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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Indirect Cost Rates for the Office of National Marine Sanctuaries for Fiscal Year 2010

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

ACTION: Notice of indirect cost rates for the Office of National Marine Sanctuaries for fiscal year 2010.

SUMMARY: The National Oceanic and Atmospheric Administration's (NOAA's) Office of National Marine Sanctuaries (ONMS) announces the establishment of new indirect cost rates for the recovery of indirect costs for its component organizations involved in natural resource damage and restoration activities for fiscal year (FY) 2010. NOAA provides the indirect cost rates for this fiscal year and the dates of implementation in this notice. The public can obtain more information on this rate from the address provided below in the ADDRESSES section.

DATES: These indirect cost rates are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Vicki Wedell, phone 240-533-0650; email Vicki.Wedell@noaa.gov; or 1305 East-West Highway, N/NMS, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Vicki Wedell, phone 240-533-0650; email *Vicki.Wedell@noaa.gov*; or 1305 East-West Highway, N/NMS, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION:

The Natural Resource Damage Assessment (NRDA) mission of ONMS is to restore injuries to sanctuary resources caused by the release of hazardous substances or oil under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA; 42 U.S.C., 9601 et seq.) or the Oil Pollution Action of 1990 (OPA; 33 U.S.C., 2701 et seq.), or physical injuries under the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 et seq.). ONMS consists of the following component organizations: fourteen national marine sanctuaries and two marine national monuments, and the Office of General Counsel for Natural Resources (GCNR). NOAA published the GCNR rate for FY10 in the **Federal Register** on October 20, 2011 (76 FR 65182). ONMS conducts NRDA as a basis for recovering damages from responsible parties and uses the funds recovered to restore injured sanctuary resources.

When addressing NRDA incidents, the costs of the damage assessment are recoverable from responsible parties who are potentially liable for an incident. Costs include direct and indirect costs. Direct costs are costs for activities that are clearly and readily attributable to a specific output. In the context of ONMS, outputs may be associated with damage assessment cases, or may be represented by other program products. In contrast, indirect costs reflect the costs for activities that collectively support ONMS's mission and operations. For example, indirect costs include general administrative support and traditional overheads. Although indirect costs may not be

readily traced back to a specific direct activity, indirect costs may be allocated to direct activities using an indirect cost distribution rate.

Consistent with standard Federal accounting requirements, ONMS is required to account for and report the full costs of its programs and activities. Further, ONMS is authorized by law to recover reasonable costs of damage assessment and restoration activities under CERCLA, OPA and the NMSA. Within the constraints of these laws, ONMS has the discretion to develop indirect cost rates subject to its requirements.

ONMS's Indirect Cost Effort

In October 2002, NOAA contracted the public accounting firm Cotton and Company LLP to: (1) evaluate the cost accounting system and allocation practices; (2) recommend the appropriate indirect cost allocation methodology; and (3) determine the indirect cost rates for the organizations that comprise ONMS. A subcontractor to Cotton and Company LLP, Empirical Concepts Incorporated (Empirical), calculated the ONMS indirect costs for fiscal year 2010.

Empirical concluded that the cost accounting system and allocation practices of ONMS component organizations are consistent with Federal accounting requirements. Empirical also determined that the most appropriate indirect allocation method was the Direct Labor Cost Base for all ONMS component organizations. The Direct Labor Cost Base is computed by allocation total indirect costs over the sum of direct labor dollars plus the application of NOAA's leave surcharge and benefits rates to direct labor. Empirical further assessed that the indirect cost rates for the ONMS component organizations were fair and equitable. A report on Empirical's assessment and their

determination can be obtained from the person identified in FOR FURTHER INFORMATION CONTACT.

ONMS Indirect Cost Rate and Policies

ONMS will apply the indirect cost rate for FY2010 as recommended by Empirical for each of the ONMS component organizations as provided in the following table:

ONMS component organization	Fiscal year 2010 indirect rate (percent)
Office of National Marine Sanctuaries (except for Florida Keys National Marine Sanctuary)	67.95
Florida Keys National Marine Sanctuary	82.35

ONMS will apply the FY2010 rates identified in this notice to all damage assessment and restoration case costs incurred from October 1, 2010 until present, using the Direct Labor Cost base allocation methodology. For cases that have settled and for cost claims paid prior to the effective date of the fiscal year in question, ONMS will not re-open any resolved matters for the purpose of applying the rates in this notice. For cases not settled and cost claims not paid prior to the effective date of the fiscal year in question, ONMS will calculate costs using the rates in this notice. ONMS will use the FY2010 rates for future fiscal years until year-specific rates are developed.

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