

Regulatory Coordination Between the National Marine Sanctuaries Program and Fishery Management Agencies

Under the National Marine Sanctuaries Act (NMSA), NOAA, on behalf of the Secretary of Commerce, is responsible for protecting sanctuary resources and facilitating within the sanctuaries multiple uses that are compatible with resource protection. The NMSA provides sufficient regulatory authority to accomplish these management objectives, including authority to regulate fisheries and fishing activities as necessary to address specific issues at a particular sanctuary. Any such regulation would be developed in cooperation with appropriate state and federal authorities and fishery management councils, as required by section 304 (a)(5) of the NMSA.

The regulation of fishery resources in national marine sanctuaries is a collaborative process, where sanctuary managers work with other fishery managers in the region to ensure that these important resources are protected. When appropriate, the sanctuary manager may request that the relevant fishery management agency address sanctuary concerns within that agency's own statutory and regulatory context. However, sanctuaries may manage fishery resources within their boundaries by imposing specific sanctuary regulations on certain fishing methods and gear or preventing the taking of fish when it is determined to be necessary to protect cultural sites, to protect important natural resources or to maintain biodiversity or the health and balance of the sanctuary ecosystem. NOAA has adopted such regulations under the NMSA in the Monitor, Florida Keys, Fagatele Bay, Flower Garden Banks, and Gray's Reef Sanctuaries. Where the regulatory measures taken by state and the fishery management councils and NMFS are found to afford appropriate protection to sanctuary resources and meet sanctuary management objectives, the sanctuary achieves its objectives by working with these entities to ensure that the appropriate level of protection is maintained.

It may be determined that additional fishing regulations should be imposed in the sanctuary to achieve management objectives under the NMSA or for the goals and objectives of the particular sanctuary. In such a situation, the sanctuary would consult with the appropriate fishery management council, NMFS, any affected state (if applicable), and the public. In state waters, the sanctuary will work with state fishery agencies to implement necessary regulations. In federal waters, if the fishery management council or the sanctuary determine that the regulations should be implemented, pursuant to subsection 304 (a)(5) of the NMSA the appropriate fishery management council would be given the opportunity to prepare draft sanctuary fishing regulations for that portion of the sanctuary. If the council decides to prepare such draft regulations it is to use as guidance the national standards of section 301(a) of the Magnuson-Stevens Act to the extent those standards are consistent and compatible with the goals and objectives of the sanctuary. If the draft regulations are found by NOAA to meet the goals and objectives of the sanctuary and the purposes and policies of the NMSA, they will be published as sanctuary regulations. If, however, the council declines to make a determination as to the need for fishing regulations in the sanctuary, makes a determination that is rejected by NOAA, requests that NOAA prepare the draft

regulations, or does not prepare the draft regulations in a timely manner, NOAA will prepare the fishing regulations. Regardless of whether the council or NOAA drafts the sanctuary fishing regulations, NOAA will be responsible for compliance with the NMSA, National Environmental Policy Act, Administrative Procedure Act, and other applicable requirements.