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## **H.R. 6537: The Sanctuary Enhancement Act (SEA) of 2008**

Introduced by: Rep. Madeleine Bordallo (D-GU)

Introduced on: July 17, 2008

### **Section-by-Section Summary**

#### **SECTION 1. SHORT TITLE.**

The short title of the bill is the “Sanctuary Enhancement Act of 2008” (to reauthorize and amend the National Marine Sanctuaries Act)

#### **SECTION 2. REFERENCES.**

This section clarifies that all amendments in the bill pertain to the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.).

#### **SECTION 3. CLARIFICATION OF FINDINGS, PURPOSES AND POLICIES.**

Amends Sec. 301 of NMSA as follows:

**FINDINGS.** Subsection is amended to add additional findings emphasizing 1) the diversity of the marine environment and 2) the value and benefit of marine protected areas in conserving and preserving marine biodiversity and marine ecosystem function.

**PURPOSES AND POLICIES.** Subsection amended to: 1) clarify that the “primary purpose” of System management is the long-term protection and conservation of System resources, shifting the emphasis from use of resources; 2) specify that the System should include areas representative of the full-range of U.S. marine ecosystems and maritime heritage; 3) promote protection and adaptive management, while supporting existing authorities and recognizing scientific uncertainty; and 4) to encourage innovative management of System resources, including the use of zoning or other temporal or spatial strategies like marine reserves.

#### **SECTION 4. COMPONENTS AND MISSION OF NATIONAL MARINE SANCTUARY SYSTEM.**

This section amends Sec. 301 of NMSA so that the managed components of the National Marine Sanctuary System (formally established in 2000 reauthorization) not only include national marine sanctuaries designated by the Secretary of Commerce, but also: 1) national marine sanctuaries authorized or established by Congress; and 2) marine national monuments established by the President under the Antiquities Act whose management is assigned, in whole or in part, to the Secretary of Commerce. Note, throughout the bill, numerous technical conforming amendments are included to ensure the important legal management tools currently available to sanctuaries are also available for these marine national monuments.

The section also explicitly states that the Office of National Marine Sanctuary (on behalf of the Secretary) is the managing entity of the System.

Finally, this section establishes a mission statement for the System: to “protect, conserve, preserve, restore and enhance the biodiversity, ecological integrity, and cultural legacy of the living and non-living resources within the System for the benefit of present and future generations”

#### **SECTION 5. AMENDMENTS TO DEFINITIONS.**

This section amends Sec. 302 of NMSA by adding new definitions for the following terms: “Indian tribe”, “marine ecoregion”, “marine national monument”, “maritime heritage resource”, and “System resource”. It also makes the necessary conforming amendments to account for “System resource(s)” rather than only sanctuary ones.

#### **SECTION 6. LIVING AND NONLIVING RESOURCE CLASSIFICATION, IDENTIFICATION, AND INVENTORY.**

This section amends section 303 of NMSA to add a new subsection (c) to require the Secretary to prepare, in consultation with relevant stakeholders and experts, a classification of the Nation’s marine environment/ecoregions and an identification of maritime heritage resources, and maintain and update this national inventory. Specific mandates to the Secretary include: 1) within 1 year after enactment, develop and adopt methodologies and guidelines for the classifications/identifications; 2) within 3 years after enactment submit to Congress a report that includes relevant charts, maps, and other information about the ecological and maritime heritage areas in EEZ, and regularly review and reassess this report thereafter; and 3) within 1 year after submitting the inventory report, submit to Congress a site selection report that identifies and prioritizes potential sites for designation as new national marine sanctuaries, and update this list at least every 5 years.

This section also establishes a System expansion goal to include “that number of sites that will incorporate a full range of the nation’s marine ecoregions and rare and unique marine habitats, and a full range of maritime heritage resource areas” by the year 2030. The Secretary must report to Congress progress towards this goal by Jan. 2011 and every other year thereafter.

#### **SECTION 7. REVISIONS TO DESIGNATION PROCEDURES.**

This section would amend section 304 of NMSA as follows:

FISHING REGULATIONS. This paragraph [(a)(5)] is amended to 1) mandate the Secretary to include fishing regulations in the designation document, if determined necessary; 2) require that fishing regulations be compatible with the purposes of the sanctuary, the mission of the System, and the purposes of NMSA, and be approved and prepared by the Secretary in accordance to NMSA regulations provisions (Sec. 308).

3) clarify and refine the existing administrative process for the development of any regulations for fishing activities within the System, including the role and responsibilities of Regional Fishery Management Council; 3) clarify the role and actions of the Secretary in approving or

disapproving draft fishing regulations; and 4) move relevant portions of this paragraph to Sec. 308 (Regulations) of NMSA.

**DEADLINES.** The deadlines for review of sanctuary designation documents by Congress and for the Secretary to notify the public of designation are adjusted for a more timely process. For the former, it is changed from “45 day period of continuous session” to “60 calendar days”; for the latter, from 30 months to 24 months.

**REVIEW OF MANAGEMENT PLAN.** The time between reviews of plans is increased from 5 years to 7 years for the first review after designation and 10 years for subsequent reviews. Such reviews must now include 1) a prioritization of management objectives; 2) review of impacts of fishing activities; 3) review of adequacy and effectiveness of fishing regulations; and 4) consultation with appropriate fishing regulatory authorities (councils, States, Indian tribes).

**REPEAL OF LIMITATION OF DESIGNATION OF NEW NATIONAL MARINE SANCTUARIES.** The “moratorium” set in the 2000 reauthorization is lifted.

#### **SECTION 8. INTERNATIONAL NEGOTIATIONS.**

This section amends section 305 of NMSA to broaden the applicability of the existing authority to the entire System, and require consultation with co-managers of a marine national monument.

#### **SECTION 9. CLARIFYING PROHIBITED ACTIVITIES AND STRENGTHENING ENFORCEMENT.**

This section amends section 306 of NMSA to establish System-wide prohibited activities, including: 1) direct discharge of sewage effluent or solid waste with less than secondary treatment, with a couple minor exceptions; 2) disturbing or removing of maritime heritage resources; 3) exploration, lease, developing, producing or extracting mineral resources; 4) disturbing, constructing on, or altering of the sea bed, including bottom trawling (with a separate consideration for currently existing sanctuaries); 5) releasing toxic or hazardous materials; 6) detonating explosives; or 7) intentionally introducing or releasing non-native species.

This section also amends section 307 of NMSA by 1) broadening the applicability of existing enforcement authority to the entire System; and 2) increasing maximum penalties for violations from 6 months to 2 years imprisonment for criminal offenses and from \$100,000 to \$250,000 fines for civil offenses.

#### **SECTION 10. CONSOLIDATION OF REGULATIONS.**

This section amends section 308 of NMSA to consolidate and clarify regulation authority of the Secretary by 1) clarifying that the Secretary may issue regulations for any sanctuary, marine national monument or the entire System as needed; 2) clarifying and refining the existing administrative process for the development of any regulations for fishing activities within the System, including (a) the role and responsibilities of Regional Fishery Management Councils, (b) a deadline of 180 days, with possible 90-day extension, for the councils to prepare draft regulations to the Secretary upon request, (c) the role and actions of the Secretary in approving

or disapproving draft fishing regulations from councils, and (d) expanding cooperation and consultation with other fishery management entities to include States and Indian tribes as applicable.

This section also requires that pre-existing rights of use be subject to regulation by the Secretary for consistency with the System mission and purposes of NMSA.

#### **SECTION 11. RESEARCH AND MONITORING.**

This section amends section 309 of NMSA to 1) clarify applicability of authority to national marine sanctuaries, marine national monuments, and the System and their resources; and 2) amend the existing limitation on the release of research and monitoring information to authorize the Secretary to withhold information if it is protected from public disclosure under other provisions of law or if the release of the information may threaten any System resource.

#### **SECTION 12. CLARIFICATION OF USE PERMITS AND INTERAGENCY COOPERATION, AND COOPERATIVE AGREEMENTS.**

This section amends section 310 of NMSA by 1) explicitly broadening the Secretary's permitting authority to not only issue special use permits, but also general use permits with specific guidelines for issuance; 2) removing the exemption of issuing permits for fishing; and 3) strengthening interagency cooperation.

#### **SECTION 13. APPLICATION OF AUTHORITY TO MARINE NATIONAL MONUMENTS AND WITHIN THE SYSTEM.**

This section would amend section 311 of NMSA to expand the type of entities with whom the Secretary can enter into cooperative agreements from State and Federal agencies to also include local, tribal, and other governmental entities.

This section would also amend sections 312, 315, and 316 of NMSA to expand authorities and support to also include marine national monuments and the System as a whole.

#### **SECTION 14. AUTHORIZATION OF APPROPRIATIONS.**

This section would authorize the Secretary to spend 1) \$350M over five years (2009-2013: \$60M, \$65M, \$70M, \$75M, \$80M) to implement NMSA (i.e., operating budget); 2) an additional \$100M over five years for construction activities (2009-2013: \$20M each year); and 3) \$5M million would be authorized to implement the classification/identification inventory (Sec. 6 above).

#### **SECTION 15. CONFORMING AMENDMENT TO REFERENCES TO RENAMED COMMITTEE.**

This section changes all references in NMSA from the former House "Committee on Resources" to the "Committee on Natural Resources."