



UNITED STATES DEPARTMENT OF COMMERCE  
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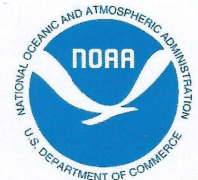
## Preliminary Findings Required under the National Marine Sanctuaries Act, Section 304(f)

### Introduction

The National Marine Sanctuaries Act (NMSA) provides the Secretary of Commerce, through the National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS), 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 proposing to designate Chumash Heritage National Marine Sanctuary (CHNMS) in waters along and offshore of the central California coast encompassing approximately 5,600 square miles. The proposed sanctuary area contains unique and diverse ecosystems essential to the heritage of the Chumash and other Indigenous peoples in the region. The marine environment provides a special sense of place to coastal communities and visitors because of the significant historic, archaeological, cultural, aesthetic, and biological resources found there. NOAA proposes to establish the terms of designation and proposed regulations to implement the proposed national marine sanctuary designation.

Under section 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 "Program Guidance."). The Program Guidance is available on the ONMS website at: <https://sanctuaries.noaa.gov/media/archive/management/pdfs/programguidance.pdf>. NOAA is publishing these preliminary findings with the publication of the proposed regulations for the designation of CHNMS.

Based on the review provided below, NOAA preliminarily makes the following findings for the three elements required by 304(f): the proposed CHNMS designation would not have a negative impact on the National Marine Sanctuary System (System); sufficient resources exist to effectively implement sanctuary management plans for each sanctuary in the System; and sufficient resources exist to complete site characterizations and inventory known sanctuary resources for each sanctuary in the System, as required under the NMSA. Before taking a final action, NOAA will again consider the individual and cumulative impacts of the designation on the System to make final findings.



## **Background**

In July 2015, a broad community consortium led by the Northern Chumash Tribal Council submitted a nomination through the Sanctuary Nomination Process. The nomination identified opportunities for NOAA to expand upon existing local, State, and Federal efforts to study, interpret, and manage the area's unique cultural and biological resources. The nomination also highlighted the maritime history and cultural heritage of the Chumash Tribal Nation, who, along with other Native American tribes, have deep cultural connections to the marine area off central California. NOAA completed its review of the nomination and, on October 5, 2015, added the area to the inventory of successful nominations eligible for designation.

On November 10, 2021, NOAA published a Notice of Intent (86 FR 62512) to initiate scoping to consider the nomination of CHNMS for designation as a national marine sanctuary. The Notice expressed NOAA's intent to prepare a draft environmental impact statement as well as other pertinent designation materials such as a draft management plan, terms of designation, and this proposed rule, as required by NMSA and the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

NOAA is proposing to designate this area as a national marine sanctuary to: (1) manage and protect nationally-significant natural resources, physical features and habitats, and cultural and historical resources through a regulatory and nonregulatory framework; (2) document, characterize, monitor, study, and conserve these resources; (3) provide interpretation of their natural, cultural, historical, and educational value to the public; (4) promote public stewardship and responsible use of these resources for various purposes to the extent compatible with the sanctuary's principal goal of resource protection; (5) develop a coordinated, community-based, ecosystem-based management regime with partner Federal agencies, State and local governments, and Indigenous tribes and tribal organizations; and (6) develop and carry out an innovative collaborative management structure to involve Indigenous communities, including federally-recognized tribes and other tribal groups and organizations, in important management programs and initiatives of the sanctuary.

## **Preliminary Findings for the Proposed Designation of Chumash Heritage National Marine Sanctuary**

### **1. No Negative Impact on the National Marine Sanctuary System**

NMSA section 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 April 2023, the System consists of 15 national marine sanctuaries and Papahānaumokuākea and Rose Atoll marine national monuments.

As described in the Program Guidance, 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 articulated in 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 to ensure it fulfills the

purposes of the NMSA across the System. For this designation, ONMS staff from the West Coast Region, Headquarters, and other parts of NOAA 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 other NOAA program offices to achieve the purposes of the NMSA, including work that supports site characterization and monitoring. 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 its fiscal year 2023 operating budget adequately supports basic management capacity for each national marine sanctuary in the System and would not be strained by the addition of a new sanctuary. The management of the new sanctuary would be focused on establishing programs to enhance management and protection of ecological and cultural resources and promoting educational and recreational opportunities. This management structure would not strain System capacity because significant expertise exists in the ONMS West Coast Region to manage the existing sites. Additionally NOAA would continue to grow existing partnerships with federal and state agencies to support CHNMS. The existing expertise and partnerships related to sanctuary management in the West Coast Region would facilitate the addition of the proposed CHNMS as a site within this region without overly burdening System capacity.

As a result, NOAA finds that the addition of the Chumash Heritage National Marine Sanctuary would not have a negative impact on the System.<sup>1</sup>

## **2. Effective Implementation of Sanctuary Management Plans**

NMSA section 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. As described in the Program Guidance, resources include fiscal and human resources and other assets or materials provided by the federal government or through partnerships for effective operation of the System. In making this finding, NOAA must evaluate whether current management plans are performing within the range of expected standards and at the level required for basic management capacity.

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, and in many cases multiple, management plan reviews for all national marine sanctuaries that have been in existence for at least five years, in which NOAA evaluated and revised, as needed, the existing management plan and regulations to address emerging issues and to adaptively manage the site.

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<sup>1</sup>The 2005 findings of “negative impact” do not reflect the current state of the System and are thus not further discussed here. Please see the 304(f) findings for Mallows Bay-Potomac River NMS(<https://sanctuaries.noaa.gov/mallows-potomac/about/management-plan.html>) and Wisconsin-Shipwreck Coast NMS(<https://nmssanctuaries.blob.core.windows.net/sanctuaries-prod/media/docs/202106-wscnms-304f-memo.pdf>) designations for more information.

