

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

06/27/2005

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 04/13/2005.

TITLE: National Marine Sancturary Permits

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0141

EXPIRATION DATE: 06/30/2008

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	921	1,138	1
New	885	1,138	1
Difference	-36	0	0
Program Change		0	0
Adjustment		0	0

TERMS OF CLEARANCE: None

OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
NATIONAL MARINE SANCTUARY PERMITS
OMB CONTROL NO. 0648-0141**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The National Marine Sanctuaries Act (NMSA or Act), 16 U.S.C. 1431 et seq., provides for the designation, protection, and management of national marine sanctuaries (NMSs) for which possess conservation, ecological, recreational, research, educational, historical, cultural or aesthetic qualities giving them national, and in some cases, international, significance. The National Oceanic and Atmospheric Administration’s National Marine Sanctuary Program (NMSP) has promulgated regulations to implement the NMSA and each NMS designation (15 CFR Part 922). In subparts specific to each NMS designated, the NMSP regulations define the boundaries of the NMSs and prohibit the conduct of certain activities affecting the NMS.

NMSP regulations (and the NMSA itself) also prescribe procedures by which certain activities that would otherwise be prohibited may be conducted through the issuance of a permit. Any person proposing to conduct an activity prohibited by NMSP regulations must apply for and receive a permit prior to conducting that activity. There are several different types of permits. In this document, the term “permit” refers generally to any form of approval granted by the NMSP to allow an activity that would otherwise not be allowed to take place due to NMSP regulatory prohibitions.¹

Because the issuance of a permit by the NMSP is discretionary, the NMSP regulations also establish criteria against which permit applications are reviewed and decisions ultimately made. The NMSP regulations also provide permit applicants with guidance in submitting the appropriate level of information in a permit application. This collection of information is to ensure the NMSP has enough information from the permit applicant to process his/her request, make a decision consistent with the established criteria, and, if issued, monitor compliance with the permit.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information submitted by permit applicants will be used by the NMSP staff to decide whether to approve or deny a permit application. In making this decision, the NMSP will consider such factors as:

¹ In this document, the term “permit” includes “national marine sanctuary permits” processed pursuant to 15 CFR 922.48 and site-specific regulations; “authorizations” of other agency permits processed pursuant to 15 CFR 922.49; “special use permits” processed pursuant to section 310 of the NMSA (16 U.S.C. § 1441); and “certifications” processed pursuant to 15 CFR 922.47. The term also includes requests for amendments to any of these.

- the professional qualifications and financial ability of the applicant as related to the proposed activity;
- the duration of the activity and its effects;
- the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity;
- the extent to which the conduct of the activity may diminish or enhance the qualities for which the NMS was designated;
- the end value of the applicant's activity; and
- other such matters as NMSP staff deem appropriate.

In addition to inform the NMSP's decisions on permit applications, information submitted in permit applications and reports submitted pursuant to permit conditions may also be used by the NMSP to, in some circumstance, inform—

- administrative appeals of permit decisions;
- decisionmaking on a permit amendment request or another permit application; or
- other NMS management actions (e.g., emergency response and enforcement).

The NMSP has a 3-tiered permit application review system, which determines the specific staff within the NMSP that must review any particular application. Class A permits are for relatively routine activities with negligible impacts on NMS resources and are reviewed entirely by NMS managers and other professional personnel in NMSP field offices. Class B permits are activities with unknown or moderate impacts on NMS resources and are reviewed primarily by NMS managers and staff with input by the national permit coordinator at NMSP headquarters. Class C permits are for activities with significant impacts on NMS resources or are in some way precedent-setting, and require concurrent review by field and headquarters personnel as well as review by NOAA legal counsel. Depending on the class of the permit, any of these individuals will use information submitted by permit applicants.

In terms of frequency of use, the information submitted in permit applications will, in general, only be used at the time the application is submitted to make a final decision on the application. Some of the information may also be used subsequent to the initial decisionmaking to inform NMS management actions or decisionmaking. For example, a survey of a project location by one permit applicant may be used by the NMSP in the future to respond to a vessel grounding in the same area in addition to facilitating the NMSP's decision on that application. Information submitted in a report will be used to periodically assess the permittee's compliance with permit terms and conditions and to assist in evaluating the appropriateness of the permitted activity.

The NMSP has developed a permit database which tracks information collection, permit issuance, permit violations, and reporting products. The permit applications are the primary source of information entered into the database. This data will be used to evaluate the permit system through its ability to track the permit process, compliance of the permittee, and past performance of the permittee. This data and tracking ability are necessary for MSD to evaluate the effectiveness of NMS protection and the role of permitted projects in that protection. In addition, this comprehensive database assists in the evaluation of the cumulative impacts of permitted activities on NMS resources.

As explained in the preceding paragraphs, the information gathered has utility. The NMSP will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Publication is not planned; however, prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The NMSP is currently developing an Internet-based permit tracking system. This system will ultimately allow permit applicants to submit their permit applications, logs, and final reports via the Internet. In addition, NMSP already accepts electronic permit applications, logs, and reports via email.

4. Describe efforts to identify duplication.

In the development of each individual sanctuary, NOAA has consulted with the relevant State regarding their permitting processes. Where appropriate, agreements have been made to use a coordinated permit process. In all cases, the NMSP will accept information submitted to other agencies (e.g., funding applications and reports) as supporting information for permit applications or as reports for issued permits.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection of information has minimal impact on small entities such as small businesses, organizations, or government bodies. The majority of permit applications are for activities conducted by either large institutions (academic institutions, salvage companies, management agencies, etc.) or individuals. There may be some small impact on small businesses that wish to conduct commercial activities within a NMS, however this impact is not likely to include a significant financial burden.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If the information collection is not conducted, or is conducted less frequently, then it is likely that the management objectives of the NMSP and individual NMSs could not be met. NMS must be able to allow the conduct of otherwise prohibited activities to facilitate important research, education and management activities. The issuance of permits also facilitates fulfillment of one of the NMSP's statutory mandates of allowing public and private uses that are compatible with NMS resource protection. Furthermore, the permit process allows these

activities to take place under controlled conditions to ensure that the primary mandate of resource protection is fulfilled.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

No special circumstances exist, are foreseen or anticipated requiring the collection of information to be conducted in a manner inconsistent with the OMB guidelines.

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A *Federal Register* notice (copy attached; 69 *FR* 68312) solicited public comment on this renewal. One comment was received. The commenter made several assertions about the NMSP's practice of issuing permits, but had no specific comments about the collection of information itself. In general, the commenter felt that the NMSP should not be issuing permits for activities inside NMSs. As explained above, the issuance of permits is a very important component in NMS management and in the NMSP's fulfillment of its statutory mandates.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to any respondents.

10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

Permit applicants are requested to indicate any information that is considered proprietary business information. Such information is generally found in special use permit applications and is typically exempt from disclosure to anyone requesting information pursuant to the Freedom of Information Act (FOIA). NOAA will make all possible attempts to protect such proprietary information, consistent with all applicable FOIA exemptions in 5 U.S.C. 552(b). Typically exempt information includes trade secrets, commercial and financial information (5 U.S.C. 552(b)(4)). For all permit types, personal information affecting an individual's privacy will be kept confidential consistent with 5 U.S.C. 552(b)(6).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No sensitive questions are asked.

12. Provide an estimate in hours of the burden of the collection of information.

The NMSP processes approximately 381 permit applications each year. Because most permits require more than one response, the total response for this collection of information is 885. The estimated total amount of time required is 1,138.25 hours. Because number of responses per permit and the time per response varies amongst the various types of permits, each of the eight types is explained in subsections (a) through (h) below and summarized in the attached table. The types of permits are grouped into these eight categories based on similar collection of information requirements and burden estimates. Additionally, the permit types described in (a) through (d) below are further detailed in permit applicant guidelines attached to this document in support of the renewal application.

(a) General Permits—

Scope of this category. This category includes all permits not specifically addressed in subsections (b) through (h) below; typically permit applications for scientific research, education, management, and salvage (excluding activities aimed at historical resources) activities fall into this category. This category also includes requests for authorizations of other agency permits processed pursuant to 15 CFR § 922.49.

Burden estimate. Each respondent will submit an application for a permit, a cruise or flight log (or some other form of activity report) and a final summary report after the activity is complete for an average of three responses per permit. On average, each response is expected to take the respondent 1 hour to complete. The NMSP estimates that it will process approximately 130 permit applications under this category for a total of 390 responses and 390 burden hours.

Applicant guidelines. The details of this collection of information are explained in the guidelines attached to this document entitled “*Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations.*” Special requirements for certain types of general permits (activities involving overflights, fireworks displays in Monterey Bay National Marine Sanctuary, and construction in Monterey Bay National Marine Sanctuary) are further explained in appendices A, B, and C of that document as well but do not change the burden hour estimates.

(b) Special Use Permits—

Scope of this category. This category includes all permit applications processed under section 310 of the NMSA (16 U.S.C. § 1441).

Burden Estimate. For special use permits an application, a final report, and a financial report is required for each permit (total of 3 responses per permit). An average response time of 24 hours is estimated for each of these activities. Financial reports (annual report required by section 310 of the NMSA; due on December 31 of each year) may take less time but the application will take more time particularly if additional NEPA documentation is required and prepared by the respondent. A total of 5 permit applications are expected under this category each year for a total of 15 responses and 360 burden hours annually.

Applicant guidelines. Further details on the collection of information requirements for this category are contained the document entitled, “*Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations.*” Additional requirements for special use permits are also described in appendix E of that document.

(c) Historical Resource Permits—

Scope of this category. This category includes all permit applications for activities aimed at historical, cultural, and/or maritime heritage resources of NMSs.

Burden Estimate. For historical resource permits an average response time of 13.0 hours is estimated for each of the three activities (the application and cruise log will take about 9 and 1 hours per response respectively, whereas the report is likely to take an average of 28 hours to complete). The NMSP estimates it will process approximately 4 permit applications in this category each year for a total of 12 responses and 156 burden hours annually.

Applicant guidelines. Further details on the collection of information requirements for this category are contained the document entitled, “*Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations.*” Additional requirements for this permit type are also described in appendix F of that document.

(d) Baitfish Permits—

Scope of this category. This category includes applications for permits to catch baitfish in certain Sanctuary Preservation Areas (SPAs) of the Florida Keys National Marine Sanctuary that are otherwise closed to fishing. There are two types of baitfish permits that may be issued depending on the type of gear used. Castnet baitfishing is conducted using a using a cast net or modified lampara net. Hairhook baitfishing is conducted using a small hook attached to monofilament line.

Burden Estimate. To apply for a castnet baitfish permit, an applicant must simply submit (via telephone, fax, or e-mail) their name and address. To apply for a hairhook baitfish permit, an applicant must provide the same contact information and also include a brief statement that explains their fishing experience or qualifications. For both types of permits, a log of the number of fish caught both within and outside SPAs is required at the end of the permit term (yearly or less). The NMSP expects completion of both types of baitfish permit applications to average 15 minutes and completion of baitfish logs to average 45 minutes, resulting in an average time burden of 30 minutes a response per permit. The NMSP expects to process an average of 195 permits in this category each year for a total of 390 responses and 195 burden hours.

Applicant guidelines. Further details on the collection of information requirements for this category are contained the document entitled, “*Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations.*” Requirements for castnet baitfish permits are separately described in appendix G of that document.

(e) Permit Amendments—

Scope of this category. This category includes all requests by permittees to amend their permit. Typically this is a request to extend the expiration date (i.e., renewal request), but also includes requests to modify the nature and geographic scope of the permitted activity and other modifications.

Burden Estimate. If an applicant wishes to make an amendment to an existing permit they need only submit a letter describing the changes they are requesting, and the need for those changes. This is usually a very short request and has an estimated response time of 15 minutes. The NMSP expects approximately 14 requests under this category each year for a total of 14 responses and 3.5 burden hours annually.

Applicant guidelines. Further details on the collection of information requirements for this category are contained the document entitled, “*Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations.*”

(f) Certification—

Scope of this category. This category includes all requests for the NMSP to certify activities that are being conducted pursuant to a valid government authorization prior to a NMS being designated (commonly known as “grandfathered” activities).

Burden Estimate. Because this process is typically only valid within the first 90 days of a NMS designation, there are currently no permits being processed under this category. For any NMS that may be designated before the expiration of the approval sought under this document, an average response time of 0.5 hours each is estimated for providing an application.

Applicant guidelines. Because the process for obtaining permits under this category may be different each time a NMS is designated, guidance on obtaining this permit are usually included in public notices (e.g., final rule, notice of designation) at the time a NMS designated.

Therefore, no additional guidelines are necessary.

(g) Voluntary Registry—

Scope of this category. This category is for researchers who are conducting activities that are not otherwise prohibited. The registry allows them to register their activity, which adds to the database of research activities within the Sanctuary.

Burden Estimate. For the voluntary research registry an average response time of 15 minutes is estimated for submission of registry information. The NMSP estimates one total response under this category for a total of 0.25 burden hours annually.

Applicant guidelines. Most applications under this category will follow the document entitled, “*Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations*” as guidance in submitting the desired information.

(h) Appeal—

Scope of this category. Applicants or permittees have the right to appeal a permit action (e.g., denied application, unacceptable conditions, revoked permit) pursuant to 15 CFR § 922.50. This category includes information requirements for all such appeals.

Burden Estimate. The applicant/permittee must submit their reason for appealing the permit action. The Assistant Administrator of NOAA’s National Ocean Service may request additional information upon receipt of the appeal. These two submissions (original appeal and reply for request for additional information) have an average burden estimate of 1.5 hours. The NMSP estimates processing 1 appeal for a total of 2 responses and 3 burden hours annually.

Applicant guidelines. Guidelines for filing appeals are contained in NMSP regulations at 15 CFR § 922.50. No additional guidelines are necessary.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

The estimated annual costs for copying and mailing are \$921.

14. Provide estimates of annualized cost to the Federal government.

The cost to the Federal government for each of the permit types is listed in the attached table. All costs are for time to process applications and reports.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

There are no program changes or adjustments being reported with this renewal.

The total number of burden hours requested is not changing. While the NMSP has reduced the estimated number of respondents, it has slightly increased the information requirements for one particular type of permit, thus maintaining a constant overall burden hour estimate. The reduction in respondents is based on recent experience with baitfish permits, which has shown a slight decrease in the numbers of permit applications.

Total respondents (on an annual average) are expected to fall from 396 to 381. The previous estimate of 196 respondents for general permit applications was revised downward to 140 after estimates for hairhook baitfish permits were consolidated with castnet baitfish permits into a single baitfish permit category. The reason for this consolidation is because the application and reporting requirements for these two permit types are very similar. The number of respondents for the baitfish permit category was then reassessed and estimated to be approximately 195, of which 160 are expected to be for castnet baitfish permits and 35 are expected to be for hairhook baitfish permits.

In addition to refining the estimated number of respondents, the burden hours for castnet baitfish permits is being revised upward from 15 to 30 minutes. The increased time burden for these permits results from a revision in the log requirements for castnet baitfish permittees. In addition to previous logkeeping requirements, permittees are now expected to log baitfish caught outside SPAs.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The expiration date for OMB approval of the information collection will be displayed.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

BURDEN ESTIMATE
0648-0141

Applicant

Permit type	~permits/yr	resp./per.	total resp.	hr./response	total hours	cost/resp (\$)	total cost (\$)
(a) General	140	3	420	1	420	1.00	420.00
(b) Special Use	5	3	15	24	360	1.00	15.00
(c) Historical Res.	4	3	12	13	156	1.00	12.00
(d) Baitfish	195	2	390	0.5	195	1.00	390.00
(e) Amendment	14	1	14	0.25	3.5	1.00	14.00
(f) Certification	1	1	1	0.5	0.5	1.00	1.00
(g) Voluntary Reg	1	1	1	0.25	0.25	1.00	1.00
(h) Appeal	1	2	2	1.5	3	1.00	2.00
TOTAL	361		855		1138.25		855

Federal Govt.

Permit type	~permits/yr	hr/permit	total hours	\$/hour	total cost
(a) General	140	1	140	13	1820
(b) Special Use	5	6	30	13	390
(c) Historical Res.	4	3	12	13	156
(d) Baitfish	195	0.5	97.5	13	1267.5
(e) Amendment	14	0.5	7	13	91
(f) Certification	1	1	1	13	13
(g) Voluntary Reg	1	0.5	0.5	13	6.5
(h) Appeal	1	3	3	13	39
TOTAL	361				3,783

Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations

I. INTRODUCTION

The National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) directs the Secretary of Commerce to designate and manage areas of the marine environment with nationally significant aesthetic, ecological, historical, or recreational values as national marine sanctuaries. The National Marine Sanctuary Program (NMSP) has issued regulations to implement this act (15 CFR Part 922). These regulations exist to safeguard resources within sanctuary boundaries and include prohibitions on the conduct of some activities. Program regulations outline the procedure and criteria under which the NMSP will issue permits to allow certain activities beneficial to sanctuaries that would otherwise be prohibited. These guidelines describe the requirements and process by which an applicant may apply for a permit under this authority.

NMSP permits are typically issued by sanctuary superintendents. The type of activities that qualify for a permit vary from sanctuary to sanctuary, but in general include research on sanctuary natural and cultural resources, educational activities, and activities that further sanctuary management objectives. A list of the permit types specific to each sanctuary can be found in Appendix A and in NMSP regulations.

In addition to permits, in certain sanctuaries a superintendent can authorize an activity that is permitted by a valid lease, permit, license, approval or other authorization issued by any federal, state, or local authority of competent jurisdiction. Such authorizations may be only be issued by Florida Keys, Flower Garden Banks, Monterey Bay, Stellwagen Bank, Olympic Coast, and Thunder Bay national marine sanctuaries. Since the general process and requirements governing the handling of authorizations and permits are very similar, in these guidelines the term “permit” applies to both permits and authorizations. When there is a difference in the requirements or process between permits and authorizations, this distinction is noted.

Anyone conducting prohibited activities without a valid national marine sanctuary permit may be subject to the penalties as provided under Section 307 of the National Marine Sanctuaries Act.

II. GENERAL GUIDANCE

Permit applications should include the required information listed below, in sufficient detail that an educated non-specialist can understand exactly what is proposed. If a relevant proposal for a funding application, work plan, formal agreement, or similar document already exists, then elements of this original proposal can be used to satisfy NMSP application requirements, and can be referenced and attached to the application. The amount and depth of information to be given on an application depends primarily on the complexity of the proposed activity.

A form has been provided to assist an applicant in submitting the required information (Appendix B). Note that more or less information may be required for certain permit types.

III. APPLICATIONS

Applications for sanctuary permits shall include the following information:

A. **Applicant and Project Information**

1. **Project title**
2. **Sanctuary** – Note the sanctuary(s) in which the activity is proposed to occur.
3. **Applicant information** – Provide name, title, address, telephone number, fax number, email address, and institutional affiliation of the primary applicant/principal investigator and any co-applicants. In addition, list the name and affiliation of any additional colleagues authorized to do work under the permit.
4. **Project abstract** – Abstract of approximately 250 words summarizing the project including objectives, methods, and project significance. The abstract shall be suitable for use in the public press.
5. **Project rationale** – Describe the issue to be investigated and its importance and relevance to the sanctuary. Provide relevant background information that clarifies the need for the project and why it is valuable and/or necessary for this activity to be conducted in the sanctuary.
6. **Objectives** – Describe the specific objectives of the proposed project. Where appropriate, the objectives should be stated as specific hypotheses to be tested.
7. **Intended use of results** – Describe how the products/outcomes will be used, including any anticipated commercial use.

B. **Methods** – Describe how the proposed methods and analytical techniques will achieve the activity objectives. This description should include the following, as applicable:

1. **Proposed location of activity** – Clearly describe the study area in terms of sanctuary name(s), geographic location(s), and place names. Unless it is necessary for the activity to take place throughout the sanctuary, provide the geographic coordinates of the proposed location in decimal degrees or degrees, minutes, seconds. Explain whether coordinates notate sampling point(s), boundary points, or a central point and associated radius. Indicate whether the work will take place in any sanctuary marine zones (see section G).
2. **Procedures** – Describe the proposed activity design that addresses the stated objectives and hypotheses. Explain the methods and protocols to be employed in the field. Include descriptions and diagrams of any instrumentation or equipment to be used and deployment duration. Describe all phases of activity, including equipment removal. Include activity frequency (e.g., daily, monthly) as appropriate.

3. **Collections** – If applicable, describe the type, size, and quantity of specimens or materials to be collected, sampled, or captured. Include collection methods, handling, frequency, and replicates required for each experiment. If aware that specimens of the proposed types already exist in a repository, explain why additional collecting is necessary. Provide scientific nomenclature where possible. Provide information on all other applicable federal or state permits where required.
 4. **Schedule** – Provide a schedule that includes start of project, approximate dates or seasons of fieldwork, analysis, reporting, and completion dates. Include the requested start and stop dates for the permit.
 5. **Budget** – Briefly outline the expenses associated with this project and identify your expected funding source(s). Provide contract number, performance period, and name of sponsoring agency, as applicable.
- C. **Products** – With limited exemptions, all information resulting from activities conducted under a national marine sanctuary permit must be made available to the public.
1. **Publications and reports** – Describe the expected publications or reports that will be generated as part of this study.
 2. **Collections** – Describe the proposed disposition of collected specimens or materials. If you propose that the NMSP lend the specimens or samples to a non-NMSP institution for long-term storage, identify that institution and give a brief justification for this proposal.
 3. **Data and other materials** – Describe any other products to be generated as part of the project, such as photographs, maps, models, handouts, exhibits, software presentations, raw data, GIS coverages, or videos, and the proposed disposition of these materials. If data are to be collected from the public as part of this study, provide a copy of the data collection instrument (survey, questionnaire, interview protocol, etc.).
- D. **Literature Cited** – Include full bibliographic citations for any reports and publications used in the text of the application.
- E. **Qualifications** – Provide a background summary or curriculum vitae for the primary applicant/principal investigator and any co-applicant. Identify their training and qualifications relevant to the proposed project and their ability to conduct field activities in the environment of the proposed activity area. Describe previous research and other permitted activities in national marine sanctuaries, including any sanctuary permits previously issued.
- F. **Environmental Impacts** – Discuss the environmental consequences of conducting the proposed activity and indicate whether the activity could be conducted outside the sanctuary and still accomplish the project's objectives. Specify the direct and indirect

environmental impacts of the activity and explain how the benefits of the research will outweigh the disadvantages or environmental consequences in both the short and long term.

- G. **Supporting Documentation And Special Concerns** – Provide information on the following topics where applicable. Attach copies of any supporting documentation that will facilitate processing your application, such as other required federal and state permits, copies of peer reviews, letters of support and funding commitments, and certifications.
1. **Coordination with other research** – NMSP encourages research coordination and cost-sharing with other investigators to enhance scientific capabilities and avoid unnecessary duplication of effort. Applicants should include a description of these efforts, where applicable. Cite similar or supporting past or present research results.
 2. **Copies of other permits** -- Include, if applicable, copies of other federal, state and/or local permits issued with regards to this permit request.
 3. **Requests for NMSP assistance** – NMSP has limited on-site sanctuary personnel, facilities and equipment that may be used to support permitted activities under special circumstances. Requests for support should accompany the permit application and include details on the support requested, justification, dates and length required, and alternate plans if NMSP support is not available.
 4. **Activities in marine zones** – Some sanctuaries have established marine zones to more fully protect habitats, restore the ecological integrity of these areas, or deconflict certain activities. Examples of these zones include Sanctuary Preservation Areas in Florida Keys NMS and marine reserves in Channel Islands NMS. For any activity or portion of activity proposed to take place in marine zones, describe why it is necessary to conduct this activity in a particular zone and how it will further the understanding and/or management of the zone or sanctuary.

IV. SUBMISSION OF PERMIT REQUESTS

The completed permit application should be sent to the appropriate sanctuary contact listed in Appendix C. Permit applications must be submitted at least thirty (30) calendar days in advance of the requested effective date to allow sufficient time for evaluation and processing. Sensitive or complicated requests, requests for collection of sensitive species, or requests for sanctuary support should be submitted at least ninety (90) calendar days in advance. In order to expedite processing, applicants are encouraged to contact the appropriate sanctuary in advance of submitting a formal application to discuss any questions or issues they feel may complicate or delay the application process. **Note: applications not received within the time frames specified above may not be processed before the requested effective date.**

V. EVALUATION OF PERMIT REQUESTS

Permit applications are generally processed by the sanctuary in the order received and will first be reviewed for completeness and adherence to these guidelines. Applicants will be contacted for clarification or if applications are incomplete within twenty (20) calendar days of receipt of the application. If a sanctuary requests such additional information or clarification, and no response has been received from the applicant within ninety (90) calendar days, the application will be deemed withdrawn, no further action will be taken on the application by the sanctuary, and any application for this activity will have to be resubmitted by the applicant as a new request.

Complete applications are reviewed by NMSP program officials, on-site sanctuary personnel, and, when deemed necessary, peer-reviewed by outside experts. Based on the reviews of the application, NMSP will approve or deny the permit. If approved, the sanctuary superintendent will issue the permit. If denied, applicants are notified of the reason(s) for denial and informed of the appeal process.

VI. PERMIT AMENDMENTS

Once a permit or authorization has been issued, changes can be made in the form of an amendment. Requests for amendments (e.g., requests to change the activity location or to extend the expiration date) must conform to these guidelines. Persons desiring to continue permitted activities in the sanctuary must reapply for an extension of the current permit at least thirty (30) calendar days before it expires. Reference to the original application may be given in lieu of a new application, provided the scope of work does not change significantly and all cruise logs and project summaries pertinent to the original permit have been submitted to and approved by on-site sanctuary personnel. **Note: requests for amendments not received within the time frame specified above may not be processed before the requested effective date. In addition, expired permits cannot be amended.**

VII. PERMIT REPORTS

Most permits will require the permittee to submit certain reports documenting activities conducted under the permit. Depending on the permit type and proposed activity, such reports may include (but are not limited to) interim and final activity reports, cruise and flight logs, catch logs, and sample/collection logs. For most permits, these reports will generally be 1-2 pages in length, although complex activities may call for more extensive documentation. Information required to be included in these reports will vary according to the specific activity being permitted, but will generally include a brief summary of activities undertaken, activity dates and locations, any results or findings, appropriate charts or photos, details regarding samples and collections made, publications resulting from permitted activities, and any deviations from the proposed or permitted activities. Specific requirements for reports for permits involving archeological research are included in Appendix I.

VIII. SPECIAL SITUATIONS

Although the information required here applies to most permit situations, certain types of activities require more or less application information and may involve a different review and/or approval process. Please see the relevant appendix if the proposed activity involves one of the following situations:

- A. Overflight of aircraft in the Channel Islands, Gulf of the Farallones, Monterey Bay, or Olympic Coast national marine sanctuaries (Appendix D)
- B. Fireworks or pyrotechnics displays in Monterey Bay National Marine Sanctuary (Appendix E)
- C. Construction, including coastal armoring or hardening, in Monterey Bay National Marine Sanctuary (Appendix F)
- D. Baitfish permits in the Florida Keys National Marine Sanctuary (Appendix G)
- E. Special Use Permits (Appendix H)
- F. Activities involving sanctuary historical resources, including submerged cultural resources, maritime heritage resources, and submerged archaeological resources (Appendix I)

IX. REPORTING BURDEN

Submittal of the information requested in these guidelines is required to obtain a permit pursuant to NMSP regulations (15 CFR part 922). This data is to evaluate the potential benefits of the activity, determine whether the proposed methods will achieve the proposed results, evaluate any possible detrimental environmental impacts, and determine if issuance of a permit is appropriate. It is through this evaluation that the NMSP is able to use permitting as one of the management tools to protect sanctuary resources and qualities.

Applicants are requested to indicate any information that is considered proprietary business information. Such information is typically exempt from disclosure to anyone requesting information pursuant to the Freedom of Information Act (FOIA). NOAA will make all possible attempts to protect such proprietary information, consistent with all applicable FOIA exemptions in 5 U.S.C. 552(b). Typically exempt information includes trade secrets, commercial and financial information (5 U.S.C. 552(b)(4)). Personal information affecting an individual's privacy will also be kept confidential consistent with 5 U.S.C. 552(b)(6).

Public reporting burden for this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated to average one (1) hour per response (e.g., initial application, cruise log, final report) except for the following permit types:

- A. Twenty-four (24) hours per response for special use permits;
- B. Thirteen (13) hours per response for activities involving sanctuary historical resources;
- C. Thirty (30) minutes per response for baitfish permit;
- D. Fifteen (15) minutes per response for amendments to permits;
- E. Thirty (30) minutes per response for certification requests;
- F. Fifteen (15) minutes per response for voluntary registration; and
- G. Ninety (90) minutes per response for appeals of permit decisions.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to National Permit Coordinator, NOAA National Marine Sanctuary Program, 1305 East-West Highway (N/ORM6), 11th Floor, Silver Spring, MD 20910.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

APPENDIX A SANCTUARY PERMIT TYPES

The following matrix summarizes the types of permits available in individual national marine sanctuaries and is provided as a general overview only. This list is in accordance with current regulations and is subject to change. Applicants should consult current sanctuary regulations (15 CFR Part 922), or contact the appropriate sanctuary, for the most current information on available permit types.

Permit Types	Monitor	Channel Islands	Gulf of the Farallones	Gray's Reef	Fagatele Bay	Cordell Bank	Flower Garden Banks	Monterey Bay	Stellwagen Bank	Olympic Coast	Florida Keys
Research related to sanctuary resources	X	X	X	X	X	X	X	X	X	X	X
Special use permit	X	X	X	X	X	X	X	X	X	X	X
Further the sanctuary educational value		X	X	X	X	X	X	X	X	X	X
Further sanctuary management						X	X	X	X	X	X
Further the sanctuary natural resource value							X	X	X	X	X
Authorization (note 1)							X	X	X	X	X
Conduct general salvage & recovery operations		X	X	X	X						
Salvage & recovery connected with a recent air or marine casualty	X					X	X	X	X	X	X
Salvage & recovery operations of a state-owned abandoned shipwreck								X		X	
Survey/inventory of historical resources											X
Research/recovery of historical resources											X
Deaccession/transfer of historical resources											X
Removal of jade								X			
Promote the welfare of Indian tribe adjacent to the sanctuary										X	
Otherwise further sanctuary purposes											X

Note 1 - Some sanctuaries can allow activities otherwise prohibited if the activity is authorized by a valid federal, state, or local lease, permit, license, approval, or other authorization issued after the effective date of sanctuary designation (15 CFR 922.49). Such approval is known as an "authorization."

APPENDIX B GENERIC PERMIT APPLICATION FORM



National Marine Sanctuary Program PERMIT APPLICATION FORM

The National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) directs the Secretary of Commerce to designate and manage areas of the marine environment with nationally significant aesthetic, ecological, historical, or recreational values as national marine sanctuaries. The National Marine Sanctuary Program has issued regulations to implement this act (15 CFR Part 922). These regulations exist to safeguard resources within sanctuary boundaries and include prohibitions on the conduct some activities. Program regulations also give the NMSP authority to issue permits to allow certain activities beneficial to sanctuaries that would otherwise be prohibited.

Guidelines on applying for permits are given in “Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations,” to which this form is an appendix. Applicants are responsible for reviewing and understanding the guidelines in their entirety to ensure are all application requirements are met. This form does not and is not meant to replace the guidelines, but is instead provided to assist potential applicants in gathering and submitting the information required for most permits. Some permits may require more or less information; applicants should consult the guidelines for details. This form is provided for the convenience of applicants only and is not required.

Completed applications should be submitted to the appropriate sanctuary(s) in which the activity is proposed to take place. This contact information is included in the guidelines.

Anyone conducting prohibited activities without a valid national marine sanctuary permit or authorization may be subject to the penalties as provided under Section 307 of the National Marine Sanctuaries Act.

Public Reporting Burden

Submittal of the information requested in these guidelines is required to obtain a permit pursuant to NMSP regulations (15 CFR part 922). This data is to evaluate the potential benefits of the activity, determine whether the proposed methods will achieve the proposed results, evaluate any possible detrimental environmental impacts, and determine if issuance of a permit is appropriate. It is through this evaluation that the NMSP is able to use permitting as one of the management tools to protect sanctuary resources and qualities.

Applicants are requested to indicate any information that is considered proprietary business information. Such information is typically exempt from disclosure to anyone requesting information pursuant to the Freedom of Information Act (FOIA). NOAA will make all possible attempts to protect such proprietary information, consistent with all applicable FOIA exemptions in 5 U.S.C. 552(b). Typically exempt information includes trade secrets, commercial and financial information (5 U.S.C. 552(b)(4)). Personal information affecting an individual’s privacy will also be kept confidential consistent with 5 U.S.C. 552(b)(6).

Public reporting burden for this collection of information is estimated to average one (1) hour per response (e.g., initial application, cruise log, final report), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to National Permit Coordinator, NOAA National Marine Sanctuary Program, 1305 East-West Highway (N/ORM6), 11th Floor, Silver Spring, MD, 20910.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

A. APPLICANT AND PROJECT INFORMATION

Project Title:

Sanctuary(s):

Applicant Information:

Name:

Affiliation:

Department:

Mailing address *(include street or post office box, city, state, and zip code)*:

Phone number:

Fax number:

E-mail address:

Secondary (co-applicant) information *(if applicable)*:

Name:

Affiliation:

Department:

Mailing address *(include street or post office box, city, state, and zip code)*:

Phone number:

Fax number:

E-mail address:

Name(s) of any other individuals authorized to conduct activities under this permit:

Name(s):

Affiliation(s):

Project abstract: *(approximately 250 words)*

Include summary of objectives, methods, and project significance.

Project rationale:

Describe the issue to be investigated, its importance and relevance to the sanctuary, and why it is necessary to be conducted in the sanctuary.

Activity objectives:

When appropriate, include the specific hypothesis to be tested.

Intended use of results:

B. METHODS

Proposed location of activity:

When appropriate, include geographic coordinates of activity in decimal degrees or degrees, minutes, seconds. Explain whether coordinates notate sampling point(s), boundary points, or a central point and associated radius. Indicate whether the work will take place in any sanctuary marine zones (if so, complete section G).

Procedures:

Explain the methods and protocols to be employed in the field. Include descriptions and diagrams of any instrumentation or equipment to be used and deployment duration. Describe all phases of activity, including equipment removal. Include activity frequency (e.g., daily, monthly) as appropriate.

Collections: (when applicable)

Describe the type, size, and quantity of specimens or materials to be collected, sampled, or captured. Include collection methods, handling, frequency, and replicates required for each experiment. If aware that specimens of the proposed types already exist in a repository, explain why additional collecting is necessary. Provide scientific nomenclature where possible. Provide information on all other applicable federal or state permits where required.

Project schedule:

Describe overall project schedule along with requested permit dates:

Requested permit start date:

Requested permit stop date:

Project budget:

Briefly outline expenses associated with this activity. Provide contract number, performance period, and name of sponsoring agency, as applicable.

C. PRODUCTS

Describe expected publications or reports, proposed disposition of collected specimens, and any data to be generated as part of this project.

D. LITERATURE CITED IN THIS APPLICATION

E. QUALIFICATIONS OF PERMITTED PERSONNEL

F. ENVIRONMENTAL IMPACTS OF ACTIVITY

G. SUPPORTING DOCUMENTATION AND SPECIAL CONCERNS

Coordination with other research/activities:

Copies of other permits:

List all permits required from other agencies for the proposed project. Indicate date the permit was acquired or application was submitted. Attach/submit other permits or applications.

Requests for NMSP assistance:

Activities in marine zones:

For any activity or portion of activity proposed to take place in marine zones, describe why it is necessary to conduct this activity in a particular zone and how it will further the scientific understanding and/or management of the zone or sanctuary.

APPENDIX C
SANCTUARY PERMITTING CONTACTS

For further information on NMSP permits, contact the national office or appropriate sanctuary contacts listed below. Applications for permits and authorizations should be sent only to the sanctuary office(s) in which the proposed activity is to take place.

National Marine Sanctuary Program
www.sanctuaries.noaa.gov
John Armor
National Permit Coordinator
NOAA National Marine Sanctuary Program
1305 East-West Highway (N/ORM6)
Silver Spring, MD 20910-3282
301-713-3125, x117
Fax: 301-713-0404

Channel Islands Nat'l Marine Sanctuary
www.channelislands.noaa.gov
Superintendent
Channel Islands National Marine Sanctuary
Attn: Permit Coordinator
113 Harbor Way
Santa Barbara, CA 93109
805-966-7107
Fax: 805-568-1582

Cordell Bank National Marine Sanctuary
www.cordellbank.noaa.gov
Superintendent
Cordell Bank National Marine Sanctuary
Attn: Permit Coordinator
P.O. Box 159
Olema, CA 94950
415-663-0314
Fax: 415-663-0315

Fagatele Bay National Marine Sanctuary
www.fagatelebay.noaa.gov
Superintendent
Fagatele Bay National Marine Sanctuary
Attn: Permit Coordinator
P.O. Box 4318
Pago Pago, AS 96799
011-684-633-7354
Fax: 011-684-633-7355

Florida Keys National Marine Sanctuary
www.floridakeys.noaa.gov
Superintendent
Florida Keys National Marine Sanctuary
Attn: Permit Coordinator
P.O. Box 500368
Marathon, FL 33050
305-743-2437
Fax: 305-743-2357

Florida Keys National Marine Sanctuary
(Cultural resource permits only)
Upper Region Manager
Florida Keys National Marine Sanctuary
Attn: Cultural Resource Manager
P.O. Box 1083
Key Largo, FL 33037
305-852-7717
Fax: 305-853-0877

Flower Garden Banks National Marine Sanctuary

www.flowergarden.noaa.gov

Superintendent
Sanctuary

Flower Garden Banks Nat'l Marine Sanctuary

Attn: Permit Coordinator
1200 Briarcrest Drive, Suite 4000
Bryant, TX 77802
979-846-5942
Fax: 979-846-5959

Gray's Reef National Marine Sanctuary

www.graysreef.noaa.gov

Superintendent

Gray's Reef National Marine

Attn: Permit Coordinator
10 Ocean Science Circle
Savannah, GA 31411
912-598-2345
Fax: 912-598-2367

Gulf Of The Farallones National Marine Sanctuary

www.farallones.noaa.gov

Superintendent

Gulf of the Farallones Nat'l Marine Sanctuary

Attn: Permit Coordinator
Fort Mason, Building 201
San Francisco, CA 94123
415-561-6622
Fax: 415-561-6616

Monitor National Marine Sanctuary

www.monitor.noaa.gov

Superintendent

Monitor National Marine Sanctuary

Attn: Permit Coordinator
c/o The Mariners' Museum
100 Museum Drive
Newport News, VA 23606
757-599-3122
Fax: 757-591-7353

Monterey Bay Nat'l Marine Sanctuary

www.montereybay.noaa.gov

Superintendent

Monterey Bay National Marine Sanctuary

Attn: Permit Coordinator
299 Foam Street
Monterey, CA 93940
831-647-4201
Fax: 831-647-4250

Olympic Coast Nat'l Marine Sanctuary

www.olympiccoast.noaa.gov

Superintendent

Olympic Coast National Marine Sanctuary

Attn: Permit Coordinator
115 East Railroad Ave., Suite 301
Port Angeles, WA 98362
360-457-6622
Fax: 360-457-8496

Stellwagen Bank Nat'l Marine Sanctuary

www.stellwagen.noaa.gov

Superintendent

Stellwagen Bank National Marine Sanctuary

Attn: Permit Coordinator
175 Edward Foster Road
Scituate, MA 02066
781-545-8026
Fax: 781-545-8036

Thunder Bay National Marine Sanctuary and Underwater Preserve

www.thunderbay.noaa.gov

Superintendent

Thunder Bay National Marine Sanctuary
and Underwater Preserve

Attn: Permit Coordinator
145 Water Street
Alpena, MI 49707
989-356-8805
Fax: 989-354-0144

APPENDIX D OVERFLIGHT AUTHORIZATIONS

Overflights of aircraft below 1000 feet are prohibited by NMSP regulations in the following locations in order to protect certain seabird and marine mammal habitats from disturbance:

- A. Within one nautical mile of any of the islands within the Channel Islands National Marine Sanctuary.
- B. Within one nautical mile of the Farallon Islands, Bolinas Lagoon, or any Area of Special Biological Significance within Gulf of the Farallones National Marine Sanctuary.
- C. Within four prescribed zones of the Monterey Bay National Marine Sanctuary as defined in sanctuary regulations at 15 CFR Part 922.132(a)(6).

In addition, overflights below 2000 feet altitude are prohibited within four prescribed zones of the Olympic Coast National Marine Sanctuary as defined in sanctuary regulations at 15 CFR Part 922.152(a)(6).

In addition to the standard guidance for NMSP permit applications given in this document, the following additional guidance applies for any application for a sanctuary permit or authorization requesting overflight of aircraft in the Channel Islands, Gulf of the Farallones, Monterey Bay, or Olympic Coast national marine sanctuaries:

Project rationale – In the rationale, describe why it is preferable that the low-altitude overflight occur within an overflight restriction zone(s) of the sanctuary.

Methods – The methods description should also include:

- A. The intended start date, frequency, anticipated duration of the activity, and hours of flight operations;
- B. The number and type of aircraft to be used (make and model), including aircraft markings and tail numbers;
- C. The lowest planned flight altitude;
- D. The flight plan and schedule, including detailed flight patterns (repeat transects, circling, hovering, diving, etc.), refueling plan, and landing/takeoff locations;
- E. Any special equipment that will be mounted on, lowered, or towed from the aircraft, and any object planned for release from the aircraft;
- F. A communications plan that identifies call signs and frequencies for all aircraft and project participants.

Qualifications – Applicant must provide a copy of a current Federal Aviation Administration (FAA) pilot's license and FAA medical certificate for each pilot operating aircraft as part of the proposed activity within the sanctuary.

All other guidance for NMSP permit applications, including procedures, timelines, and points of contact, apply to aircraft overflight permit and authorization requests.

APPENDIX E MONTEREY BAY NMS FIREWORKS AUTHORIZATIONS

Monterey Bay National Marine Sanctuary (MBNMS) regulations prohibit the discharge or deposition of any material into the waters of the sanctuary (except for specific material exempted in the regulations). In addition, the regulations prohibit the discharge or deposition of any material outside the boundary of the sanctuary that subsequently enters the sanctuary and injures a sanctuary resource or quality (except for specific material exempted in the regulations). Both prohibitions can be found in MBNMS regulations (15 CFR Part 922, Subpart M).

Pyrotechnic devices detonated over or near the ocean produce "fallout" or residue that falls directly into the water or is carried to the water by winds. Deposition of such matter is a violation of sanctuary regulations governing discharges unless written authorization is issued by the NMSP. The sanctuary program is interested in documenting the type, concentration, and mass of chemicals and material entering the water as a result of exploding rockets or shells. For the above reasons, any individual or organization sponsoring a fireworks display that will affect the MBNMS must apply for sanctuary authorization to conduct such activity.

Definitions

The following definitions apply to MBNMS fireworks authorizations guidance:

- A. Aerial shell - a pyrotechnic device launched or fired into the air
- B. Contractor - a state licensed pyrotechnic exhibitor
- C. Display - fireworks display
- D. Fireworks display - a demonstration of pyrotechnic devices requiring a state operator's license
- E. Impact area - perimeter in which aerial shells explode or detonate and deposit debris
- F. Organization sponsor - the party responsible for initiating and/or contracting the fireworks display
- G. Pyrotechnic device - any device containing a combustible substance that is designed to ignite or explode, creating a visual and/or audible effect (includes aerial shells and ground devices)
- H. Shell - aerial shell

Applications

Application for sanctuary authorization to conduct a fireworks display should be submitted by the person (individual) who will assume full supervisory responsibility for the event. An individual will be named in the authorization document in order to identify a sole point of contact for the event. Authorization must be requested by a member of the organization sponsoring the event - not by the contractor performing the fireworks display.

Applicants for MBNMS fireworks authorizations are not required to submit the standard application information described in section III of the standard NMSP permit application guidelines. Instead, the request may be in letter form and should provide a full description of the

agenda, procedures, and pyrotechnic devices associated with executing the display. The letter should include, but is not limited to:

- A. The general location where the fireworks display will occur;
- B. The date and time that the display will occur;
- C. The duration of the display;
- D. A description of the purpose for (event related to) the display;
- E. Anticipated effects of the display on the sanctuary or sanctuary resources;
- F. Name, address, and phone number of the sponsor and authorization holder;
- G. Name, address, and state license number of the company or party that will actually handle and ignite pyrotechnic devices;
- H. A common-name description of each type of pyrotechnic device to be ignited or launched;
- I. A description of the contents, dimensions, and weight of each type of pyrotechnic device to be ignited or launched;
- J. A description of the chemical elements (and respective volumes) present in each type of pyrotechnic device to be ignited or launched;
- K. The number of aerial shells that will be launched;
- L. A description of the range and detonation altitude of each shell type;
- M. The exact location at which pyrotechnic devices will be ignited or launched;
- N. A description of the impact area (a map of the impact area is acceptable).

In addition, copies of the following documents are required as part of the application:

- A. Local fire marshal permit
- B. Applicable city and county use permits
- C. Certificate of comprehensive general liability insurance covering the display sponsor against damages caused by the fireworks display
- D. U.S. Coast Guard marine events permit if the fireworks display will occur over the water or will in any way affect navigation
- E. Any other relevant permits.

If fireworks are to be ignited or launched from an offshore platform, the details of such operation must be included in the authorization request. The MBNMS sanctuary superintendent may request additional information as needed to consider any authorization request.

All other guidance for NMS permit applications, including procedures and timelines, apply to MBNMS fireworks authorization requests.

APPENDIX F MONTEREY BAY NMS CONSTRUCTION AUTHORIZATIONS

Authorizations for construction activities in Monterey Bay National Marine Sanctuary (MBNMS) may be issued by the sanctuary superintendent under special circumstances for construction activities otherwise prohibited by sanctuary regulations if 1) an activity has been authorized by a valid lease, permit, license, approval or other authorization issued after the effective date of sanctuary designation by any federal, state, or local authority of competent jurisdiction; 2) the superintendent finds that the activity will not cause long-term or severe impacts to sanctuary resources, and 3) the applicant complies with all applicable regulations and any specific conditions/terms specified by the superintendent.

In addition to the standard guidance for NMSP permit applications given in this document, the following additional guidance applies for any application for a sanctuary permit or authorization requesting construction in MBNMS:

Methods – The methods description should clearly describe the rationale behind selecting the proposed construction methods over any alternative methods.

Supporting Documentation and Special Concerns – Ensure the following is also included:

- A. A map showing the proposed study or project location(s) and a description of the habitat at the project site. If not to scale, maps must be annotated to describe depth and planned dimensions of the constructed/installed object and the impact area. Maps should also indicate the position of the mean-lower-low-water and mean-high-water lines relative to the project site and the survey data used to define these lines.
- B. A copy of the construction plan to include comprehensive, detailed descriptions of methods and procedures for accomplishing various tasks (e.g. type of equipment to be used, installation techniques, materials, etc.)
- C. Details concerning any maintenance or future modifications associated with the project.

All other guidance for NMSP permit applications, including procedures, timelines, and points of contact, apply to MBNMS construction authorization requests.

**APPENDIX G
FLORIDA KEYS NMS BAITFISH PERMITS**

Florida Keys National Marine Sanctuary (FKNMS) baitfish permits allow the permit holder to catch baitfish in certain Sanctuary Preservation Areas (SPAs) using a cast net or modified lampara net.

FKNMS baitfish permits are issued free of charge and last for one calendar year. Baitfish permits are issued to an individual and may be used on more than one vessel, but may not be used by more than one person.

Applicants for FKNMS baitfish permits are not required to submit the standard application information described in section III of the standard NMSP permit application guidelines. Instead, the request should include:

- A. Applicant name, mailing address, and telephone number;
- B. Boat name(s) and documentation numbers, when known.

This information may be submitted by telephone by calling the individual listed below, or in writing via fax, email, courier, or regular mail.

All baitfish permit holders are required to maintain a catch log (attached) and submit this log upon expiration of their permit. An electronic version of this log is available at www.floridakeys.noaa.gov or can be obtained from the sanctuary point-of-contact. The log should be filled out and mailed to the contact person within thirty (30) days before the permit expires. Please use the following codes for the SPA name on the log:

<u>SPA Name</u>	<u>Code</u>	<u>SPA Name</u>	<u>Code</u>
Carysfort/South Carysfort	CAR	Cheeca Rocks	CHE
The Elbow	ELB	Alligator Reef	ALL
Dry Rocks	KYL	Coffins Patch	COF
Grecian Rocks	GDR	Sombrero Key	SOM
French Reef	FRE	Newfound Harbor Key	NHK
Molasses Reef	MOL	Looe Key	LKS
Conch Reef	CON	Eastern Dry Rocks	EDR
Hen and Chickens	HNC	Rock Key	RKK
Davis Reef	DAV	Sand Key	SAN

Point-of-contact for FKNMS baitfish permits is:
 Permit Coordinator
 Florida Keys National Marine Sanctuary
 P.O. Box 500368
 Marathon, FL 33050
 305-743-2437
 Fax: 305-743-2357
 Email: Joanne.Delaney@noaa.gov

Submit a copy of this log between Dec. 1-31 to:
 Permit Coordinator
 FKNMS
 P. O. Box 500368
 Marathon, FL 33050
 Fax: 305-743-2357

APPENDIX H SPECIAL USE PERMITS

Section 310 of the National Marine Sanctuaries Act (16 U.S.C. § 1441; NMSA) allows the Secretary of Commerce (delegated to the National Marine Sanctuary Program (NMSP)) to issue special use permits to authorize the conduct of specific activities in a sanctuary if such authorization is necessary (1) to establish conditions of access to and use of any sanctuary resource or (2) to promote public use and understanding of a sanctuary resource. Special use permits are generally issued for concessionaire-type activities and other commercial activities that require access to the sanctuary to achieve a desired goal.

Public notice

The NMSA requires, among other things, the NMSP to provide “appropriate public notice before identifying any category of activity subject to a special use permit” (see section 310(b) of the NMSA). To comply with this directive from Congress, the NMSP has issued a *Federal Register* notice that describes the types of activities for which it can require the issuance of a special use permit (67 FR 35501). To qualify for a special use permit, an activity must be among those listed in this notice. The notice lists the following activities:

- A. The disposal of cremated human remains by a commercial operator in any national marine sanctuary;
- B. The operation of aircraft below the minimum altitude in restricted zones of national marine sanctuaries for commercial purposes;
- C. The placement and subsequent recovery of objects associated with public events on non-living substrate of the seabed;
- D. The discharge and immediate recovery of objects related to special effects of motion pictures; and
- E. The continued presence of submarine cables beneath or on the seabed.

If a proposed activity does not fall within the description of one of the types of activities for which NMSP has provided public notice, NMSP would need to publish a new *Federal Register* notice and solicit public comments on the use of special use permits for the type of activity proposed prior to issuing a permit.

Terms of special use permits

The NMSA provides four conditions on special use permits. The NMSA requires that special use permits:

- A. Shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;
- B. Shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;
- C. Shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

- D. 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.

Permit fees

The NMSA allows the NMSP to assess and collect fees for the conduct of any activity under a special use permit. If it is assessed, the amount of the fee is calculated by adding all of the following.

- A. The costs incurred, or expected to be incurred, by the Secretary in issuing the permit;
- B. The costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and
- C. An amount that represents the fair market value of the use of the sanctuary resource.

Information requirements

Applicants for special use permits should submit all of the information requested in the standard guidance for NMSP permit applications given in this document. In addition, the following will also be required:

- A. Comprehensive Liability Insurance. Applicants will be required to purchase and maintain comprehensive general liability insurance, or to 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. Applicants should show proof of such insurance with the rest of the application materials.
- B. Annual financial report. Most permits require some form of reporting. Special use permit recipients are also required to submit financial reports on or before December 31 of each year the permit is valid. These reports should detail the activities conducted under the permit during the reporting year and any revenues derived from those activities.

APPENDIX I ARCHEOLOGICAL RESEARCH PERMITS

The following guidelines have been prepared for applicants proposing to conduct activities involving historical resources of the National Marine Sanctuary System (including submerged cultural resources, maritime heritage resources, and submerged archaeological resources). These guidelines have been prepared in compliance with the Federal Archaeological Program laws, regulations and guidelines including the—

- A. Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation;
- B. Abandoned Shipwreck Act Final Guidelines (55 FR 233, December 4, 1990);
- C. Archaeological Resources Protection Act of 1979;
- D. Final Uniform Regulations on Protection of Archeological Resources (43 CFR Part 7);
and
- E. Programmatic agreements involving archeological resources and/or historical resource management.

The primary purpose of these guidelines is to assist potential permit applicants in submitting their application materials to the NMSP for consideration. While some of the information requirements described in the standard guidelines for permits and authorizations applies to permits for historical resources, much of the required information is different. Applications of this type should adhere to the following guidance instead.

I. Cover Sheet – The cover sheet shall identify:

- A. Title of project (e.g., "Survey of the USS *Alligator*");
- B. Applicant's name, address, telephone number, and affiliation;
- C. Name, address, affiliation, and of other key personnel;
- D. Proposed date of project and anticipated duration;
- E. Demonstrate reasonable ability to fund each phase of intended investigation covered by the permit.
- F. Glossary/key words.

II. Project Summary – The applicant should provide a 250-word (maximum) summary of the project including a brief statement of research objectives, scientific methods to be used, and the significance of the proposed work to the established management plan goals of the sanctuary. Also include a chart that shows the location and the latitude and longitude of the proposed work area.

III. Technical Information – The applicant should provide clear, concise, and complete statements for the following information. Documentation and excavation must follow standard archaeological methodology. Please note that an archaeological survey must be conducted on a site before a Research/Recovery Permit can be issued (See section VIII of this appendix).

- A. Research Plan. A research plan describing in detail the specific research objectives and goals (methodologies should be addressed in the Operational Plan - see below). The plan should include a description of:
 - 1. The archaeological goals and methods to be employed;

2. The problems toward which the research will be directed (i.e., what questions will this research answer); and
 3. The ways in which other researchers have sought to answer them.
- B. Project Significance. The applicant should discuss significant previous research in the area of interest and how the proposed effort may enhance or contribute to improving the state of knowledge of history, anthropology or archaeology. Explain why the proposed effort should be performed in the sanctuary and any potential benefits that might be imparted to the public's interest and to sanctuary resources protection and management. Discuss potential benefits that might result from the addition of artifacts to the pool of artifacts available for display. Discuss how the project may provide public access to artifacts embedded in submerged lands and not able to be directly examined or physically displayed to the public without removal.
- C. Operational Plan. The applicant should describe the tasks required to accomplish the project's objectives. Describe the proposed methods to be used for site documentation, excavation, recovery and the storage of artifacts and related materials on site and at the storage lab. Describe the rationale for selecting the proposed methods over any alternative methods.
- D. Required Reports and Recordkeeping. If a permit is issued the following reports will be required (See sections VII and VIII of this appendix):
1. Seasonal Reports.
 2. Final Project Report.
 3. Artifact Conservation Report.
 4. Project Log - Master copies of standard logbook sheets shall be supplied to the permittee who shall make sufficient copies and fill them out on a daily basis. Copies of all completed field logs must be turned over to NMSP following the completion of the project.
 5. Artifact Log - An Artifact Log should be kept at the site and in the storage lab. Each artifact will be assigned a Field Number. A description of the artifact, archaeological provenience data and the recorder's name and the date should be recorded in the log. A copy of the Artifact Log will be turned over to the NMSP at the completion of the project.
 6. Photographs and Videotapes - Applicant should provide photographs and/or videotapes (optional) of significant individual site features and/or artifact clusters both in situ and after removal. Images should include photo scale, north arrow and date/site name board.
- E. Artifact Handling Plan. The applicant should provide an Artifact Handling Plan that includes the following:
1. Artifact removal – Discuss techniques for removal of various types of artifacts expected to be encountered. Specifically address types of artifacts requiring special care such as glass or ceramics and organic artifacts such as rope, leather, textiles, and other fragile objects.
 2. Artifact processing – Discuss plans for artifact storage between the field and conservation lab. Discuss proposed artifact inventory methodology. Each artifact

should be tagged with a Field Catalogue Number to be assigned as soon as it is removed from the water at the site. Additional tags bearing accession numbers may be assigned and affixed by the NMSP. In this case, NMSP will maintain public records linking the original Field Catalogue Number and any additional numbers assigned.

3. Unique or valuable artifacts should be photographed from two perspectives with a bar scale, date and the Catalogue Number tag prominently displayed. The Field Catalogue Number tag should be sturdy and waterproof and should be attached to the artifact in a non-destructive manner so as to accompany the artifact through storage and the conservation process. Bulk or highly repetitive artifacts, such as coins, musket balls, pottery shards, etc. need not be photographed individually, but should be photographed in groups with the artifact tag number containing the Field Catalogue number visible.
- F. Conservation Plan. The applicant should provide a detailed plan for the conservation of artifacts. Include methods of conservation and intended processes. The Conservation Plan should include:
1. Conservation methodology - Discuss the methods of conservation and the intended processes for each class of artifact (i.e. ceramic, wood, other organic materials, ferrous metal, and non-ferrous metal);
 2. Conservation equipment - Describe the conservation facility or facilities;
 3. Storage space - Describe the conservation facility's location and size of the storage space.
- G. Curation and Display Plan. The applicant should provide a detailed plan for the curation of artifacts to ensure their maintenance and safety and in compliance with 36 CFR 79-- Curation of Federally-Owned and Administered Archaeological Collections. The Curation Plan should ensure that the following processes are considered:
1. Curation facility and personnel – Identify the curatorial facility and the professional personnel. Curatorial facilities should have adequate space to ensure the safe storage of artifacts.
 2. Artifact storage – Archaeological specimens should be maintained so that their information values are not lost through deterioration. Storage records should be maintained to a professional archival standard.
 3. Project records – Project and curation records should be maintained in a manner conforming to standard archival method. Storage should conform to professional archival standards and should allow for accessibility of records to qualified researchers within a reasonable amount of time of having been requested.
 4. Artifact availability – Artifact collections must be accessible to qualified researchers within a reasonable amount of time of having been requested.
 5. Artifact loans – Artifacts should be available for loan to other institutions for interpretive purposes, subject to reasonable security precautions and scheduling practicalities.
 6. Artifact display – Collections should be available for educational and interpretive purposes, subject to reasonable security precautions. A plan for the display exhibit area will be required if artifacts are intended for display. Exhibit information will include display case design and security, building security and

temperature and humidity control. A loan agreement will be prepared between NOAA and the exhibiting institution in keeping with 36 CFR 79 (see above).

IV. Qualifications – Show evidence of the ability of each team member to perform the assigned tasks for the following personnel:

- A. Supervising Archaeologist – The Supervising Archaeologist is responsible for archaeological aspects of the project and need not serve as project manager. The applicant should submit a resume detailing the professional qualifications of the Supervising Archaeologist (including citations and examples of archaeological site reports and professional publications). In compliance with the “Secretary of Interior’s Standards and Guidelines for Archaeology and Historic Preservation” and the Archaeological Resources Protection Act the Supervising Archaeologist should fulfill the following qualifications:
1. A graduate degree in archaeology, anthropology, maritime history equivalent training and experience;
 2. At least one year of professional experience or equivalent specialized training in archaeological research, administration or management;
 3. At least four months of supervised field and analytic experience in general North American archaeology and maritime history;
 4. Demonstrated ability to carry research to completion;
 5. At least one year of full-time professional experience at a supervisory level in the study of historic marine archaeological resources (for historic shipwreck studies) or prehistoric marine archaeological resources (for submerged prehistoric studies); and
 6. Ability to demonstrate ability in comprehensive analysis and interpretation through authorship of reports and monographs.
- B. Archaeological Assistants – Archaeological Assistants need not meet Supervising Archaeologist qualifications but will serve under the direction of the Supervising Archaeologist. The applicant should provide the name and experience of all qualified archaeological assistants who will assist the Supervising Archaeologist in site documentation and research.
- C. Artifact Conservator – The applicant should provide documentation of the Artifact Conservator’s demonstrated experience in conservation of artifacts from submerged sites. Professional experience should include experience in the conservation of ferrous and non-ferrous metals, ceramics, glass and organic materials.

V. Environmental Consequences – The applicant should provide an analysis of the extent and nature of potential environmental impacts on sanctuary resources from permitted activity. If impact to natural resources is proposed, the applicant should provide a Site Restoration and Remediation Plan to address any injury or impacts resulting from the project.

VI. Supporting Documentation and Special Concerns

- A. Financial Support. Provide contract number, performance period, and name of sponsoring entity, if any. If none, provide sufficient data to substantiate the fiscal capability to complete the phases of work proposed to be permitted. If artifact recovery is proposed, financial data must address the resources necessary for the conservation, curation and interpretation of the resulting archaeological collection.
- B. Coordination with Research in Progress or Proposed. The NMSP encourages coordination and cost-sharing with other investigators to enhance scientific capabilities and avoid unnecessary duplication of efforts, where applicable.
- C. Letters of Intent. Applicant should provide letters of intent to participate in this project from the Supervising Archaeologist and Conservator.
- D. References. Provide bibliographic references for any citations made in text.

VII. Archeological Research Report and FKNMS Research/Recovery Permit Report

Guidelines – If a permit is issued, the permittee will be required to submit certain reports or other records to document permitted activities. This section describes the various report types that will likely be required.

- A. Seasonal Reports. The permittee will provide a Seasonal Report within sixty (60) days of the conclusion of each dive season for the duration of the permit. With this report, the applicant should also submit copies of pertinent photographs, video, maps, artifact logs, and field logs. The Seasonal Report should include:
 - 1. A summary of the season's activities;
 - 2. A discussion of any problems encountered that may require a revision of the permit;
 - 3. Plans for the next field season based on permittee's assessment of the preceding season's work.
- B. Final Report. The permittee will provide a Final Report on the activities and results of the project. The Final Report must be reviewed by the Supervising Archaeologist and signed and dated with his/her comments. The Final Report must be submitted within one (1) year of the completion of field work and artifact conservation. The bound Final Report must include:
 - 1. Site Description – a description of the study area;
 - 2. Site History – a contextual history relating the site to the general history of the region;
 - 3. Research Design – the original project design and research goals for the project;
 - 4. Field Work Description – a description of the field activities including a summary of the survey and/or excavation process;
 - 5. Field Observations – all observations of notable occurrences, patterns, etc.;
 - 6. Data Analysis – full analysis and results of recovered data and artifacts to also include:

7. Maps – The permittee should supply the following maps:
 - a. An overall map showing site in relation to submerged features and nearest land mass (e.g., NOAA chart);
 - b. A pre-excavation plan view (overhead) map showing significant or readily observable exposed artifacts and site features;
 - c. An overall plan-view site map showing all excavated hull structure;
 - d. Detailed feature maps for each significant feature to include location of artifacts removed from site. Artifact locations will include the artifact Field Catalogue Number. If numerous artifacts are retrieved from a specific area they may be listed in table form and keyed to the map location by an index number. They will relate the artifact positions to features in the overall site map. The feature maps will include 3 different perspectives, including overhead or plan view, side/profile view, and (if practicable) frontal/sectional view;
 - e. All maps should show a grid or grid ticks on the outer border of the map in Loran C, longitude and latitude, or other recognized coordinate system. Smaller-scale maps should have grids with X-Y coordinates related to datum on overall site map. Maps should include a bar scale, North arrow, and title block which identifies the map. The title block should include the permit number, permittee's name, and year of the permit.
8. Project Assessment – The Final Report should include a discussion of the applicant's perceived success of the project and recommendations for updating historical contexts and planning goals.

- C. Conservation Report. The Conservation Report should include an account of all work done on artifacts. Note work done on different materials and/or classes of artifacts, work on significant (e.g., unique or fragile) artifacts, and work on composite-type artifacts composed of two or more materials (e.g., wood and iron). The report of the conservation of artifacts should include appendices containing:
1. An artifact list;
 2. Copies of the conservation lab records; and
 3. Before and after photographs of artifacts at the conservation lab.

VIII. Survey Reporting Guidelines – This section will assist anyone conducting remote sensing surveys of archaeological resources in preparing reports and in submitting the relevant information to the NMSP. This section will also assist in preparing the necessary reports for survey/inventory in FKNMS. For FKNMS, the report and map are necessary before a subsequent Research/Recovery permit can be issued.

- A. Survey/Inventory Report. The survey/inventory report should include:
1. Introduction – The introduction should include the dates of the survey; the general region and the parameters of the survey area in latitude and longitude; the number of days spent conducting remote sensing survey; the number of days diving to identify anomalies; the names of people involved with the operation their capacity; and a brief statement outlining the highlights and results of the work.
 2. Equipment - Describe any equipment used for navigation and horizontal positioning as well as magnetometer and other types of remote sensing.

3. Equipment use - Explain how equipment was used, calibrated and configured for navigation and horizontal positioning as well as magnetometer and other remote sensing equipment.
 4. Recording of survey information – Explain how and when position fixes were recorded, how the magnetometer (and other remote sensing equipment) correlated to the horizontal position data, and how far apart the parallel passes were and in what direction(s) the survey vessel was navigated (recommended spacing is 150 feet or less).
 5. Completion of work - Summarize the work completed. Describe how much work was accomplished and how much is left to accomplish to complete the remote sensing phase of your survey work.
 6. Summary statement - Provide a general statement about what you found and how these findings shape your future plans. Discuss and interpret the anomaly patterns. What parts of the anomaly patterns appear to be significant and what parts do not? Are there any significant clusters? Were any anomalies identified? If suspected archaeological remains were found, provide a detailed description including:
 - a. The nature of remains (i.e., ship structural features, ballast, and artifacts);
 - b. The probable approximate date of site, explaining why you think so;
 - c. The distribution and extent of remains;
 - d. The integrity of the remains (i.e., does site appear to be disturbed and, if so, recently?); and
 - e. The natural environment in the vicinity of the wreck.
 7. Report appendices – The report should include the following appendices:
 - a. Include as a first appendix a list that assigns each anomaly a unique designation. This index serves as a cross-reference so anomalies identified in the report can be correlated to their plotted positions on the base map. This appendix should include the anomaly identification designation, its location (e.g., Loran-C coordinates, or Latitude and Longitude in degrees, minutes, and decimal minutes), and gamma intensity.
 - b. Include as a second appendix examples of a dozen or so magnetometer chart sections showing some of the anomalies encountered in your contract area (label each example strip chart section with its corresponding designation as assigned in above).
- B. Survey/Inventory Map. The maps submitted following a survey/inventory should include the following:
1. Encompass a large enough area to include all of your contract and show the contract boundaries. The map(s) should also depict the location of the shoreline and other prominent features such as buried cable, rock outcrops, islands, etc.
 2. Show a grid or grid ticks on the outer border of the map in Loran C, longitude and latitude, or other recognized coordinate system including the system used in the anomaly table in the first appendix.
 3. Use a bar scale, north arrow, and title block which identifies the map. The title block should include the contract number, contractor's name, and year of the contract.
 4. Depict your work progress on the base map.
 5. Show the distance and direction of each survey pass made by the survey vessel.

6. Identify each anomaly with a unique indexed number or letter that is to correspond with the appendix listing all anomalies and with all other references to anomalies in the report.
7. If the survey included limited test excavations and/or limited removal of artifacts or other materials to identify anomalies, please include the following information:
 - a. A summary of the excavation process including equipment used; number, type and provenience of recovered artifacts; and method of recovery and on-site storage of artifacts.
 - b. A summary of the conservation process including information on the conservation facility and chief conservator; and a description of the conservation process including appendices containing artifact lists, lab conservation records, before and after conservation photographs of artifacts.
 - c. A description of post-conservation artifact storage consistent with 36 CFR Part 79.
 - d. A plan-view map of the excavation or recovery area that includes significant bottom features; at least two datum reference points; significant historical features; and location of recovered material.

National Marine Sanctuaries Act

*Title 16, Chapter 32, Sections 1431 et seq. United States Code
As amended by Public Law 106-513, November 2000*

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SEC. 301. [16 U.S.C. 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.
- (b) PURPOSES AND POLICIES.—The purposes and policies of this chapter 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 chapter.

SEC. 302. [16 U.S.C. 1432] DEFINITIONS

As used in this chapter, the term—

- (1) “draft management plan” means the plan described in section 1434(a)(1)(C)(v) of this title;
- (2) “Magnuson-Stevens Act” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);
- (3) “marine environment” means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law;
- (4) “Secretary” means the Secretary of Commerce;
- (5) “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;
- (6) “damages” includes—
 - (A) compensation for—
 - (i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and (II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or
 - (ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;
 - (B) the cost of damage assessments under section 1443(b)(2) of this title;
 - (C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources;
 - (D) the cost of curation and conservation of archeological, historical, and cultural sanctuary resources; and
 - (E) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a sanctuary resource;
- (7) “response costs” means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the

- imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 1443 of this title;
- (8) “sanctuary resource” means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary; and
 - (9) “exclusive economic zone” means the exclusive economic zone as defined in the Magnuson-Stevens Act; and
 - (10) “System” means the National Marine Sanctuary System established by section 1431 of this title.

SEC. 303. [16 U.S.C. 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 chapter;
 - (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) of this section, the Secretary shall consider—
 - (A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;
 - (B) the area's historical, cultural, archaeological, or paleontological significance;
 - (C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;
 - (D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);
 - (E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and

- policies of this chapter;
 - (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.

SEC. 304. [16 U.S.C. 1434] PROCEDURES FOR DESIGNATION AND IMPLEMENTATION

- (a) SANCTUARY PROPOSAL.—
- (1) NOTICE.—In proposing to designate a national marine sanctuary, the Secretary shall—
- (A) issue, in the Federal Register, a notice of the proposal, proposed regulations that may be necessary and reasonable to implement the proposal, and a summary of the draft management plan;
 - (B) provide notice of the proposal in newspapers of general circulation or electronic media in the communities that may be affected by the proposal; and
 - (C) no later than the day on which the notice required under subparagraph (A) is submitted to the Office of the Federal Register, submit a copy of that notice and the draft sanctuary designation documents prepared pursuant to paragraph (2), including an executive summary, to the Committee on Resources of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Governor of each State in which any part of the proposed sanctuary would be located.

- (2) SANCTUARY DESIGNATION DOCUMENTS.—The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:
- (A) A draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
 - (B) A resource assessment that documents—
 - (i) present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses;
 - (ii) after consultation with the Secretary of the Interior, any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisdiction of the Department of the Interior; and
 - (iii) information prepared in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.
 - (C) A draft management plan for the proposed national marine sanctuary that includes the following:
 - (i) The terms of the proposed designation.
 - (ii) Proposed mechanisms to coordinate existing regulatory and management authorities within the area.
 - (iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including interpretation and education, innovative management strategies, research, monitoring and assessment, resource protection, restoration, enforcement, and surveillance activities.
 - (iv) An evaluation of the advantages of cooperative State and Federal management if all or part of the proposed sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.).
 - (v) An estimate of the annual cost to the Federal Government of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education.
 - (vi) The proposed regulations referred to in paragraph (1)(A).
 - (D) Maps depicting the boundaries of the proposed sanctuary.
 - (E) The basis for the determinations made under section 1433(a) of this title with respect to the area.
 - (F) An assessment of the considerations under section 1433(b)(1) of this title.
- (3) PUBLIC HEARING.—No sooner than thirty days after issuing a notice under this subsection, the Secretary shall hold at least one public hearing in the coastal area or areas that will be most affected by the proposed designation of the area as a national

marine sanctuary for the purpose of receiving the views of interested parties.

- (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, 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.
 - (5) FISHING REGULATIONS.—The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone as the Council may deem necessary to implement the proposed designation. Draft regulations prepared by the Council, or a Council determination that regulations are not necessary pursuant to this paragraph, shall be accepted and issued as proposed regulations by the Secretary unless the Secretary finds that the Council's action fails to fulfill the purposes and policies of this chapter and the goals and objectives of the proposed designation. In preparing the draft regulations, a Regional Fishery Management Council shall use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act (16 U.S.C. 1851) to the extent that the standards are consistent and compatible with the goals and objectives of the proposed designation. The Secretary shall prepare the fishing regulations, if the Council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to prepare the draft regulations in a timely manner. Any amendments to the fishing regulations shall be drafted, approved, and issued in the same manner as the original regulations. The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.
 - (6) COMMITTEE ACTION.—After receiving the documents under subsection (a)(1)(C) of this section, the Committee on 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) NOTICE.—In designating a national marine sanctuary, the Secretary shall publish in the Federal Register notice of the designation together with final regulations to implement the designation and any other matters required by law, and submit such notice to the Congress. The Secretary shall advise the public of the availability of the final management plan and the final environmental impact statement with respect to such sanctuary. The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published.

No notice of designation may occur until the expiration of the period for Committee action under subsection (a)(6) of this section. The designation (and any of its terms not disapproved under this subsection) and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on the day on which such notice is published unless, in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.

- (2) WITHDRAWAL OF DESIGNATION.—If the Secretary considers that actions taken under paragraph (1) will affect the designation of a national marine sanctuary in a manner that the goals and objectives of the sanctuary or System 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.
- (3) PROCEDURES.—In computing the forty-five-day periods of continuous session of Congress pursuant to subsection (a)(6) of this section and paragraph (1) of this subsection—
 - (A) continuity of session is broken only by an adjournment of Congress sine die; and
 - (B) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded.

(c) ACCESS AND VALID RIGHTS.—

- (1) Nothing in this chapter shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.
- (2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

(d) INTERAGENCY COOPERATION.—

- (1) REVIEW OF AGENCY ACTIONS.—
 - (A) IN GENERAL.—Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.
 - (B) AGENCY STATEMENTS REQUIRED.—Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.
- (2) SECRETARY'S RECOMMENDED ALTERNATIVES.—If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in

implementing the agency action that will protect sanctuary resources.

- (3) RESPONSE TO RECOMMENDATIONS.—The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.
 - (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 of, loss of, or injury to a sanctuary resource, the head of the agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by the Secretary.
- (e) REVIEW OF MANAGEMENT PLANS.—Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this chapter. This review shall include a prioritization of management objectives.
- (f) LIMITATION ON DESIGNATION OF NEW SANCTUARIES.—
- (1) FINDING REQUIRED.—The Secretary may not publish in the Federal Register any sanctuary designation notice or regulations proposing to designate a new sanctuary, unless the Secretary has published a finding that—
 - (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) DEADLINE.—If the Secretary does not submit the findings required by paragraph (1) before February 1, 2004, the Secretary shall submit to the Congress before October 1, 2004, a finding with respect to whether the requirements of subparagraphs (A) and (B) of paragraph (1) have been met by all existing sanctuaries.
 - (3) LIMITATION ON APPLICATION.—Paragraph (1) does not apply to any sanctuary designation documents for—
 - (A) a Thunder Bay National Marine Sanctuary; or
 - (B) a Northwestern Hawaiian Islands National Marine Sanctuary.

SEC. 305. [16 U.S.C. 1435] APPLICATION OF REGULATIONS; INTERNATIONAL NEGOTIATIONS AND COOPERATION

- (a) REGULATIONS.—This chapter and the regulations issued under section 1434 of this title shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States, unless in accordance with—
- (1) generally recognized principles of international law;
 - (2) an agreement between the United States and the foreign state of which the person is a citizen; or
 - (3) an agreement between the United States and the flag state of a foreign vessel, if the person is a crewmember of the vessel.
- (b) NEGOTIATIONS.—The Secretary of State, in consultation with the Secretary, shall take appropriate action to enter into negotiations with other governments to make necessary arrangements for the protection of any national marine sanctuary and to promote the purposes for which the sanctuary is established.
- (c) INTERNATIONAL COOPERATION.—The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this chapter and consistent with applicable regional and multilateral arrangements for the protection and management of special marine areas.

SEC. 306. [16 U.S.C. 1436] 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 chapter by—
 - (A) refusing to permit any officer authorized to enforce this chapter to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this chapter;
 - (B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this chapter or any such authorized officer in the conduct of any search or inspection performed under this chapter; or
 - (C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this chapter in connection with any search or inspection conducted under this chapter; or
- (4) violate any provision of this chapter or any regulation or permit issued pursuant to this

chapter.

SEC. 307. [16 U.S.C. 1437] ENFORCEMENT

- (a) **IN GENERAL.**—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this chapter.
- (b) **POWERS OF AUTHORIZED OFFICERS.**—Any person who is authorized to enforce this chapter may—
 - (1) board, search, inspect, and seize any vessel suspected of being used to violate this chapter or any regulation or permit issued under this chapter and any equipment, stores, and cargo of such vessel;
 - (2) seize wherever found any sanctuary resource taken or retained in violation of this chapter or any regulation or permit issued under this chapter;
 - (3) seize any evidence of a violation of this chapter or of any regulation or permit issued under this chapter;
 - (4) execute any warrant or other process issued by any court of competent jurisdiction;
 - (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 1436(3) of this title.
- (c) **CRIMINAL OFFENSES.**—
 - (1) **OFFENSES.**—A person is guilty of an offense under this subsection if the person commits any act prohibited by section 1436(3) of this title.
 - (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, imprisoned for not more than 6 months, or both; or
 - (B) in the case of 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 chapter or any person authorized to implement the provisions of this chapter, or places any such person in fear of imminent bodily injury, shall be fined under title 18, imprisoned for not more than 10 years, or both.
- (d) **CIVIL PENALTIES.**—
 - (1) **CIVIL PENALTY.**—Any person subject to the jurisdiction of the United States who violates this chapter or any regulation or permit issued under this chapter shall be liable to the United States for a civil penalty of not more than \$100,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.
 - (2) **NOTICE.**—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.
 - (3) **IN REM JURISDICTION.**—A vessel used in violating this chapter or any regulation or permit issued under this chapter shall be liable in rem for any civil penalty assessed for such violation. Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having

jurisdiction over the vessel.

- (4) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.
 - (5) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.
 - (6) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.
- (e) FORFEITURE.—
- (1) IN GENERAL.—Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this chapter or of any regulation or permit issued under this chapter shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection. The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 1443 of this title. None of those proceeds shall be subject to set-off.
 - (2) APPLICATION OF THE CUSTOMS LAWS.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this chapter.
 - (3) DISPOSAL OF SANCTUARY RESOURCES.—Any sanctuary resource seized pursuant to this chapter may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.
 - (4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this chapter or of any regulation or permit issued under this chapter were taken or retained in violation of this chapter or of a regulation or permit issued under this chapter.
- (f) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—
- (1) EXPENDITURES.—
 - (A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title

42.

- (B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this chapter or any regulation or permit issued under this chapter.
- (C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—
 - (i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;
 - (ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this chapter or any regulation or permit issued under this chapter; and
 - (iii) manage and improve any other national marine sanctuary.
- (2) LIABILITY FOR COSTS.—Any person assessed a civil penalty for a violation of this chapter or of any regulation or permit issued under this chapter, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.
- (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, 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.
- (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.
- (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.
- (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 1443 of this title, 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.
- (k) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this chapter 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.

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

SEC. 308. [16 U.S.C. 1439] REGULATIONS

The Secretary may issue such regulations as may be necessary to carry out this chapter.

SEC. 309. [16 U.S.C. 1440] RESEARCH, MONITORING, AND EDUCATION

- (a) **IN GENERAL.**—The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with subsections (b) and (c) of this section and the purposes and policies of this chapter.
- (b) **RESEARCH AND MONITORING.**—
 - (1) **IN GENERAL.**—The Secretary may—
 - (A) support, promote, and coordinate research on, and long-term monitoring of, sanctuary resources and natural processes that occur in national marine sanctuaries, including exploration, mapping, and environmental and socioeconomic assessment;
 - (B) develop and test methods to enhance degraded habitats or restore damaged, injured, or lost sanctuary resources; and
 - (C) support, promote, and coordinate research on, and the conservation, curation, and public display of, the cultural, archeological, and historical resources of national marine sanctuaries.
 - (2) **AVAILABILITY OF RESULTS.**—The results of research and monitoring conducted, supported, or permitted by the Secretary under this subsection shall be made available to the public.
- (c) **EDUCATION.**—
 - (1) **IN GENERAL.**—The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries and the System. Efforts supported, promoted, or coordinated under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.
 - (2) **EDUCATIONAL ACTIVITIES.**—Activities under this subsection may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers.
- (d) **INTERPRETIVE FACILITIES.**—
 - (1) **IN GENERAL.**—The Secretary may develop interpretive facilities near any national marine sanctuary.
 - (2) **FACILITY REQUIREMENT.**—Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries by providing the public with information about the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities of the national marine sanctuary.

- (e) **CONSULTATION AND COORDINATION.**—In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) of this section and developing interpretive facilities under subsection (d) of this section, the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

SEC. 310. [16 U.S.C. 1441] SPECIAL USE PERMITS

- (a) **ISSUANCE OF PERMITS.**—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—
 - (1) to establish conditions of access to and use of any sanctuary resource; or
 - (2) to promote public use and understanding of a sanctuary resource.
- (b) **PUBLIC NOTICE REQUIRED.**—The Secretary shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a) of this section.
- (c) **PERMIT TERMS.**—A permit issued under this section—
 - (1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;
 - (2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;
 - (3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and
 - (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.
- (d) **FEES.**—
 - (1) **ASSESSMENT AND COLLECTION.**—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.
 - (2) **AMOUNT.**—The amount of a fee under this subsection shall be equal to the sum of—
 - (A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;
 - (B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and
 - (C) an amount which represents the fair market value of the use of the sanctuary resource.
 - (3) **USE OF FEES.**—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—
 - (A) for issuing and administering permits under this section; and
 - (B) for expenses of 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 access to or use of

sanctuary resources.

- (e) VIOLATIONS.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—
 - (1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;
 - (2) assess a civil penalty in accordance with section 1437 of this title; or
 - (3) both.
- (f) REPORTS.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.
- (g) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

SEC. 311. [16 U.S.C. 1442] COOPERATIVE AGREEMENTS, DONATIONS, AND ACQUISITIONS

- (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 chapter.
- (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 chapter.
- (c) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this chapter. 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 chapter.
- (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 chapter.
- (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 chapter.

SEC. 312. [16 U.S.C. 1443] DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES

- (a) LIABILITY.—

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- (1) LIABILITY TO 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) the amount of response costs and damages resulting from the destruction, loss, or injury; and
 - (B) interest on that amount calculated in the manner described under section 2705 of title 33.
 - (2) LIABILITY IN REM.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury. The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.
 - (3) DEFENSES.—A person is not liable under this subsection if that person establishes that—
 - (A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;
 - (B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or
 - (C) the destruction, loss, or injury was negligible.
 - (4) LIMITS TO LIABILITY.—Nothing in sections 181 to 188 of title 46, Appendix, or section 192 of title 46, Appendix, shall limit the liability of any person under this chapter.
- (b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—
- (1) RESPONSE ACTIONS.—The Secretary may undertake or authorize all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.
 - (2) DAMAGE ASSESSMENT.—The Secretary shall assess damages to sanctuary resources in accordance with section 1432(6) of this title.
- (c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—
- (1) The Attorney General, upon request of the Secretary, may commence a civil action against any person or vessel who may be liable under subsection (a) of this section 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.
- (d) USE OF RECOVERED AMOUNTS.—Response costs and damages recovered by the Secretary under this section shall be retained by the Secretary in the manner provided for in section 9607(f)(1) of title 42, and used as follows:

- (1) **RESPONSE COSTS.**—Amounts recovered by the United States for costs of response actions and damage assessments under this section shall be used, as the Secretary considers appropriate—
 - (A) to reimburse the Secretary or any other Federal or State agency that conducted those activities; and
 - (B) after reimbursement of such costs, to restore, replace, or acquire the equivalent of any sanctuary resource.
 - (2) **OTHER AMOUNTS.**—All other amounts recovered shall be used, in order of priority—
 - (A) to restore, replace, or acquire the equivalent of the sanctuary resources that were the subject of the action, including for costs of monitoring and the costs of curation and conservation of archeological, historical, and cultural sanctuary resources;
 - (B) to restore degraded sanctuary resources of the national marine sanctuary that was the subject of the action, giving priority to sanctuary resources and habitats that are comparable to the sanctuary resources that were the subject of the action; and
 - (C) to restore degraded sanctuary resources of other national marine sanctuaries.
 - (3) **FEDERAL-STATE COORDINATION.**—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2)(A) and (B) in accordance with the court decree or settlement agreement and an agreement entered into by the Secretary and the Governor of that State.
- (e) **STATUTE OF LIMITATIONS.**—An action for response costs or damages under subsection (c) of this section 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. [16 U.S.C. 1444] AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to the Secretary—

- (1) to carry out this chapter—
 - (A) \$32,000,000 for fiscal year 2001;
 - (B) \$34,000,000 for fiscal year 2002;
 - (C) \$36,000,000 for fiscal year 2003;
 - (D) \$38,000,000 for fiscal year 2004;
 - (E) \$40,000,000 for fiscal year 2005; and
- (2) for construction projects at national marine sanctuaries, \$6,000,000 for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

SEC. 314. [16 U.S.C. 1445] U.S.S. MONITOR ARTIFACTS AND MATERIALS

- (a) **CONGRESSIONAL POLICY.**—In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

- (b) **DISCLAIMER.**—This section shall not affect the following:
 - (1) **RESPONSIBILITIES OF SECRETARY.**—The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.
 - (2) **AUTHORITY OF SECRETARY.**—The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).

SEC. 315. [16 U.S.C. 1445A] ADVISORY COUNCILS

- (a) **ESTABLISHMENT.**—The Secretary may establish one or more advisory councils (in this section referred to as an “Advisory Council”) to advise and make recommendations to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.
- (b) **MEMBERSHIP.**—Members of the Advisory Councils may be appointed from among—
 - (1) persons employed by Federal or State agencies with expertise in management of natural resources;
 - (2) members of relevant Regional Fishery Management Councils established under section 1852 of this title; and
 - (3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.
- (c) **LIMITS ON MEMBERSHIP.**—For sanctuaries designated after November 4, 1992, the membership of Advisory Councils shall be limited to no more than 15 members.
- (d) **STAFFING AND ASSISTANCE.**—The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.
- (e) **PUBLIC PARTICIPATION AND PROCEDURAL MATTERS.**—The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:
 - (1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.
 - (2) Emergency meetings may be held at the call of the chairman or presiding officer.
 - (3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register, except that in the case of a meeting of an Advisory Council established to provide assistance regarding any individual national marine sanctuary the notice is not required to be published in the Federal Register.
 - (4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

SEC. 316. [16 U.S.C. 1445B] ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES

- (a) **AUTHORITY.**—The Secretary may establish a program consisting of—
- (1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries or the System;
 - (2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;
 - (3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;
 - (4) the authorization by the Secretary of the 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;
 - (5) the creation, marketing, and selling of products to promote the national marine sanctuary program, and entering into exclusive or nonexclusive agreements authorizing entities to create, market or sell on the Secretary's behalf;
 - (6) the solicitation and collection by the Secretary of monetary or in-kind contributions from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);
 - (7) the retention of any monetary or in-kind contributions collected under paragraphs (5) and (6) by the Secretary; and
 - (8) the expenditure and use of any monetary and in-kind contributions, without appropriation, by the Secretary to designate and manage national marine sanctuaries. Monetary and in-kind contributions raised through the sale, marketing, or use of symbols and products related to an individual national marine sanctuary shall be used to support that sanctuary.
- (b) **CONTRACT AUTHORITY.**—The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (a) of this section.
- (c) **RESTRICTIONS.**—The Secretary may restrict the use of the symbols published under subsection (a) of this section, and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.
- (d) **PROPERTY OF UNITED STATES.**—Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (a) of this section is deemed to be the property of the United States.
- (e) **PROHIBITED ACTIVITIES.**—It is unlawful for any person—
- (1) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national marine sanctuary, except to the extent that a person who is not so designated may do so;

- (2) to represent himself or herself to be an official sponsor absent a designation by the Secretary;
 - (3) to manufacture, reproduce, or otherwise use any symbol adopted by the Secretary under subsection (a)(1) of this section, including to sell any item bearing such a symbol, unless authorized by the Secretary under subsection (a)(4) of this section or subsection (f) of this section; or
 - (4) to violate any regulation promulgated by the Secretary under this section.
- (f) **COLLABORATIONS.**—The Secretary may authorize the use of a symbol adopted by the Secretary under subsection (a)(1) of this section by any person engaged in a collaborative effort with the Secretary to carry out the purposes and policies of this chapter and to benefit a national marine sanctuary or the System.
- (g) **AUTHORIZATION FOR NON-PROFIT PARTNER ORGANIZATION TO SOLICIT SPONSORS.**—
- (1) **IN GENERAL.**—The Secretary may enter into an agreement with a non-profit partner organization authorizing it to assist in the administration of the sponsorship program established under this section. Under an agreement entered into under this paragraph, the Secretary may authorize the non-profit partner organization to solicit persons to be official sponsors of the national marine sanctuary system or of individual national marine sanctuaries, upon such terms as the Secretary deems reasonable and will contribute to the successful administration of the sanctuary system. The Secretary may also authorize the non-profit partner organization to collect the statutory contribution from the sponsor, and, subject to paragraph (2), transfer the contribution to the Secretary.
 - (2) **REIMBURSEMENT FOR ADMINISTRATIVE COSTS.**—Under the agreement entered into under paragraph (1), the Secretary may authorize the non-profit partner organization to retain not more than 5 percent of the amount of monetary contributions it receives from official sponsors under the agreement to offset the administrative costs of the organization in soliciting sponsors.
 - (3) **PARTNER ORGANIZATION DEFINED.**—In this subsection, the term “partner organization” means an organization that—
 - (A) draws its membership from individuals, private organizations, corporations, academic institutions, or State and local governments; and
 - (B) is established to promote the understanding of, education relating to, and the conservation of the resources of a particular sanctuary or 2 or more related sanctuaries.

SEC. 317. [16 U.S.C. 1445NT] SHORT TITLE

This title may be cited as the “The National Marine Sanctuaries Act”.

SEC. 318 [16 U.S.C. 1445C] DR. NANCY FOSTER SCHOLARSHIP PROGRAM

- (a) **ESTABLISHMENT.**—The Secretary 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 oceanography, marine biology or maritime archeology, to be known as Dr. Nancy Foster Scholarships.

National Marine Sanctuaries Act

- (b) **PURPOSES.**—The purposes of the Dr. Nancy Foster Scholarship Program are—
 - (1) to recognize outstanding scholarship in oceanography, marine biology, or maritime archeology, particularly by women and members of minority groups; and
 - (2) to encourage independent graduate level research in oceanography, marine biology, or maritime archeology.
- (c) **AWARD.**—Each Dr. Nancy Foster Scholarship—
 - (1) shall be used to support graduate studies in oceanography, marine biology, or maritime archeology at a graduate level institution of higher education; and
 - (2) shall be awarded in accordance with guidelines issued by the Secretary.
- (d) **DISTRIBUTION OF FUNDS.**—The amount of each Dr. Nancy Foster Scholarship shall be provided directly to a 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 a graduate level institution of higher education.
- (e) **FUNDING.**—Of the amount available each fiscal year to carry out this chapter, the Secretary shall award 1 percent as Dr. Nancy Foster Scholarships.
- (f) **SCHOLARSHIP REPAYMENT REQUIREMENT.**—The Secretary shall require an individual receiving a scholarship under this section to repay the full amount of the scholarship to the Secretary if the Secretary determines that the individual, in obtaining or using the scholarship, engaged in fraudulent conduct or failed to comply with any term or condition of the scholarship.
- (g) **MARITIME ARCHEOLOGY DEFINED.**—In this section the term “maritime archeology” includes the curation, preservation, and display of maritime artifacts.

established in the less-than-fair-value investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402 (f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 17, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

APPENDIX

Comment 1: Indirect Selling Expense Ratio

Comment 2: Warehousing Expenses

Comment 3: Purchases from Affiliate

Comment 4: Indirect Selling Expenses Incurred in Canada

Comment 5: Cash Deposit Instructions

Comment 6: Allocation of Head Office Expenses to U.S. Further Manufacturing Expenses

Comment 7: Surrogate Payment Date Applied to Unpaid Sales

Comment 8: Treatment of Negative Margins

Comment 9: Ministerial Error Allegations

[FR Doc. 04-26060 Filed 11-23-04; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 111904A]

Proposed Information Collection; Comment Request; National Marine Sanctuary Permits

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 24, 2005.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to John Armor, National Marine Sanctuary Program, NOAA, 1305 East-West Highway (N/ORM6), Silver Spring, MD 20910 (or via the Internet at John.Armor@noaa.gov).

SUPPLEMENTARY INFORMATION:

I. Abstract

Persons wishing to conduct otherwise prohibited activities in a National Marine Sanctuary must apply for and receive a permit. Anyone issued permits must file reports on the activity conducted. This information is required to ensure that the proposed activity is consistent with the objectives of the sanctuary, and the reports are needed to ensure compliance with permit conditions and to increase knowledge regarding the sanctuary's resources.

II. Method of Collection

Specific requirements are detailed in various subparts of 15 CFR 922. Persons requesting a permit are sent guidelines for the application process or an application form.

III. Data

OMB Number: 0648-0141.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions; individuals or households; business or other for-profit organizations; and state, local, or tribal government.

Estimated Number of Respondents: 336.

Estimated Time Per Response: 1 hour each for a general permit application, cruise or flight log, and report; 2 hours each for a historical resource permit application, cruise log, and report; 24 hours each for a special use permit application, final report, and financial report; 15 minutes for a permit amendment; 15 minutes each for a baitfish permit application and a logbook; 15 minutes for researcher entries to a research registry; 30 minutes to request certification of a pre-existing lease, license, or permit; 1 hour each for a notification of a request for a permit from another agency, cruise or flight log, and report; and 1.5 hours for a permit appeal.

Estimated Total Annual Burden Hours: 886.

Estimated Total Annual Cost to Public: \$800.

IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 17, 2004.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

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