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DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Final Notice of Applicability of Special Use Permit Requirements to Certain Categories of Activities Conducted Within the National Marine Sanctuary System

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: In accordance with a requirement of Pub. L. 106-513 (16 U.S.C. 1441(b)), NOAA hereby gives public notice of the final revised list of categories of activities subject to the special use permit requirements of Section 310 of the National Marine Sanctuaries Act.

DATES: This notice is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Vicki Wedell, Office of National Marine Sanctuaries, 1305 East West Highway (N/NMS2), Silver Spring, MD 20910, telephone (301) 713-3125, extension 237, email Vicki.Wedell@noaa.gov.

SUPPLEMENTARY INFORMATION: This Federal Register document is also accessible via the Internet at: [INSERT GPO ACCESS WEB ADDRESS - <http://www.access.gpo.gov/>]

I. Background

Section 310 of the National Marine Sanctuaries Act (NMSA) gives NOAA the authority to issue special use permits for the conduct of specific activities in national marine sanctuaries to establish conditions of access to and use of any sanctuary resource or to promote public use and understanding of a sanctuary resource (16 U.S.C. 1431 et seq.). In the National Marine Sanctuaries Amendments Act of 2000 (Pub. L. 106-513), Congress added a requirement that prior to requiring a special use permit for any category of activity, NOAA shall give appropriate public notice. On January 15, 2013, NOAA requested public comment on the modification of three of the existing special use permit categories and the addition of two new categories (78 FR 2597). The remaining two special use permit categories remain unchanged. NOAA did not receive any substantive comments during the 60-day public comment period.

This notice also updates the wording of two of the categories to use the term "submerged lands" rather than "seabed" to be consistent with definitions established in the NMSA and sanctuary regulations. NMSA section 302(3) states that the "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." The notice also clarifies that the requirements apply to the disposal of cremated human remains within or into any national marine sanctuary, as is consistent with sanctuary regulations on discharges.

II. Categories of Activities Subject to Special Use Permits

The final list of categories subject to the requirements of special use permits is:

1. The placement and recovery of objects associated with public or private events on non-living substrate of the submerged lands of any national marine sanctuary.
2. The placement and recovery of objects related to commercial filming.
3. The continued presence of commercial submarine cables on or within the submerged lands of any national marine sanctuary.
4. The disposal of cremated human remains within or into any national marine sanctuary.
5. Recreational diving near the USS Monitor.
6. Fireworks displays.
7. The operation of aircraft below the minimum altitude in restricted zones of national marine sanctuaries.

III. Classification

Refer to the notice of availability and request for public comment in 78 FR 2597 for a full discussion of the applicability of the National Environmental Policy Act and Paperwork Reduction Act.

A. National Environmental Policy Act

NOAA has concluded that this action will not have a significant effect, individually or cumulatively, on the human environment. This action is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement in accordance with Section 6.03c3(i) of NOAA Administrative Order 216-6. Specifically, this action is a notice of an administrative and legal nature. Furthermore, individual permit actions by the ONMS will be subject to additional case-by-case analysis, as required under NEPA, which will be completed as new permit applications are submitted for specific projects and activities.

B. Paperwork Reduction Act

Applications for the special use permits discussed in this notice involve a collection-of information requirement subject to the requirements of the PRA. OMB has approved this collection-of-information requirement under OMB control number 0648-0141.

Dated: April 19, 2013

Daniel J. Basta

Director

Office of National Marine Sanctuaries