

INSTRUCTIONS FOR SUBMITTING APPLICATIONS FOR NATIONAL MARINE SANCTUARY PERMITS AND AUTHORIZATIONS

I. GENERAL GUIDANCE

Background

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 Office of National Marine Sanctuaries (ONMS) has issued regulations to implement this act, safeguard resources within sanctuary boundaries, and prohibit the conduct of some activities. Program regulations (15 CFR Part 922) outline the procedure and criteria under which the ONMS will issue permits to allow certain activities beneficial to sanctuaries that would otherwise be prohibited. These instructions describe the requirements and process by which an applicant may apply for a permit under this authority.

Permits are typically issued by the 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.

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 for activities in the 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 is a permit required?

A permit is required whenever an individual wishes to conduct an activity within a sanctuary that would otherwise be prohibited by sanctuary regulations. These prohibitions vary between sites and can be found at http://www.sanctuaries.noaa.gov/library/national/2008_15CFR922.pdf.

What types of activities can be permitted?

The types of activities able to be permitted vary by site but typically include research, education, and management activities, among others. Applicants should check with sanctuary staff to ensure their activity is able to be permitted.

How do I obtain a permit?

An ONMS permit application must be completed. A complete permit application will include the required information as described in Part II of these instructions, including sufficient detail so that a reasonably educated non-specialist can understand what you are proposing. If a funding application, work plan, or similar document already exists, then elements of that proposal may be excerpted and pasted into the application, or attached as supplemental information. The amount and depth of information to be given in an application depends on the complexity of the proposed activity. Note that more or less information may be required for certain permit types.

When should I apply?

Permit applications must be submitted at least thirty (30) calendar days in advance of the requested effective date to allow time for evaluation and processing. Sensitive or complicated requests, requests for collection of sensitive species, or requests which may require the ONMS to undertake certain NEPA or consultation requirements should be submitted at least ninety (90) calendar days in advance, if not sooner. Applications that may require ONMS to prepare an environmental impact statement prior to issuance will typically require at least twelve (12) months to process. In order to expedite processing, applicants are encouraged to contact the appropriate sanctuary staff well in advance of submitting a formal application to discuss any questions or issues they feel may complicate or delay the application process. Applications not received within the time frames specified above are not guaranteed to be processed before the requested effective date.

How do I apply?

Permit applications can be obtained from any sanctuary office or online at <http://www.sanctuaries.noaa.gov/management/permits/welcome.html>.

Where do I apply?

The completed permit application and any supplemental materials should be submitted to the office for the sanctuary in which you plan to conduct the activity. Completed applications can be submitted via email (preferred) or via mail or fax. A list of sanctuary offices and staff contacts can be found at <http://www.sanctuaries.noaa.gov/management/permits/welcome.html>. For activities proposed to take place in multiple sanctuaries, a “lead” sanctuary office may be designated to handle the application.

Are there situations when I don't need to complete the regular permit application or need to submit additional information?

Yes. Applications for the following activities require certain information, an expanded or streamlined application, and/or have additional guidance that applies (for details see the ONMS permitting website):

- Overflight of aircraft in restricted zones of the Channel Islands, Monterey Bay, Gulf of the Farallones, and Olympic Coast NMS
- Fireworks and pyrotechnics displays in Monterey Bay NMS
- Construction, including coastal armoring or hardening, in Monterey Bay NMS
- Baitfish permits in Florida Keys NMS
- Special use permits
- Activities involving archeological resources within any sanctuary, including cultural, maritime heritage, and archeological resources
- Applications for artificial reefs (see ONMS policy statement and guidelines at http://sanctuaries.noaa.gov/management/pdfs/arpolicy_071205.pdf)

How are permit applications evaluated?

Permit applications are typically processed in the order received. They are first reviewed for completeness and adherence to these instructions. Applicants will be contacted for clarification or if applications are incomplete, or otherwise not in compliance with these instructions, within twenty (20) calendar days of receipt of the application. If sanctuary staff requests such additional information, 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 ONMS, and any application for this activity will have to be resubmitted by the applicant as a new request.

Complete applications are reviewed by ONMS staff and may be peer-reviewed by outside experts. ONMS staff will also initiate any actions required to comply with the National Environmental Policy Act (NEPA) and other laws, regulations, and policies. Permits will not be issued until these requirements are fulfilled. There may be situations when the NEPA process or certain consultations cannot be completed prior to the applicant's requested start date. ONMS staff will notify the applicant as soon as possible when that is the case.

Based on reviews of the application and following fulfillment of any legal and regulatory requirements, the ONMS will approve or deny the permit. If approved, the sanctuary superintendent will issue the permit. If denied, the sanctuary superintendent will notify the applicant of the reason(s) for denial and inform them of the appeal process.

What conditions will be placed on my permit?

ONMS regulations allow permits to include conditions to protect sanctuary resources and qualities. A list of permit general conditions can be found on the sanctuary website at <http://www.sanctuaries.noaa.gov/management/permits/welcome.html>. Permits will also include special conditions unique to each activity that describe activity limitations, any required monitoring, reporting requirements, etc.

Once I receive a permit, what do I do?

If your application is approved and a permit is issued, you will receive a copy of the permit via mail or electronic means to sign and return to sanctuary staff. You must carry a copy of the approved permit at all times while performing your activities in the sanctuary.

Will I be required to submit a report?

Most permits will require the permittee to submit reports documenting activities conducted under the permit. Depending on the activity, such reports may include (but are not limited to) interim and final reports, cruise or 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 activity being permitted, but will generally include a brief summary of actions undertaken, field work dates and locations, any results or findings, appropriate charts or photos, samples and collections taken, and any deviations from the planned activity.

How do I extend, renew, or change a permit?

Once a permit 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 extend the expiration date) must conform to these guidelines. Persons desiring to continue permitted activities in the sanctuary must request an extension of their 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 any required reports pertinent to the original permit have been submitted to and approved by ONMS staff. *Note: requests for amendments not received within the time frame specified above are not guaranteed to be processed before the requested effective date. In addition, expired permits cannot be amended.*

Reporting Burden

Submittal of the information requested in these guidelines is required to obtain a permit pursuant to ONMS 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 environmental impacts, and determine if issuance of a permit is appropriate. It is through this evaluation that the ONMS is able to use permitting 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 and a half (1.5) hours per response (e.g., initial application, cruise log, final report) except for the following situations:

- Twenty-four (24) hours per response for special use permits;
- Thirteen (13) hours per response for activities involving sanctuary historical resources;
- Fifteen (15) minutes per response for amendments to permits;
- Thirty (30) minutes per response for certification requests;
- Fifteen (15) minutes per response for voluntary registration; and
- 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 Office of National Marine Sanctuaries, 1305 East-West Highway (N/ORM6), Silver Spring, Maryland, 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.

The OMB Control Number for this collection is 0648-0141 (expires December 31, 2011).

II. COMPLETING THE PERMIT APPLICATION

The following is provided to assist applicants in completing permit applications. Applicants are encouraged to direct any questions to the sanctuary office to which they are applying.

Section A – General

Check the boxes for the sanctuaries in which are you applying to work and note the appropriate type of application. For changes, renewals, or amendments, include your current permit number.

Section B – Applicant Information

Provide name, title, address, telephone and fax number, email, and institutional affiliation of the primary applicant/principal investigator. Add co-applicant/additional investigator, if applicable.

Section C – Project Information

Adhere to character limits throughout. Requested permit start (effective) and stop (expiration) dates should be inclusive of the period in which operations in the field that involve prohibited activities in a sanctuary are to be conducted. If the proposed activity involves any collecting or sampling, complete the Collections Data Form in addition to the permit application.

Project abstract should summarize project objectives, methods, and significance and should be suitable for use in the public press. The methods and protocol description should include, as applicable: descriptions of any instrumentation or equipment to be used and the duration of deployment; description of all phases of activity, including equipment removal; and description of activity frequency (e.g., daily, monthly), as appropriate. Research activities should include the hypothesis being tested.

For activity location, if the activity is proposed to be conducted in specific locations within a sanctuary, describe in detail the location(s) within the sanctuary the activity will take place (examples: “Alligator Reef SPA”; “2 miles west of Point Lobos”; “Within a 100 yard radius of point X”; “At the following lat/long positions:...”) in the field provided. In addition, if the activity will take place anywhere other than within an area with an existing, known geographical boundary or definition (such as a marine reserve or sanctuary preservation area), the applicant must provide a file with the specific locations, sampling sites, etc. in decimal minutes or decimal degrees format. This data file can be submitted electronically with the application. If in doubt about whether or not to provide this data, applicants should check with the appropriate sanctuary office. This is not required for any activity proposed to be conducted throughout a sanctuary.

Section D – Environmental Impacts

Summarize the direct and indirect impacts (effects) of the proposed activity. Direct impacts are those caused by the permitted action that occur at the same time and place (e.g., the direct impacts of dredging a channel include removal of the bottom materials and any associated flora/fauna, sedimentation of adjacent communities, etc.). Indirect impacts are those caused by the action that are later in time or farther removed in distance, but still reasonably foreseeable (e.g., the indirect impacts of channel dredging may include increased vessel use and decreased fish populations due to habitat loss).

Note any environmental analysis (e.g., environmental impact statement) completed or in progress for this activity by any other state, Federal, or other agency. ONMS staff may ask for copies of these analyses to assist in their review of the application.

Section E – Rationale

ONMS regulations require sanctuary staff to consider certain review criteria before issuing a permit. The information provided in this section facilitates review of the application in light of those criteria.

Some sanctuaries include areas of special designation that protect habitats, restore the ecological integrity of these areas, or manage activities. Examples of these special sanctuary zones include sanctuary preservation areas, marine reserves, research-only areas, and state preserves. For any activity or portion of activity proposed to take place in a special zone, 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.

For methods and duration of activity, applicants should describe: how their proposed methods are appropriate to achieve the goal of the proposal; how and if they incorporate best practices; why other methods having less impact were not selected; and what factors were considered in determining the activity dates and duration.

Applicants should provide sufficient background on both their qualifications to conduct the activity and the financial support behind the project so that ONMS is assured the project is well-managed by trained personnel and can be completed with minimum impact on sanctuary resources. For funding, provide contract number, performance period, and name of sponsoring agency, as applicable. CVs and project budgets are not required unless specifically requested but may be included with the application, if desired. If the applicant is a student at an institution, a letter of support from a professor or sponsor may be required.

Section F – Other Information

ONMS has limited on-site sanctuary staff, facilities and equipment that may be used to support permitted activities under special circumstances. Requests for support should include details on the support requested, justification, dates and length required, and options if ONMS support is not available. With regard to vessel support, if vessel(s) are available at the requested time, applicants will be responsible for fuel costs, at a minimum.

In some cases, other federal or state agency permits, consultations, or approvals may be required before a sanctuary permit can be issued. ONMS may also want to coordinate the issuance of its permit with any other agencies that also must approve the activity. Check the appropriate box for any other permits known to be required and include copies of any permits already obtained with the application. If those permit requests or consultations are pending, report the status of those to the sanctuary staff when applying.

Section G – Certification

Sign and date if submitting in hardcopy (mail or fax) or as a scanned Adobe pdf file. In all other situations, this acknowledgement can be made in writing via email at the time of application. Verbal certifications (e.g., via telephone) are not permitted.