

# Environmental Compliance Policy



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FINAL

National Oceanic and  
Atmospheric Administration

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Cover Photo

Aerial: Anacapa Island partially covered by clouds, Channel Islands National Marine Sanctuary

Photo: Robert Schwemmer



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## **SECTION 1. PURPOSE**

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01. To establish requirements and responsibilities for environmental compliance for the National Oceanic and Atmospheric Administration (NOAA) Office of National Marine Sanctuaries (ONMS).

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## **SECTION 2. EXECUTIVE SUMMARY**

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01. ONMS engages in activities with the potential to affect the environment. These activities include, but are not limited to: issuance of regulations, management plans, National Marine Sanctuaries Act (NMSA) permits (general and special use permits, authorizations, and certifications), and financial assistance<sup>1</sup>; implementation of incident response, damage assessment, restoration, and other field operations for management, research, monitoring, and education; and construction and maintenance of ONMS facilities.
02. ONMS is responsible for ensuring that our activities are carried out in compliance with Section 9 (Authorities and References) of this document and with all other applicable federal, state, and local environmental statutes, regulations and Executive Orders (EOs).
03. To ensure ONMS compliance with these laws and regulations, this policy:
  - a. Establishes ONMS roles and responsibilities with respect to environmental compliance;
  - b. Incorporates the applicable environmental laws and regulatory requirements (e.g., permits and consultations) into the ONMS decision making and budgetary processes; and
  - c. Reinforces the need to complete and manage required compliance documentation covering ONMS activities.

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## **SECTION 3. APPLICABILITY**

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01. This policy applies to all activities that ONMS executes, authorizes or funds.
02. This policy applies to all ONMS Operating Units in headquarters, regions, and field sites. Operating Units must ensure all activities are carried out in accordance with the authorities listed in Section 9, and all other applicable federal, state, and local environmental statutes, regulations and EOs.

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## **SECTION 4. ENVIRONMENTAL PROGRAM REQUIREMENTS**

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01. ONMS will document specific procedures to ensure environmental compliance through a written ONMS Environmental Compliance Plan that conforms to National Ocean Service Environmental Compliance Program Policy (0300-01 v2, Section 6, issued May 4, 2016).

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## **SECTION 5. ROLES AND RESPONSIBILITIES**

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01. **ONMS Director** will provide oversight and direction for ONMS activities and actions

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<sup>1</sup> For the purposes of this document the term “financial assistance” includes any contracts, grants, agreements, and reimbursables funded by the Office of National Marine Sanctuaries.

regarding environmental compliance. The Director will:

- a. Hire and maintain one (1) full-time employee dedicated to the ONMS Environmental Compliance Coordinator (ECC) position.
- b. Issue national NMSA permits and sign associated Categorical Exclusion (CE) Memorandums, as appropriate.
- c. Approve and sign Findings of No Significant Impacts (FONSI) associated with NMSA permits.
- d. Approve and sign Memorandums for the Record for ONMS activities. This responsibility may only be delegated to the Deputy Director.
- e. Review, clear, and sign Federal Register Notices (Notices of Intent (NOIs) and Notices of Availability (NOAs)) associated with NMSA permits and nonregulatory actions, as well as "To All Interested Parties", "Dear Reviewer" letters, consultation letters, and other agency permits.
- f. Review, clear and transmit requests for Assistant Administrator (AA) approval and signature of regulatory Federal Register Notices, and FONSI<sup>2</sup> and Records of Decision (RODs). This responsibility may only be delegated to the Deputy Director.

02. **ONMS Deputy Director** will serve as the ONMS compliance lead and will be responsible for executing Director responsibilities, as delegated. The Deputy Director will:

- a. Inform the Director on the status, issues, and challenges for overall environmental compliance efforts.
- b. Ensure program environmental requirements and initiatives are being executed in accordance with this policy.
- c. Ensure environmental planning is fully integrated with program planning and execution.
- d. Ensure ONMS environmental reviews and analyses of financial assistance are conducted.
- e. Review and clear environmental compliance documentation prior to ONMS Director clearance/signature.
- f. Review, clear and transmit requests for AA approval and signature of regulatory Federal Register Notices, and FONSI and RODs, when delegated by ONMS Director.

03. **ONMS Division Chiefs and Cross-Cut Leads** will:

- a. Ensure that environmental compliance documents<sup>3</sup> are developed and maintained for their work, as appropriate.
- b. The Policy and Planning Division (PPD) Chief will review, clear, and transmit environmental compliance documentation prior to ONMS Deputy Director review and clearance, or signature, as appropriate.
- c. Ensure that completed environmental compliance documents are placed in a digital repository accessible to the Director, Deputy Director, PPD Chief, and ONMS ECC.
- d. Assist the ONMS ECC with reporting requirements and data calls or other inquires, as appropriate.

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<sup>2</sup> For regulatory and non-permitted activities.

<sup>3</sup> Documents include: 1) NEPA analysis; 2) decision documents\* (CE memo, FONSI, ROD, NMSA permit Decision Memo, etc.); 3) consultation letters and associated analysis; 4) applicable permits issued by other agencies (e.g., Marine Mammal Protection Act permit); 5) To All Interested Parties and Dear Reviewer letters; and 6) Federal Register Notices.

- e. Maintain records of staff completion of Environmental Compliance (EC) training.
04. **ONMS Regional Directors and Superintendents** will:
- a. Approve and sign CE Memorandums for permitted and non-permitted actions.
  - b. Issue NMSA permits, as delegated by the ONMS Director, and sign CE Memorandums, as appropriate.
  - c. Ensure their staff develop and maintain environmental compliance documents for their work, as appropriate.
  - d. Ensure their staff adhere to conditions set forth in environmental compliance documents for all applicable activities.
  - e. Ensure their staff implement any required impact avoidance, minimization, and mitigation measures, and/or established best management practices included in decision documents<sup>3\*</sup>.
  - f. Ensure their staff report on and/or make available CE Memorandums to ONMS ECC upon request.
  - g. Ensure their staff report on permit implementation and compliance status of interagency consultations and permits to the ONMS ECC, as required.
  - h. Ensure information and assistance is provided, as needed, with preparing and processing environmental compliance documentation.
  - i. Ensure their staff notify the ONMS PPD Chief immediately upon becoming aware of incidental takes or environmental compliance violations.
  - j. Ensure their staff coordinate with NOAA Fisheries Regional Protected Resource Division (for Endangered Species Act), NOAA Fisheries Habitat Conservation Division (for Magnuson-Stevens Act compliance on Essential Fish Habitat), Fish and Wildlife Service, and State Historic Preservation Office (SHPO), as appropriate.
  - k. Ensure their staff maintain records of staff completion of EC training.
05. **ONMS Environmental Compliance Coordinator** will serve as the environmental compliance expert for the office and be responsible for overall ONMS compliance program development, management, coordination, and implementation. The ONMS ECC will:
- a. Provide advice and guidance to ONMS staff in the development of environmental compliance documents related to all ONMS actions.
  - b. Coordinate, review, and clear National Environmental Policy Act (NEPA) documents and interagency consultations prior to ONMS leadership (PPD Division Chief, Deputy Director, and Director) formal review.
  - c. Deliver environmental compliance training to ONMS staff and partners, as appropriate.
  - d. Create and maintain ONMS environmental compliance policy and associated environmental compliance plan/ handbook.
  - e. Track progress of ONMS filling environmental compliance gaps and provide information to NOS during environmental compliance audits, as necessary.
  - f. Manage and maintain the ONMS administrative records for environmental compliance efforts to include all informal and formal communications related to consultations.
  - g. Lead the full implementation of the ONMS Environmental Compliance Program (implementation of policy and plan as part of ONMS daily business approach).
  - h. Serve as primary liaison for ONMS with NOS headquarters and General Counsel on all matters related to NEPA compliance and training.

- i. Serve as a liaison between regional office/sanctuary field site and the consulting agency; and work as a team with the regional office/sanctuary field site to ensure that there is consistency, accountability, compliance and adequate administrative record keeping related to interagency consultations.
  - j. Represent ONMS in NOS Environmental Compliance Team meetings.
  - k. Provide feedback to the NOS Environmental Compliance Coordinator (ECC) on requests for information or comments on other agency environmental analysis documents, and regular environmental compliance reporting, as needed.
  - l. Coordinate the review of draft NEPA documentation (with the exception of Memorandums for the Record) with the NOS ECC for internal review prior to making the documents available for public review, and prior to requesting AA signature on Final Decision Documents, including FONSI and RODs.
06. **ONMS Designated Regional and Field Site Staff** are those professionals who connect ONMS headquarters to the field operations for issues related to environmental compliance. The ONMS designated regional and field site staff will:
- a. Prepare environmental compliance documents and interagency consultation requests.
  - b. Coordinate environmental compliance document preparation and revisions with the ONMS ECC.
  - c. Ensure required permits are obtained and any impact avoidance, mitigation measures, and/or established best practices are implemented.
  - d. Assist the ONMS ECC with administrative recordkeeping of environmental compliance documents, permits, and consultations, as appropriate.
  - e. Report on interagency permit/authorization implementation and compliance status to ONMS ECC and as required by permit terms.
  - f. Assist ONMS ECC with reporting requirements and data calls or other inquiries, as appropriate.
07. **ONMS Federal Program Officers (FPOs)** will:
- a. Develop and maintain environmental compliance documents for financial assistance.
  - b. Assist the ONMS ECC with reporting requirements and data calls or other inquiries, as appropriate.
  - c. Prepare draft environmental compliance documentation and ensure that interagency consultations are completed, as appropriate.
  - d. Coordinate with ONMS ECC for NEPA clearance in Grants Online to ensure environmental reviews are complete prior to award issuance.
  - e. Monitor and report on environmental compliance for grants and cooperative agreements as required by this policy.
08. **ONMS Contracting Officer Representative (COR)** will, in consultation with the ONMS ECC:
- a. Ensure that ONMS contracts comply with this policy.
  - b. Assist the ONMS ECC with reporting requirements and data calls or other inquiries, as appropriate.

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## **SECTION 6. INTERNAL COORDINATION**

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01. Project leads are to notify ONMS ECC early in the project development to ensure environmental compliance planning and execution occurs early in the decision-making process.
02. The ONMS ECC coordinates informal review of EC-related documents with NOS General Council and the NOS ECC.
03. The ONMS ECC provides document clearance prior to ONMS leadership (Policy and Planning Division Chief, Deputy Director, and Director) clearance and signature (when applicable).
04. The ONMS ECC advises ONMS leadership on EC-related decisions (including clearances, approvals, signatures, etc.).
05. In situations related to incidental takes and environmental compliance violations, the Superintendent is to immediately notify the PPD Chief for ONMS of the incident. The Superintendent is to ensure that follow-up response actions are documented. The PPD Chief and the ONMS ECC for ONMS are to ensure that the field site has completed the appropriate documents, as required.

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## **SECTION 7. TRACKING AND REPORTING**

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01. If ONMS ECC becomes aware of incidental takes or environmental compliance violations prior to the PPD Chief, the ONMS ECC will immediately coordinate with the ONMS PPD Chief, and Deputy Director. ONMS ECC should always be notified whenever an incidental take or compliance violation occurs. Incidents will be reported to the ONMS Director.
02. The ONMS ECC will ensure that ONMS develops and maintains a schedule of milestones for completion of all Environmental Assessments (EAs), Environmental Impact Statements (EISs), and headquarters level consultations<sup>4</sup>, as appropriate. These schedules will be updated as needed and made available to the NOS ECC quarterly or as requested.
03. Measures for impact avoidance, mitigation measures, and best management practices will be included in documentation of Magnuson Stevens Act, Endangered Species Act, Marine Mammal Protection Act, National Historic Preservation Act, and Coastal Zone Management Act compliance as well as, Memorandums for the Record related to CEs, EAs and FONSI, as well as EISs and RODs.

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## **SECTION 8. ADMINISTRATIVE RECORD**

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01. Records created for environmental compliance, regardless of media and format, will be managed in accordance with NOAAs Guidelines for Compiling an Agency Administrative

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<sup>4</sup> Including Marine Mammal Protection Act consultations, federal actions at a national scope, and cross program and/or cross line programmatic initiatives.



Record. The administrative record should clearly demonstrate the basis for decision making and is a compilation of all materials directly or indirectly considered.

02. ONMS must take responsibility for ensuring all final environmental compliance and NEPA documentation is retained and accessible. Environmental compliance and NEPA documents associated with grants or cooperative agreements may be maintained within Grants Online. ONMS permits are maintained in the Osprey permit database.

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## SECTION 9. AUTHORITIES AND REFERENCES

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01. The authorities listed below are the regulatory drivers for this Policy.
- National Ocean Service Environmental Compliance Program Policy 0300-01 v2 dated May 4, 2016
  - NOAA Deputy Under Secretary for Operations Memorandum, "*Promoting Compliance with NOAA's Environmental Statutes*," dated August 22, 2014
  - National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq.
  - Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, as codified at 40 CFR Parts 1500 - 1508
  - NOAA Administrative Order (NAO) 216-6A, "*Compliance with the National Environmental Policy Act, Executive Orders 12114, Environmental Effects Abroad of Major Federal Actions; 11988 and 13690, Floodplain Management; and 11990, Protection of Wetlands*" dated April 22, 2016
  - Department of Commerce Department Administrative Order (DAO) 216-6, "*Implementing the National Environmental Policy Act*," dated March 10, 1983

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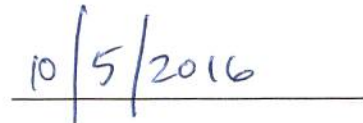
## SECTION 10. ONMS EC POLICY APPROVAL

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Approval



ONMS Director



Date

### Implementation Oversight

The oversight of this policy is the responsibility of the Deputy Director, ONMS

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