sanctuary management plans.

*Section 105. Procedures for sanctuary designation and implementation*

This section restructures the procedures the Secretary must follow to designate sanctuaries. Currently, sanctuary designation activities are scattered throughout the NMSA. This section is intended to clarify the procedure, and does not add any new requirements or remove any existing requirements. Section 105 amends NMSA Section 304 to include a list of all of the documents the Secretary needs to prepare to propose a new sanctuary. These include a draft environmental impact statement, resource assessment report, draft management plan, terms of designation, proposed regulations, and maps. Additionally, the Secretary is required to submit notice of the sanctuary proposal to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate. Section 105 also requires other federal agencies to work with the Secretary and take responsibility to mitigate destruction, loss of, or injury to, sanctuary resources when taking an action contrary to a recommended alternative given by the Secretary, and that action causes injury to a sanctuary resource.

Section 105 prohibits the Secretary from designating additional sanctuaries until the Secretary publishes a finding that the addition of the new sanctuary will not have a negative impact on the System, and that sufficient funding is available to implement sanctuary management plans and complete site characterization studies within 10 years. This limitation does not apply to the proposed Thunder Bay Sanctuary.

*Section 106. Prohibited activities*

Section 106 amends Section 306 of the NMSA to make it illegal to offer for sale, purchase, import or export sanctuary resources.

Currently, it is only illegal to sell sanctuary resources. Section 106 also provides an explicit list of activities that constitute “interfering with the enforcement” of the NMSA, including the following: refusing to permit any authorized officer to board a vessel to conduct a search; forcibly assaulting or resisting any person authorized to enforce the NMSA; and knowingly and willfully submitting false information to the Secretary in connection with a search. This change is necessary because Section 107 of H.R. 1243 establishes criminal penalties for persons who interfere with the enforcement of the NMSA.

#### *Section 107. Enforcement*

Section 107 amends Section 307 of the NMSA to grant authorized officials the authority to arrest any person if there is reasonable cause to believe that the person has committed a prohibited act under the NMSA. This section includes, for the first time, criminal penalties for interfering with the enforcement of the NMSA in addition to the existing civil penalties for lesser infractions. The listed criminal offenses include: refusing to allow an authorized search; forcibly assaulting or resisting an officer, and knowingly and willfully submitting false information. Punishment for these crimes includes fines and prison sentences under Title 18 of the U.S. Code and is consistent with the Magnuson-Stevens Fishery Conservation and Management Act. Section 107 also authorizes the Secretary to subpoena electronic files needed in connection with an investigation under the NMSA.

#### *Section 108. Monitoring*

Section 108 amends Section 309 of the NMSA to allow the Secretary to support or coordinate monitoring and research activities carried out by third parties such as universities, non-profit groups, and other government agencies in National Marine Sanctuaries. Currently, NOAA is required to conduct all monitoring and research at the sanctuaries. This change will allow NOAA to enter into partnerships to carry out these types of activities. Section 108 authorizes the Secretary to establish Sanctuary Resource Centers which are intended to be visitor and education centers necessary to carry out the purposes, policies and management plans of the sanctuaries. In lieu of new construction, the Secretary is encouraged to enter into partnerships and agreements with existing facilities such as aquaria, universities or other government agencies that are located near the appropriate sanctuary when establishing Sanctuary Resource Centers.

#### *Section 109. Special use permits*

Section 109 amends Section 310 of the NMSA to allow persons applying for a special use permit to post a bond instead of maintaining liability insurance. Section 310 of the NMSA already allows the Secretary to charge fees for special use permits that represent the fair market value of the use. Section 109 of H.R. 1243 allows the Secretary to continue charging fees for special use permits that represent fair market value, but deletes the phrase “and a reasonable return to the United States Government.” Section 109 allows the Secretary to waive or reduce the fees, or accept in-kind con-

tributions, when the activity carried out under the special use permit is not intended to derive profit from the sanctuary (e.g., educational and research activities). This section also requires the Secretary to provide public notice of the categories of activities that may require special use permits under this section. Recreational fishing is covered under 16 U.S.C. 1434(a)(5), and other applicable State and federal laws, and is not subject to special use permits under this section.

*Section 110. Cooperative agreements, donations and acquisitions*

Section 110 clarifies Section 311 of the NMSA regarding cooperative agreements, grants, contracts and other agreements between the Secretary and other parties. Section 110 allows the Secretary to apply for and use grants provided under other federal programs to carry out the purposes and policies of the National Marine Sanctuaries Act. The Secretary is authorized to enter into contracts or other agreements with other government agencies (federal, State or local) to coordinate resources, capital, and personnel for use in the sanctuaries. This provision allows NOAA to contract with local authorities for monitoring, enforcement and other activities that can be more efficiently carried out using existing non-federal personnel and assets.

*Section 111. Destruction of, loss of, or injury to, sanctuary resources*

Section 111 amends Section 312 of the NMSA to give the Secretary the option to commence a civil action for damage to a sanctuary resource in the United States district court for any district which the defendant is located, the vessel which damaged the resource is located, or sanctuary resource location. Current law does not specify the venue for a civil action brought by the Secretary under the NMSA. Section 111 also places a three-year statute of limitations on actions brought by the Secretary to recover response costs that result from an injury to sanctuary resources. The limitation begins three years from the date that the Secretary completes a damage assessment and restoration plan. Existing law places no statute of limitations on actions to recover response costs.

*Section 112. Authorization of appropriations*

Section 112 amends Section 313 of the NMSA. It authorizes \$26 million for operations at the sanctuaries and \$3 million for construction projects at the sanctuaries for each of fiscal years 2000 through 2004.

*Section 113. Advisory councils*

This section amends Section 315 of the NMSA to clarify the role of advisory councils from "provide assistance to" the Secretary to "advise" the Secretary.

*Section 114. Use of National Marine Sanctuary Program symbols*

Under Section 316 of the NMSA, the Secretary may authorize the use of sanctuary logos and symbols by official sanctuary sponsors. Section 114 allows the Secretary to authorize the use, manufacture, reproduction, or any other use, including the sale of items bearing sanctuary symbols and logos, by official sanctuary sponsors



as well as by non-financial sanctuary partners (known as collaborators) provided that such use is beneficial to the System. Section 114 makes it unlawful for any person to manufacture, reproduce, or otherwise use official sanctuary logos or symbols unless specifically authorized by the Secretary.

*Section 115. Clerical amendments*

Section 115 makes numerous technical corrections to the NMSA, including correcting references from the defunct Merchant Marine and Fisheries Committee to the Committee on Resources of the House of Representatives, and correcting the references to the Magnuson-Stevens Fishery Conservation and Management Act.

TITLE II—RESERVES

*Section 201. Policies and purposes*

Section 201 clarifies the policies of the 1972 Coastal Zone Management Act (CZMA, 16 U.S.C. 1451 et seq.) as they pertain to the National Estuarine Research Reserve System. Section 201 amends Section 303 of the CZMA to state that it is the policy of the National Estuarine Research Reserve System to develop federal, State and community partnerships to improve the understanding, management and stewardship of coastal areas and to encourage the development, application and transfer of innovative coastal management technologies to local, State and federal resource managers. Section 201 also replaces the definition of the term “estuarine sanctuary” with “national estuarine reserve” in Section 304 of the CZMA.

*Section 202. Areas that may be designated*

Section 202 amends Section 315 of the CZMA to clarify that areas designated as estuarine reserves may include estuaries, islands, transitional lands, and adjoining upland to the extent that this land constitutes a natural ecosystem unit, such as a watershed.

*Section 203. Donations*

Section 203 amends CZMA Section 315 to authorize the Secretary to enter into cooperative agreements and contracts with, or make grants to, any nonprofit organization established to benefit a National Estuarine Research Reserve, to the extent that such activities are consistent the purposes of the National Estuarine Research Reserve System. The Secretary is also authorized to accept donations to carry out research and education projects at the reserves. This change allows the estuarine reserves to use volunteers and donations, and is consistent with existing law pertaining to National Marine Sanctuaries and National Wildlife Refuges.

*Section 204. Evaluations*

Under existing law, the Secretary is required to periodically evaluate the operations and activities of the National Estuarine Research Reserves. Section 204 amends the CZMA to require the Secretary to include an evaluation of efforts to coordinate reserve ac-

tivities with State coastal zone management programs established under the Coastal Zone Management Act.

*Section 205. Authorization*

Section 205 amends Section 318 of the CZMA to authorize the following appropriations to administer the National Estuarine Research Reserve Program: \$7 million in fiscal year 2000; \$8 million in fiscal year 2001; \$9 million in fiscal year 2002; \$10 million in fiscal year 2003; and \$11 million in fiscal year 2004. This section also authorizes \$12 million for construction at the reserves for each of fiscal years 2000 through 2004.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

FEDERAL ADVISORY COMMITTEE STATEMENT

H.R. 1243 reauthorizes funding for an existing advisory committee whose functions could not be performed by one or more agencies, or by enlarging the mandate of another existing advisory committee.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.* Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.* As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of H.R. 1243 would increase revenues to the federal government and also increase direct spending but that the bill "would not have a significant effect on the federal budget in any year."

3. *Government Reform Oversight Findings.* Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. *Congressional Budget Office Cost Estimate.* Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 1, 1999.*

Hon. DON YOUNG,  
*Chairman, Committee on Resources,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1243, the National Marine Sanctuaries Enhancement Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

BARRY A. ANDERSON  
(For Dan L. Crippen, Director).

Enclosure.

*H.R. 1243—National Marine Sanctuaries Enhancement Act of 1999*

Summary: Assuming appropriation of the authorized amounts, CBO estimates that implementing H.R. 1243 would cost the federal government \$225 million over the 2000–2004 period. (The balance of \$25 million of the authorized funds would be spent in subsequent years.) The bill could affect direct spending and governmental receipts; therefore, pay-as-you-go procedures would apply. CBO estimates, however, that any effects on receipts or direct spending would be minimal. H.R. 1243 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). State and local governments might incur some costs as a result of the bill's enactment, but these costs would be voluntary.

H.R. 1243 would amend the National Marine Sanctuaries Act, which authorizes and governs two programs carried out by the National Oceanic and Atmospheric Administration (NOAA): the National Marine Sanctuaries System (NMSS) and the National Estuarine Research Reserve System (NERRS). The amendments would streamline the process for designating new sites for the NMSS, strengthen existing enforcement measures, and authorize new direct construction activities at units of the two systems. In addition, the bill would authorize appropriations for new and existing activities to support these systems.

Title I would authorize the appropriation of \$26 million annually over the 2000–2004 period for operation of the NMSS and \$3 million annually over the same period for new construction projects at marine sanctuaries. Title II would authorize appropriations for grants made under the NERRS program. The bill would authorize grants for new construction projects at national estuarine reserves (\$12 million annually over the 2000–2004 period) and grants for reserve operations and other NERRS purposes (\$7 million for 2000,

\$8 million for 2001, \$9 million for 2002, \$10 million for 2003, and \$11 million for 2004).

In addition to amendments made to streamline or enhance the NMSS and NERRS programs and to the authorizations of appropriations for the two systems, other provisions of the bill would:

Increase civil penalties imposed on persons who damage sanctuary resources and make other federal agencies who take actions (other than those recommended by NOAA) that affect marine sanctuaries liable for the costs of mitigating any harm and restoring or replacing damaged resources:

Change the way NOAA sets fees for special use permits at sanctuaries;

Clarify how NOAA may collaborate with other entities in using NMSS symbols to enhance the system;

Allow the agency to apply for, accept, and use grant funds from state, local, and regional government agencies; and

Authorize the agency to accept and use donations from non-profit groups (under cooperative agreements) and others in carrying out activities at national estuaries.

Other provisions of the bill, most of which would make technical amendments to the National Marine Sanctuaries Act, would have little or no effect on the federal budget.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 1243 is shown in the following table. The costs of this legislation fall within budget function 300 (natural resources and environment).

For purposes of this estimate, CBO assumes that the entire amounts authorized for all activities will be appropriated in each fiscal year. Outlays are based on historical spending patterns for the affected programs or, in the case of the new construction authorizations, similar activities of NOAA.

Section 105 of H.R. 1243 would specifically make federal agencies liable for damages they may cause to marine sanctuaries if their activities are not approved or recommended by NOAA. The costs of mitigating damage to sanctuaries and restoring or replacing damaged resources could be significant, but CBO believes that such costs would have been incurred under existing law even in the absence of this provision.

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Budget Authority <sup>1</sup> .....	26	0	0	0	0	0
Estimated Outlays .....	21	7	3	2	0	0
Proposed Changes:						
Authorization Level .....	0	48	49	50	51	62
Estimated Outlays .....	0	32	43	48	50	52
Spending Under H.R. 1243:						
Authorization Level <sup>1</sup> .....	26	48	49	50	40	52
Estimated Outlays .....	21	39	46	50	50	52

<sup>1</sup>The 1999 level is the amount appropriated for that year for NMSS and NERRS. Of this amount, about \$7 million was appropriated for construction at national estuaries.

Section 106 would amend enforcement provisions of the National Marine Sanctuaries Act. Because this section would raise civil pen-

alties imposed under the act, governmental receipts could increase. CBO estimates that any increases would be less than \$500,000 a year.

Several other provisions could affect offsetting receipts (a credit against direct spending) or governmental receipts. Because all of the changes in such receipts would be offset by equal changes in direct spending, none of these provisions would have any net effect on the federal budget over time. Moreover, most such changes would be negligible. These provisions are:

Section 109, which could result in additional offsetting receipts by making it easier for NOAA to charge fees for special use permits at sanctuaries, and which could result in lower receipts by preventing the agency from recovering certain sanctuary-related expenses and by allowing it to accept in-kind contributions in lieu of fees;

Section 110, which would allow NOAA to accept and use grants provided by state, local, or regional government agencies.

Section 114, which would clarify that NOAA may authorize the use of certain symbols of the NMSS by collaborators engaged in joint efforts with the agency to benefit the system; and

Section 203, which would grant the NERRS program the same authority to collect and use private donations as the NMSS program enjoys.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. Several provisions of H.R. 1243 could affect direct spending and governmental receipts. CBO estimates, however, that these provisions would not have a significant effect on the federal budget in any year.

Estimated impact on state, local, and tribal governments: H.R. 1243 contains no intergovernmental mandates as defined in UMRA. Both of the programs reauthorized by this bill involve voluntary participation by state and local governments, particularly the National Estuarine Reserve System, which is based on established federal and state partnerships.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal costs: Deborah Reis; impact on state, local, and tribal governments: Marjorie Miller.

Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

#### COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

#### PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill,

as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### NATIONAL MARINE SANCTUARIES ACT

#### SEC. 301. FINDINGS, PURPOSES, AND POLICIES.

(a) FINDINGS.—The Congress finds that—

(1) \* \* \*

(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational, *cultural, archaeological*, or esthetic qualities which give them special national, and in some cases international, significance;

\* \* \* \* \*

(5) such a Federal program *of national marine sanctuaries managed as the National Marine Sanctuary System* will also serve to enhance public awareness, understanding, appreciation, and wise use of the marine environment; and

\* \* \* \* \*

(b) PURPOSES AND POLICIES.—The purposes and policies of this title 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*;

\* \* \* \* \*

(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment *and of the natural, historical, cultural, and archaeological resources of the National Marine Sanctuary System*;

\* \* \* \* \*

#### SEC. 302. DEFINITIONS.

As used in this title, the term—

(1) \* \* \*

(2) “Magnuson Act” means the **【Magnuson Fishery】** *Magnuson-Stevens Fishery* Conservation and Management Act (16 U.S.C. 1801 et seq.);

(6) “damages” includes—

(A) \* \* \*

(B) the cost of damage assessments under section 312(b)(2); **【and】**

(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources; *and*

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

(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 312*;

(8) “sanctuary resource” means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, *cultural, archaeological,* or aesthetic value of the sanctuary; **[and]**

(9) “exclusive economic zone” means the exclusive economic zone as defined in the Magnuson **[Fishery Conservation and Management]** Act**【.】**;

(10) “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government; and

(11) “System” means the National Marine Sanctuary System established by section 303.

**【SEC. 303. SANCTUARY DESIGNATION STANDARDS.**

**【(a) STANDARDS.—】**

**SEC. 303. NATIONAL MARINE SANCTUARY SYSTEM.**

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

(1) \* \* \*

\* \* \* \* \*

(b) **FACTORS AND CONSULTATIONS REQUIRED IN MAKING DETERMINATIONS AND FINDINGS.—**

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

(A) \* \* \*

\* \* \* \* \*

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

(I) the socioeconomic effects of sanctuary designation**【.】**;

(J) the area’s value as a site for monitoring and assessment activities; and

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

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

(A) the Committee on **【Merchant Marine and Fisheries】 Resources** of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

\* \* \* \* \*

**【(3) RESOURCE ASSESSMENT REPORT.—**In making determinations and findings, the Secretary shall draft, as part of the environmental impact statement referred to in section 304(a)(2), a resource assessment report documenting present and poten-

tial 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. The Secretary, in consultation with the Secretary of the Interior, shall draft a resource assessment section for the report regarding any commercial, governmental, or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior. The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information 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.】

**SEC. 304. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.**

(a) SANCTUARY PROPOSAL.—

(1) NOTICE.—In proposing to designate a national marine sanctuary, the Secretary shall—

(A) \* \* \*

\* \* \* \* \*

【(C) on the same day the notice required by subparagraph (A) is issued, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate documents, including an executive summary, consisting of—

【(i) the terms of the proposed designation;

【(ii) the basis of the findings made under section 303(a) with respect to the area;

【(iii) an assessment of the considerations under section 303(b)(1);

【(iv) proposed mechanisms to coordinate existing regulatory and management authorities within the area;

【(v) the draft management plan detailing the proposed goals and objectives, management responsibilities, resource studies, interpretive and educational programs, and enforcement, including surveillance activities for the area;

【(vi) an estimate of the annual cost of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education;

【(vii) the draft environmental impact statement;

【(viii) 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 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.); and



[(ix) the proposed regulations referred to in subparagraph (A).

(C) *no later than the day on which the notice required under subparagraph (A) is submitted to Office of the Federal Register, the Secretary shall submit a copy of that notice and the draft sanctuary designation documents prepared pursuant to section 304(a)(2) to the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;*

[(2) ENVIRONMENTAL IMPACT STATEMENT.—The Secretary shall—

[(A) prepare a draft environmental impact statement, as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), on the proposal that includes the resource assessment report required under section 303(b)(3), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area; and

[(B) make copies of the draft environmental impact statement available to the public.]

(2) *SANCTUARY DESIGNATION DOCUMENTS.—The Secretary shall prepare 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)(i) *A resource assessment report documenting present and potential uses of the area proposed to be designated as a national marine sanctuary, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses.*

(ii) *The Secretary, in consultation with the Secretary of the Interior, shall draft and include in the report a resource assessment section regarding any commercial, governmental, or recreational resource uses in the area under consideration that are subject to the primary jurisdiction of the Department of the Interior.*

(iii) *The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft and include in the report a resource assessment section that includes any information on past, present, or proposed future disposal or discharge of materials in the vicinity of the area proposed to be designated as a national marine sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.*

(C) *A 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 proposed sanctuary.*

(iii) *The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including innovative approaches such as marine zoning, interpretation and education, 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) *The proposed regulations referred to in paragraph (1)(A).*

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

(E) *The basis of the findings made under section 303(a)(2) with respect to the area.*

(F) *An assessment of the considerations under section 303(b)(1).*

(G) *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.*

\* \* \* \* \*

(4) **TERMS OF DESIGNATION.**—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, *cultural, archaeological*, 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.

\* \* \* \* \*

(6) **COMMITTEE ACTION.**—After receiving the documents under subsection (a)(1)(C), the Committee on **Merchant Marine and Fisheries** *Resources* of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate may each hold hearings on the proposed designation and on the matters set forth in the documents. If within the forty-five day period of continuous session of Congress beginning on the date of submission of the documents, either Committee issues a report concerning matters addressed in the documents, the Secretary shall consider this report before publishing a notice to designate the national marine sanctuary.

(b) **TAKING EFFECT OF DESIGNATIONS.**—

(1) \* \* \*

(2) **WITHDRAWAL OF DESIGNATION.**—If the Secretary considers that actions taken under paragraph (1) will affect the designation of a national marine sanctuary *or System* in a

manner that the goals and objectives of the sanctuary cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not certified under paragraph (1) shall take effect.

\* \* \* \* \*

(d) INTERAGENCY COOPERATION.—

(1) \* \* \*

\* \* \* \* \*

(4) *FAILURE TO FOLLOW ALTERNATIVE.*—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 or 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.

\* \* \* \* \*

(f) *LIMITATION ON DESIGNATION OF NEW SANCTUARIES.*—

(1) *FUNDING REQUIRED.*—The Secretary may not prepare any sanctuary designation documents for a proposed designation of a national marine sanctuary, unless the Secretary has published a finding that—

(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

(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.

(2) *LIMITATION ON APPLICATION.*—Paragraph (1) does not apply to any sanctuary designation documents for a Thunder Bay National Marine Sanctuary.

\* \* \* \* \*

**SEC. 306. PROHIBITED ACTIVITIES.**

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 title; or]

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

(A) *refusing to permit any officer authorized to enforce this title to board a vessel subject to such person's control*

for the purposes of conducting any search or inspection in connection with the enforcement of this title;

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

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

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

**SEC. 307. ENFORCEMENT.**

(a) \* \* \*

(b) **POWERS OF AUTHORIZED OFFICERS.**—Any person who is authorized to enforce this title may—

(1) \* \* \*

\* \* \* \* \*

(4) execute any warrant or other process issued by any court of competent jurisdiction; **[and]**

(5) exercise any other lawful authority**[.]; and**

(6) arrest any person, if there is reasonable cause to believe that such person has committed an act prohibited by section 306(3).

(c) **CRIMINAL OFFENSES.**—

(1) **OFFENSES.**—A person is guilty of an offense under this subsection if the person commits any act prohibited by section 306(3).

(2) **PUNISHMENT.**—Any person that is guilty of an offense under this subsection—

(A) except as provided in subparagraph (B), shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both; or

(B) in the case a person who in the commission of such an offense uses a dangerous weapon, engages in conduct that causes bodily injury to any person authorized to enforce this title or any person authorized to implement the provisions of this title, or places any such person in fear of imminent bodily injury, shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

**[(c)] (d) CIVIL PENALTIES.**—

(1) \* \* \*

\* \* \* \* \*

**[(d)] (e) FORFEITURE.**—

(1) \* \* \*

\* \* \* \* \*

**[(e)] (f) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.**—

(1) \* \* \*

\* \* \* \* \*

[(f)] (g) SUBPOENAS.—In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, *electronic files*, and documents, and may administer oaths.

[(g)] (h) USE OF RESOURCES OF STATE AND OTHER FEDERAL AGENCIES.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

[(h)] (i) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

[(i)] (j) INJUNCTIVE RELIEF.—If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 312, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.

[(j)] (k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty of the United States, and the United States exclusive economic zone, consistent with international law.

\* \* \* \* \*

**SEC. 309. RESEARCH, MONITORING, AND EDUCATION.**

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

\* \* \* \* \*

(c) *SANCTUARY RESOURCE CENTERS.*—(1) *The Secretary may establish facilities to promote national marine sanctuaries and the purposes and policies of this title.*

(2) *The Secretary may establish a facility under this subsection in partnership with any person located near a national marine sanctuary, pursuant to an agreement under section 311.*

**SEC. 310. SPECIAL USE PERMITS.**

(a) \* \* \*

(b) PERMIT TERMS.—A permit issued under this section—

(1) \* \* \*

\* \* \* \* \*

(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.

(c) FEES.—

(1) \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

[(C) an amount which represents the fair market value of the use of the sanctuary resource and a reasonable return to the United States Government.]

*(C) an amount that represents the fair market value of the use of the sanctuary resources.*

(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

(A) \* \* \*

(B) for expenses of [designating and] managing national marine sanctuaries.

(4) WAIVER OR REDUCTION OF FEES.—*The Secretary may accept in-kind contributions in lieu of a fee under paragraph (2)(C), or waive or reduce any fee assessed under this subsection for any activity that does not derive profit from the use of sanctuary resources.*

\* \* \* \* \*

(g) NOTICE.—*The Secretary shall provide public notice of any determination that a category of activity may require a special use permit under this section.*

**SEC. 311. COOPERATIVE AGREEMENTS, DONATIONS, AND ACQUISITIONS.**

[(a) COOPERATIVE AGREEMENTS, GRANTS AND OTHER AGREEMENTS.—The Secretary may enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title].

*(a) AGREEMENTS AND GRANTS.—The Secretary may enter into cooperative agreements, contracts, or other agreements with, or make grants to, States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title.*

\* \* \* \* \*

(e) USE OF RESOURCES OF OTHER GOVERNMENT AGENCIES.—*The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services or facilities of such agency on a reimbursable or non-reimbursable basis, to assist in carrying out the purposes and policies of this title.*

(f) AUTHORITY TO OBTAIN GRANTS.—*Notwithstanding any other provision of law that prohibits a Federal agency from receiving assistance, the Secretary may apply for, accept, and use grants from other Federal agencies, States, local governments, regional agencies,*

*interstate agencies, foundations, or other persons, to carry out the purposes and policies of this title.*

**SEC. 312. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.**

(a) LIABILITY.—

(1) LIABILITY TO **[UNITED STATES]** *UNITED STATES*.—Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

(A) \* \* \*

\* \* \* \* \*

(c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—(1) The Attorney General, upon request of the Secretary, may commence a civil action **[in the United States district court for the appropriate district]** against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

(2) *An action under this subsection may be brought in the United States district court for any district in which—*

(A) *the defendant is located, resides, or is doing business, in the case of an action against a person;*

(B) *the vessel is located, in the case of an action against a vessel; or*

(C) *the destruction of, loss of, or injury to a sanctuary resource occurred.*

\* \* \* \* \*

(e) *STATUTE OF LIMITATIONS.—An action for response costs or damages under subsection (c) shall be barred unless the complaint is filed within 3 years after the date on which the Secretary completes a damage assessment and restoration plan for the sanctuary resources to which the action relates.*

**[SEC. 313. AUTHORIZATION OF APPROPRIATIONS.**

**[There are authorized to be appropriated to the Secretary to carry out this title—**

**[(1) \$12,000,000 for fiscal year 1997;**

**[(2) \$15,000,000 for fiscal year 1998; and**

**[(3) \$18,000,000 for fiscal year 1999.]**

**SEC. 313. AUTHORIZATION OF APPROPRIATIONS.**

*There are authorized to be appropriated to the Secretary—*

*(1) to carry out this title, \$26,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004; and*

*(2) for construction projects at national marine sanctuaries, \$3,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004.*

**SEC. 314. U.S.S. MONITOR ARTIFACTS AND MATERIALS.**

(a) \* \* \*

(b) INTERPRETATION AND DISPLAY OF ARTIFACTS.—

(1) SUBMISSION OF PLAN.—The Secretary shall, within six months after the date of the enactment of this section, submit to the Committee on **[Merchant Marine and Fisheries]** *Re-*

*sources* of the House of Representatives a plan for a suitable display in coastal North Carolina of artifacts and materials of the United States ship Monitor.

\* \* \* \* \*

**SEC. 315. ADVISORY COUNCILS.**

(a) ESTABLISHMENT.—The Secretary may establish one or more advisory councils (in this section referred to as an “Advisory Council”) to [provide assistance to] *advise* the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

\* \* \* \* \*

**SEC. 316. ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES.**

(a) AUTHORITY.—The Secretary may establish a program consisting of—

(1) \* \* \*

\* \* \* \* \*

(4) the authorization by the Secretary of the [use of any symbol published under paragraph (1)] *manufacture, reproduction, or other use of any symbol published under paragraph (1), including the sale of items bearing such a symbol*, by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

\* \* \* \* \*

(b) MEMBERSHIP.—Members of the Advisory Councils may be appointed from among—

(1) \* \* \*

(2) members of relevant Regional Fishery Management Councils established under section 302 of the Magnuson [Fishery Conservation and Management] Act; and

\* \* \* \* \*

(e) PROHIBITED ACTIVITIES.—It is unlawful for any person—

(1) \* \* \*

\* \* \* \* \*

[(3) to manufacture, reproduce, or use any symbol adopted by the Secretary absent designation as an official sponsor and without payment of a monetary or in-kind contribution to the Secretary; and]

*(3) to manufacture, reproduce, or otherwise use any symbol adopted by the Secretary under subsection (a)(1), including to sell any item bearing such a symbol, unless authorized by the Secretary under subsection (a)(4) or subsection (f); or*

\* \* \* \* \*

(f) COLLABORATIONS.—*The Secretary may authorize the use of a symbol adopted by the Secretary under subsection (a)(1) by any person engaged in a collaborative effort with the Secretary to carry out the purposes and policies of this title and to benefit a national marine sanctuary or the System.*



COASTAL ZONE MANAGEMENT ACT OF 1972

TITLE III—MANAGEMENT OF THE COASTAL ZONE

\* \* \* \* \*

CONGRESSIONAL DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy—

(1) \* \* \*

\* \* \* \* \*

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; [and]

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone[.];

(7) to use Federal, State, and community partnerships developed through the system established by section 315 to improve the understanding, stewardship, and management of coastal areas; and

(8) to encourage the development, application, and transfer to local, State, and Federal resources managers of innovative coastal and estuarine resources management technologies and techniques that promote the long-term conservation of coastal and estuarine resources.

DEFINITIONS

SEC. 304. For the purposes of this title—

(1) \* \* \*

\* \* \* \* \*

[(8) The term “estuarine sanctuary” means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, or adjacent to such estuary, and which constitutes to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.]

(8) The term “national estuarine reserve” means an area that is a national estuarine reserve under section 315.

\* \* \* \* \*

NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM

SEC. 315. (a) ESTABLISHMENT OF THE SYSTEM.—There is established the National Estuarine Research Reserve System (hereinafter referred to in this section as the “System” that consists of—

(1) \* \* \*

\* \* \* \* \*

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve. *The purpose of each national estuarine reserve and of the System is to improve the understanding, stewardship, and management of coastal areas.*

(b) DESIGNATION OF NATIONAL ESTUARINE RESERVES.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

(1) the Government of the coastal state in which the area is located nominates the area for that designation; and

(2) the Secretary finds that—

(A) \* \* \*

\* \* \* \* \*

*An area designated under this section may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, that constitutes, to the extent feasible, a natural unit.*

\* \* \* \* \*

(e) FINANCIAL ASSISTANCE.—(1) \* \* \*

\* \* \* \* \*

(4)(A) The Secretary may—

(i) *enter into cooperative agreements or contracts, with, or make grants to, any nonprofit organization established to benefit a national estuarine reserve, authorizing the organization to solicit donations to carry out projects, other than general administration of the reserve or the System, that are consistent with the purpose of the reserve and the System; and*

(ii) *accept donations of funds and services for use in carrying out projects, other than general administration of a national estuarine reserve or the System, that are consistent with the purpose of the reserve and the System.*

(B) *Donations accepted under this paragraph shall be considered as a gift or bequest to or for the use of the United States for carrying out this section.*

(f) EVALUATION OF SYSTEM PERFORMANCE.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including *coordination with State programs established under section 306*, education and interpretive activities, and the research being conducted within the reserve.

\* \* \* \* \*

SEC. 318. (a) There are authorized to be appropriated to the Secretary, to remain available until expended—

(1) for grants under sections 306, 306A, and 309—

(A) \* \* \*

\* \* \* \* \*

(C) \$50,500,000 for fiscal year 1999; [and]

[(2) for grants under section 315—

[(A) \$4,400,000 for fiscal year 1997;

[(B) \$4,500,000 for fiscal year 1998; and

[(C) \$4,600,000 for fiscal year 1999.]

(2) for grants under section 315—

- (A) \$7,000,000 for fiscal year 2000;
  - (B) \$8,000,000 for fiscal year 2001;
  - (C) \$9,000,000 for fiscal year 2002;
  - (D) \$10,000,000 for fiscal year 2003; and
  - (E) \$11,000,000 for fiscal year 2004; and
- (3) for grants for construction projects at national estuarine reserves designated under section 315, \$12,000,000 for each of fiscal years 2000, 2001, 2002, 2003, and 2004.

\* \* \* \* \*

## ADDITIONAL VIEWS

This bill would reauthorize the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) and make clarifications and modest improvements to the Act. Several of the provisions of this bill were drawn from recommendations developed by the Administration, and we appreciate the majority's willingness to work constructively on these issues. For example, the bill provides for a total 5-year authorization of appropriations of \$130 million for NOAA operations and \$15 million for construction activities. Sufficient funding for sanctuary program operations and facilities is long overdue, and these modestly increased amounts recognize legitimate unmet needs.

Another important provision in the bill authorizes establishment of a National Marine Sanctuary System. The sanctuary program has grown and matured beyond a simple aggregate of remote sites to become a genuine system of ocean and coastal resource management areas comparable to the existing terrestrial system of fish and wildlife refuges. In addition, consolidation of the National Marine Sanctuary designation process for new sanctuaries should eliminate redundant administrative steps and provide a more timely and effective process without sacrificing public participation. We also support provisions that would strengthen enforcement authorities, establish sanctuary resource centers, clarify the applicability and use of special use permits, and broaden the program's authority to enter into agreements and to accept donations and contributions.

We hope to work with the majority to clarify unresolved questions concerning circumstances of injuries to sanctuary resources and NOAA's authority to retain and spend funds awarded under natural resource damage settlements or civil penalties before this legislation is brought to the House floor. Priority use of these recovered funds should be directed to reimburse Federal or State agencies for legitimate response costs and implement recovery and restoration activities for damaged sanctuary resources.

While we generally support H.R. 1243, we object to the inclusion of Title II of the bill which would reauthorize the National Estuarine Research Reserve System (NERRS). Our concern is not related to the substance of Title II; rather it is our view that this language is not germane to the National Marine Sanctuaries Act and should instead be included in comprehensive reauthorization of the Coastal Zone Management Act (CZMA).

The National Estuarine Research Reserve System was established in 1986 as part of the Coastal Zone Management Reauthorization Act of 1985 (PL 99-272, Title VI, Subtitle D) and codified as Section 315 of the Coastal Zone Management Act (16 U.S.C. 1461). The NERRS has been amended twice in subsequent reauthorizations of the CZMA (PL 101-508 and PL 104-150). Program-

matically, the NERRS is administered under the same Federal/State partnership as other elements of the CZMA. This system of 23 federally-designated reserves fulfills a vital function for coastal managers by providing data regarding the health and vitality of our Nation's estuaries and opportunities for research, monitoring and education regarding coastal habitats and estuarine ecosystems.

Undoubtedly, the NERRS is statutorily and programmatically woven into the CZMA; a fact acknowledged by the inclusion of a NERRS section in Mr. Saxton's CZMA reauthorization legislation (H.R. 1110). But by stripping out NERRS language and putting it in this bill, the majority removes an important incentive to reauthorize the CZMA. We share the concerns of the Coastal States Organization—which represents the interests of the Nation's coastal state governors—who fear that this tactic is a signal that CZMA reauthorization legislation will not move this Congress. Only three years ago, Congress reauthorized the CZMA by a near unanimous vote. With 33 out of 35 eligible states and territories voluntarily participating under the CZMA, this is a successful program attractive to coastal states trying to balance competing demands placed on their finite and fragile coastal areas. Reauthorization of the CZMA should be a top priority for this Committee and the Congress.

GEORGE MILLER.

