

NATIONAL MARINE SANCTUARIES ACT

Acronym: NMSA

Citation: 42 U.S.C. §§ 1431-1445 (2002).

Legislative Purpose:

The National Marine Sanctuaries Act authorizes the designation of National Marine Sanctuaries for marine areas of national significance and provides authority for comprehensive and coordinated conservation and management of these marine areas.

Summary:

The NMSA provides the Secretary of Commerce with the authority to identify and designate National Marine Sanctuaries for ecological, esthetic, or recreational qualities.

The NMSA requires comprehensive and coordinated conservation and management of the sanctuaries, the enhancement of public awareness, understanding, appreciation, and wise use of the marine environment, and the facilitation, to the extent compatible with the primary objective of resource protection, of all public and private uses of resources not prohibited pursuant to other authorities.

To designate a sanctuary, the Secretary must consider present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, other commercial and recreational activities, and research and education. In addition, the Secretary should consider the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism.

The system of National Marine Sanctuaries are key in the development of the national network of Marine Protected Areas, as ordered by Executive Order 13158 on MPAs.

TITLE 16. CONSERVATION

CHAPTER 32. MARINE SANCTUARIES

16 U.S.C. §§ 1431-1445 (2002).

§ 1431. Findings, purposes, and policies; establishment of System

(a) Findings. The Congress finds that--

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

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

(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment; and

(4) a Federal program which establishes areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities as national marine sanctuaries managed as the National Marine Sanctuary System will--

(A) improve the conservation, understanding, management, and wise and sustainable use of marine resources;

(B) enhance public awareness, understanding, and appreciation of the marine environment; and

(C) maintain for future generations the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas.

(5), (6) [Deleted]

(b) Purposes and policies. The purposes and policies of this title [*16 USCS § § 1431 et seq.*] are--

(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;

(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;

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

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

(6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations,

international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and

(9) to cooperate with global programs encouraging conservation of marine resources.

(c) Establishment of System. There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this title [16 USCS § § 1431 et seq.].

§ 1433. Sanctuary designation standards

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

(1) the designation will fulfill the purposes and policies of this title [16 USCS § § 1431 et seq.];

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

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

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

(C) its resource or human-use values;

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

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

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

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

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

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

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

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this title [16 USCS § § 1431 et seq.];

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

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

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

(I) the socioeconomic effects of sanctuary designation;

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

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

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

(2) Consultation. In making determinations and findings, the Secretary shall consult with--

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

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

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

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

(E) other interested persons.

(3) [Deleted]

§ 1442. Cooperative agreements and donations

(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 [*16 USCS § § 1431 et seq.*].

(b) Authorization to solicit donations. The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this title [*16 USCS § § 1431 et seq.*].

(c) Donations. The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title [*16 USCS § § 1431 et seq.*]. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

(d) Acquisitions. The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this title [*16 USCS § § 1431 et seq.*].

(e) Use of resources of other government agencies. The Secretary may, whenever appropriate, enter into an agreement with a State or other Federal agency to use the personnel, services, or facilities of such agency on a reimbursable or nonreimbursable basis, to assist in carrying out the purposes and policies of this title [16 USCS § § 1431 et seq.].

(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 [16 USCS § § 1431 et seq.].

§ 1445c-1. Dr. Nancy Foster Scholarship Program

(a) The Secretary of Commerce shall establish and administer through the National Ocean Service the Dr. Nancy Foster Scholarship Program. Under the program, the Secretary shall award graduate education scholarships in marine biology, oceanography, or maritime archaeology, including the curation, preservation, and display of maritime artifacts, to be known as "Dr. Nancy Foster Scholarships".

(b) The purpose of the Dr. Nancy Foster Scholarship Program is to recognize outstanding scholarship in marine biology, oceanography, or maritime archaeology, particularly by women and members of minority groups, and encourage independent graduate level research in such fields of study.

(c) Each Dr. Nancy Foster Scholarship award--

(1) shall be used to support a candidate's graduate studies in marine biology, oceanography, or maritime archaeology at a sponsoring institution; and

(2) shall be made available to individual candidates in accordance with guidelines issued by the Secretary.

(d) The amount of each Dr. Nancy Foster Scholarship shall be provided directly to each recipient selected by the Secretary upon receipt of certification that the recipient will adhere to a specific and detailed plan of study and research approved by the sponsoring institution.

(e) The Secretary shall make 1 percent of the amount appropriated each fiscal year to carry out the National Marine Sanctuaries Act (46 U.S.C. 1431 et seq.) available for Dr. Nancy Foster Scholarships.

(f) Repayment of the award shall be made to the Secretary in the case of fraud or noncompliance.