

**Final Findings Required under the
National Marine Sanctuaries Act, Sec. 304(f) for
Wisconsin Shipwreck Coast National Marine Sanctuary**

Introduction

The National Marine Sanctuaries Act (NMSA) provides the Secretary of Commerce, through the National Oceanic and Atmospheric Administration (NOAA), with the mandate and authority to identify and designate national marine sanctuaries, comprising areas of the marine and Great Lakes environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or aesthetic qualities. NOAA is designating Wisconsin Shipwreck Coast National Marine Sanctuary (WSCNMS), a 962 square-mile area encompassing a portion of the waters and submerged lands of Lake Michigan in the State of Wisconsin to protect underwater cultural resources of national significance.

Under Sec. 304(f)(1) of the NMSA, NOAA is required to make certain findings relating to any proposal to designate a new sanctuary. Additional information on the general criteria for performing the 304(f) analysis is provided in a separate document, entitled "Program Criteria and Definitions Informing Findings under Section 304(f) of the National Marine Sanctuaries Act" (hereinafter called "Program Guidance"). The Program Guidance is published on the ONMS web page at: <https://sanctuaries.noaa.gov/management/designations.html>.

In January 2017 and concurrent with the publication of proposed rulemaking, draft management plan, and draft environmental impact statement, NOAA solicited public comments on the 304(f) findings for the proposed sanctuary designation (then known as the Wisconsin - Lake Michigan National Marine Sanctuary), which was published on the ONMS website at: <https://sanctuaries.noaa.gov/wisconsin/>. NOAA did not receive any comments on the preliminary 304(f) findings.

NOAA has prepared these final findings for the designation of WSCNMS in accordance with Sec. 304(f)(1) of the NMSA. The final findings will be published concurrently with the publication of final regulations implementing the designation. The Wisconsin Shipwreck Coast final environmental impact statement and final management plan (FEIS/FMP) were prepared in accordance with the National Environmental Policy Act and were released on June 5, 2020 (85 FR 34625). The FEIS evaluates a reasonable range of alternatives (including a no action alternative) and serves as a resource assessment under the NMSA, documenting present and potential uses of the areas considered in the alternatives.

Based upon review of the elements in NMSA § 304(f), NOAA finds: 1) Wisconsin Shipwreck Coast sanctuary designation will not have a negative impact on the National Marine Sanctuary System (System); 2) sufficient resources exist to effectively implement sanctuary management plans; and 3) all necessary site characterizations and resource inventories have been completed.

Background

On December 2, 2014, pursuant to section 304 of the NMSA and the Sanctuary Nomination Process (SNP; 79 FR 33851), the then-Wisconsin Governor Scott Walker, on behalf of the State of Wisconsin, the cities of Two Rivers, Manitowoc, Sheboygan, and Port Washington, and the counties of Ozaukee, Sheboygan, and Manitowoc, submitted a nomination asking NOAA to consider designating this area of Wisconsin's Lake Michigan waters as a national marine sanctuary to bring increased protection to the underwater cultural resources of the area.

NOAA completed its review of the nomination, and on February 5, 2015 added the area to the inventory of nominations that are eligible for designation.

NOAA began the sanctuary designation process for WSCNMS on October 7, 2015 with the publication of a notice of intent (NOI; 80 FR 60631) to prepare a draft environmental impact statement (DEIS) evaluating alternatives related to the proposed designation of the sanctuary under the NMSA and draft management plan and the initiation of a public scoping process, as required under the NMSA. The NOI also solicited public comments on the scale and scope of the proposed sanctuary and notified the public that NOAA will coordinate its responsibilities under the National Historic Preservation Act (NHPA).

On January 9, 2017, NOAA published a notice of proposed rulemaking in the Federal Register (82 FR 2269) announcing the proposed designation. NOAA also provided public notice of the availability of the related DEIS and draft management plan (82 FR 1733). NOAA solicited public comment through March 31, 2017 on the documents.

Based on public input, internal deliberations, interagency consultations, and discussions with the State of Wisconsin, NOAA is issuing a final rule that seeks to designate a 962 square-mile area encompassing a portion of the waters and submerged lands of Lake Michigan adjacent to Ozaukee, Sheboygan, Manitowoc, and Kewaunee counties. The area includes a nationally significant collection of underwater cultural resources, including 36 known shipwrecks and approximately 60 suspected shipwrecks.

NOAA's final regulations provide protection to underwater cultural resources through a provision that prohibits damaging those resources. The designation would complement current state-led efforts to conserve and manage the nationally significant underwater cultural resources, enhance public awareness and appreciation of these resources, and facilitate recreation and tourism activities in a manner that is compatible with the resource protection mandate of the NMSA. Sanctuary designation would also strengthen and accelerate documentation and characterization of underwater cultural resources that is fundamental to resource protection and monitoring. The sanctuary would expand education and outreach efforts directed at long-term preservation of shipwrecks and other underwater cultural resources. The sanctuary would promote responsible use to ensure that human activities do not diminish the historical and archeological value of these sites. The sanctuary would attract federal, university, private, and non-profit resources and expertise.

Impact of Earlier Findings

In 2005, NOAA made general findings under Sec. 304(f) (unrelated to any specific sanctuary designation) that adding a new national marine sanctuary at that time would have a negative impact on the National Marine Sanctuary System (System). This 2005 finding was based on NOAA's proposed FY05 President's Budget for the Office of National Marine Sanctuaries of \$36M and the status of management plans and site characterizations for the sites in the System. At the time, additional activities were needed to effectively execute sanctuary management plans for existing sites throughout the System, and NOAA had not completed site characterizations at all sanctuaries.

Since 2005, the NOAA's enacted program operating budget for the Office of National Marine Sanctuaries has increased by 12 percent,¹ and the program's management approach has evolved. NOAA has refocused System priorities, refined management activities at individual sites, and has worked to find efficiencies and share expertise across the System. NOAA has used management plan reviews to address the scalability of activities in the plans so that the program can make progress on sanctuary goals and objectives at a range of funding levels. The plans are developed with input from the public and sanctuary advisory councils to include actions at a range of scales - from near-term, high priority actions to long-term, more ambitious actions that help frame sanctuary management priorities over time and guide partners in how to contribute to the site's goals. For more than a decade, NOAA has shown that management plans can be effectively implemented at these scalable levels across the System. Additionally, for every sanctuary in the System, NOAA has completed a sanctuary Condition Report. These reports document site characterization and provide an inventory of sanctuary resources.

In sum, both resource levels and System management have changed significantly since 2005, and the 304(f) findings made in 2005 no longer reflect the current state of the System.

¹ This calculation is based on FY21 Omnibus funding levels for ONMS at \$56.5 million.

Findings for Designation of Wisconsin Shipwreck Coast

1. No Negative Impact on the National Marine Sanctuary System

Sec. 304(f)(1)(A) requires NOAA to determine if the new sanctuary would have a negative impact on the System. NOAA manages the System to fulfill the purposes and policies of the NMSA to protect nationally significant natural and cultural underwater resources in the nation's marine and Great Lakes waters. As of 2019, the System consists of the 14 national marine sanctuaries and Papahānaumokuākea and Rose Atoll marine national monuments.

A new national marine sanctuary has a negative impact on the System if its addition: (1) would compromise NOAA's capacity to fulfill the purposes and policies of the NMSA (Section 301(b)); or (2) would strain resources to the point NOAA could not provide support for basic management capacity for each sanctuary in the System. Basic management capacity includes: sanctuary leadership (e.g., sanctuary superintendent, program coordinator(s), or other staff); support for a sanctuary advisory council; and basic administrative and operational support. Capacity for these roles may be developed at the local level or through NOAA support at the regional or headquarters levels.

NOAA routinely distributes resources and capacity across the System, leverages collaborations with a broad range of partners, and focuses existing program priorities in order to ensure it fulfills the purposes of the NMSA across the System. For the designation, ONMS has enlisted staff support from the Northeast and Great Lakes Region and headquarters and other parts of NOAA to engage with state and local partners, support the public review process, and facilitate the development of the designation documents. This reallocation of capacity has not limited the ability of the program to fulfill the purposes of the NMSA or affected basic management capacity of any site in the System.

Beyond ONMS, NOAA also relies on the support of multiple program offices to achieve the purposes of the NMSA, including work that supports site characterization. This alignment of intra-agency capacity has strengthened NOAA's ability to meet the NMSA policies and objectives as well as other agency mandates.

NOAA finds that the ONMS annual operating budget to support basic management capacity for each sanctuary in the System would not be strained by the addition of a new sanctuary. The management of the new sanctuary is narrowly focused on underwater cultural heritage resources and has a limited set of regulations and programs to protect these resources and enhance educational and recreational opportunities.

As a result, NOAA finds that the addition of the WSCNMS would not have a negative impact on the System.

2. Effective Implementation of Sanctuary Management Plans

Sec. 304(f)(1)(B)(i) requires NOAA to determine whether sufficient resources are available in the fiscal year in which the finding is made to effectively implement sanctuary management plans for each sanctuary in the System. In making this finding, NOAA must evaluate whether current management plans are performing within the range of expected standards.

A sanctuary management plan includes a scalable set of strategies and activities to address resource protection, research, education and operations at various levels of resources and management capacity. These plans are evaluated approximately every five years to consider emerging issues and to allow for adaptive management of the sanctuary and alignment with program priorities. To date, NOAA has completed at least one management plan review for all national marine sanctuaries, where the original management plan and regulations were evaluated and revised, as needed, to address emerging issues and to adaptively manage the site.

In FY21, NOAA is using available resources to effectively implement existing sanctuary management plans. Throughout the System, sites are implementing their management plan programs for resource protection, research, education and operations in conjunction with partners inside and outside of NOAA in a manner that meets basic schedule and performance metrics, and within the range of expected standards. Therefore, NOAA finds sufficient resources exist to effectively implement sanctuary management plans.

3. Complete Site Characterization Studies and Inventories of Known Sanctuary Resources

Sec. 304(f)(1)(B)(ii) requires NOAA to determine whether sufficient resources are available in the fiscal year in which the finding is made to complete site characterization studies and inventory known sanctuary resources for each sanctuary within the System within 10 years after 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.

NOAA uses condition reports to document site characterization and inventory known sanctuary resources. Condition reports provide a summary of resources in each sanctuary, pressures on those resources, the current condition and trends, and management responses to the pressures that threaten the integrity of the marine environment. Specifically, the reports include information on the status and trends of water quality, habitat, living resources, and maritime archaeological resources and the human activities that affect them.

To date, NOAA has completed a condition report for each site in the System. Additionally, in 2013, NOAA completed the *National Marine Sanctuary System Condition Report*. This System-wide report detailed the status and trends of resource conditions and human uses evaluated across the entire System.

