

**SUPPORTING STATEMENT
NATIONAL MARINE SANCTUARY NOMINATION
OMB CONTROL NO. 0648-XXXX**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

This request is a resubmission with the final rule 0648-BD20, for new information collection proposing criteria, process, and regulatory changes necessary to provide the American public an opportunity to nominate marine areas which the National Oceanic and Atmospheric Administration (NOAA) may consider for designation as a national marine sanctuary. This new sanctuary nomination process intends to focus on proposals generated and driven by local and regional community groups and coalitions; these groups will be responsible for submitting all information in support of their respective nominations. This new process replaces NOAA's Site Evaluation List (SEL) process, which tended towards an agency-driven, "top-down" approach, with a more grassroots, "bottom-up" approach to sanctuary nominations. The SEL has been deactivated since 1995. NOAA has proposed to remove all terminology referencing the SEL in order to emphasize that the new sanctuary nomination process ultimately implemented by NOAA is more community driven, open to public input and analysis, and that any sites ultimately designated as national marine sanctuaries have widespread community support. NOAA will begin accepting new sanctuary nominations following approval of this information collection request, and publication of the final rule, the draft of which accompanies this statement, and considers and responds to public comment on the proposed criteria and regulations. NOAA is not accepting nominations for new national marine sanctuaries until an OMB Control Number for this information collection is confirmed.

NOAA's final nomination criteria are consistent with the existing standards in section 303(b) of the [National Marine Sanctuaries Act](#) (NMSA). In deciding to pursue an eligible site for designation, NOAA can, and will, contemplate additional factors, such as the Office of National Marine Sanctuaries (ONMS) fiscal capability to manage any area as a national marine sanctuary. Ultimately, the agency seeks to have the most robust means possible for designating areas of special national significance as new national marine sanctuaries.

Request for Public Comments

In the June 28, 2013 proposed rule, NOAA requested public comment on: 1) the completeness and utility of twelve criteria for evaluating areas of the marine environment as possible new national marine sanctuaries; 2) NOAA's proposed process steps for receiving sanctuary nominations; and 3) proposed amendments to ONMS regulations (78 FR 38848). NOAA received nearly 18,000 comments on the proposed rule, the majority of which were initiated from a write-in campaign and were identical or nearly identical. Of the 18,000 comments, NOAA identified approximately 640 unique comments, most of which repeated similar topics, and were summarized into 26 separate comments (see Question 8). NOAA has taken the major concerns into consideration in crafting the final rule. NOAA re-drafted the 12 proposed criteria to address the concerns, resulting in four national significance criteria and seven management considerations.

NOAA also responded to the public comments to further clarify the process by which NOAA will review nominations and what the public should expect during the process. The final rule discusses the process in more detail.

Final Nomination Criteria

NOAA will analyze any nominations for national marine sanctuaries based on the final criteria and consideration below. NOAA initially proposed 12 criteria, which mirrored section 303(b) of the NMSA. Many commenters stated that these were too vague, too broad, or otherwise not useful for nominating areas as national marine sanctuaries. NOAA determined that the best approach is to have specific criteria that a marine area would need to meet in order to be considered a nationally significant and worthy of protection as a national marine sanctuary and thus developed four national significance criteria. In addition, NOAA has identified seven management considerations to determine the viability of managing a nominated area as a national marine sanctuary.

National Significance Criteria:

- 1) The area's natural resources and ecological qualities are of special significance and contribute to: biological productivity or diversity; maintenance or enhancement of ecosystem structure and function; maintenance of ecologically or commercially important species or species assemblages; maintenance or enhancement of critical habitat, representative biogeographic assemblages, or both; or maintenance or enhancement of connectivity to other ecologically significant resources.
- 2) The area contains submerged maritime heritage resources of special historical, cultural, or archaeological significance, that: individually or collectively are consistent with the criteria of eligibility for listing on the National Register of Historic Places¹; have met or which would meet the criteria for designation as a National Historic Landmark; or have special or sacred meaning to the indigenous people of the region or nation.
- 3) The area supports present and potential economic uses, such as: tourism; commercial and recreational fishing; subsistence and traditional uses; diving; and other recreational uses that depend on conservation and management of the area's resources.
- 4) The publicly-derived benefits of the area, such as aesthetic value, public recreation, and access to places depend on conservation and management of the area's resources.

Management Considerations:

- 1) The area provides or enhances opportunities for research in marine science, including marine archaeology.
- 2) The area provides or enhances opportunities for education, including the understanding

¹ The National Register of Historic Places criteria are for resources which:

- a) are associated with events that have made a significant contribution to the broad patterns of our history;
- b) are associated with the lives of significant persons in our past;
- c) embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d) have yielded or may likely yield, information important in history or prehistory.

and appreciation of the marine and Great Lakes environments.

- 3) Adverse impacts from current or future uses and activities threaten the area's significance, values, qualities, and resources.
- 4) A national marine sanctuary would provide unique conservation and management value for this area or adjacent areas.
- 5) The existing regulatory and management authorities for the area could be supplemented or complemented to meet the conservation and management goals for the area.
- 6) There are commitments or possible commitments for partnerships opportunities such as cost sharing, office space, exhibit space, vessel time, or other collaborations to aid conservation or management programs for the area.
- 7) There is community-based support for the nomination expressed by a broad range of interests, such as: individuals or locally-based groups (e.g., friends of group, chamber of commerce); local, tribal, state, or national elected officials; or topic-based stakeholder groups, at the local, regional or national level (e.g., a local chapter of an environmental organization, a regionally-based fishing group, a national-level recreation or tourism organization, academia or science-based group, or an industry association).

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

NOAA has developed a guide that interested parties may use to develop and submit nominations. The information submitted by nominees will be used by NOAA to determine whether a nominated area is eligible to be designated as a new national marine sanctuary. This information may also be used by NOAA to inform requests for nomination amendments.

NOAA will develop a public website to store information submitted on nominations. NOAA will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this supporting statement for more information on confidentiality and privacy. The information that would be collected is designed to yield data that meet all applicable information quality guidelines. The general information about an area's special characteristics, qualities, and resources would form the basis of public notices and may be used in scientific, management, technical, general information, and Federal Regulatory publications. ONMS makes it clear in the final rule that all the information submitted in the nomination will be published on the ONMS website. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

NOAA will accept the submission of new national marine sanctuary nominations via email and through regular mail. NOAA will not provide a nomination form or application online, but will provide a guide on its website. Nominations will be limited to a maximum of 25 pages, including attachments. All submission received as hard copies will be scanned and posted on the website along with electronic submissions.

The nomination guide will be made available online, and it will be found at the following website that will have the url of www.nominate.noaa.gov, with a link from www.sanctuaries.noaa.gov This guide is also included with this submission.

4. Describe efforts to identify duplication.

The information required to evaluate nominated areas for sanctuary designation is unique to NOAA and the NMSA and is not replicated by other Federal or state marine resources management authorities.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

NOAA's collection of information would not involve small businesses or other small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If the information collection is not conducted, NOAA would not be able to evaluate nominations for potential sanctuary designation.

7. Explain any special circumstances that require the collection to be conducted in a manner consistent with OMB guidelines.

No special circumstances exist or are anticipated requiring the collection of information to be conducted in a manner consistent with the OMB guidelines.

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

NOAA initiated the SEL in a 1982 proposed rule (47 FR 39191), to modify the existing process for identifying and selecting potential marine sanctuary candidates, as well as for designating these sites as national marine sanctuaries. At that time, no PRA request or form was used by the ONMS. A preliminary SEL was published in March of 1983 (48 FR 8537), and finalized in August, 1983 (48 FR 24295). The SEL process and criteria were last revised in 1988, as a result of Congressional action and changes made to the NMSA (53 FR 43802). Therefore, the public had ample notice and opportunity to comment on the process, and to contribute to the list (using the standards in the APA).

Related to this PRA request for the re-established sanctuary nomination process, NOAA has issued a proposed rule, RIN 0648-BD20 on June 28, 2013 (78 FR 38848) and solicited public comments. The proposed rule suggested that this action replace the SEL with a new public process to provide NOAA with robust, criteria-driven proposals for new national marine sanctuaries. The comment period closed on August 27, 2013. NOAA received nearly 18,000 comments on the proposed rule, the majority of which were initiated from a write-in campaign and were identical or nearly identical. Of the 18,000 comments, NOAA identified approximately 640 unique comments, most of which repeated similar topics, and were summarized into 26 separate comments.

Response to Public Comments

1. Comment: The vast majority of the commenters supported the re-establishment of the sanctuary nomination process stating it is an important first step toward filling gaps in ocean and Great Lakes protection. Many also commented that after 13 years with no new national marine sanctuary designations, a process to nominate new national marine sanctuaries is warranted. These commenters cited a number of reasons for support of new national marine sanctuaries, including general environmental protection, management of climate change, enhancing the value of coastal and ocean economies through recreation and tourism, and the community-based nature of the nomination process proposed by NOAA. Many of these commenters were also concerned about potential impact to the marine environment from oil and gas activities, and the role new national marine sanctuaries could play in helping to mitigate negative impacts.

Response: NOAA concurs, and believes it is appropriate to move forward with re-establishing the sanctuary nomination process.

2. Comment: Several commenters argued that the criteria lacked completeness and utility (e.g., were incomplete, too general, not appropriate, or not quantitative enough). Some commenters cautioned that the proposed criteria were too broad and would result in many underqualified nominations.

Response: NOAA has taken these comments into consideration to provide more clear and more robust criteria, while remaining consistent with the intent of the twelve criteria put forward in the proposed rule. NOAA agrees that there were distinctions of use and applicability among the proposed twelve criteria, and with this final rule, has developed two separate measurements for nominations - national significance criteria and management considerations. NOAA believes these criteria and considerations provide specificity and clarity for nominators to carefully consider and articulate how an area demonstrates national significance and management feasibility. NOAA anticipates these two categories will provide nominators with a well-defined

and functional means of submitting nominations for new national marine sanctuaries. NOAA has clarified in Section IV how it is going to use the criteria and considerations in the review process for evaluating these nominations. Should NOAA determine that a nomination does not meet the national significance criteria and management considerations, NOAA would notify the nominator with its rationale; nominators will then have the opportunity to provide NOAA with the additional information necessary to meet the relevant national significance criteria and management considerations.

3. Comment: One commenter suggested that NOAA should remove the criteria that measures economic impact.

Response: NOAA disagrees. The NMSA requires NOAA consider the economic benefits and impacts of the present and potential uses of national marine sanctuaries (NMSA Section 303 (b)(1)(I)). Sustaining local economies that rely on a healthy marine environment is an important goal at all national marine sanctuaries.

4. Comment: Commenters asked NOAA to include consideration and recognition of the importance of waterborne commerce in the designated area.

Response: NOAA believes the final rule includes the criteria necessary for considering compatible uses of national marine sanctuaries, including waterborne commerce. NOAA recognizes the vital importance of waterborne commerce, not only to communities but to the Nation and a vibrant economy.

5. Comment: Commenters suggested that the core criteria should be protection of natural resources, ecological qualities, and areas of historical, cultural, archaeological, or paleontological significance.

Response: The final criteria focus first on the national significance of a nominated area's biological and cultural resources. National marine sanctuaries are designated with the primary purpose of resource protection, and the value added to both local communities and the Nation, and any new national marine sanctuary designation would be considered within this context.

6. Comment: Commenters asked NOAA to ensure a criterion includes maintenance of endangered species and their critical habitat.

Response: The final national significance criteria include a provision that takes the value of area in maintaining endangered species and their habitat. Consideration of endangered species and their habitat is also required under the Endangered Species Act.

7. Comment: Several commenters asked NOAA to consider the balance between protecting the health of the proposed area while providing access to and use of that area.

Response: The final national significance criteria recognize the significance of an area's natural and cultural resources, as well as its economic, use, and aesthetic values. Furthermore, the management considerations provide nominators the opportunity to identify the existing or potential management values of an area, and how those values may support a national marine sanctuary.

8. Comment: Several commenters suggested that the proposed rule did not provide the public with a good sense for how the criteria would be applied in deciding which nominations

will be moved toward national marine sanctuary designation. Some commenters asked if there was a threshold or standard for each criterion.

Response: Consistent with the criteria in the proposed rule, NOAA has based the final criteria on section 303(b) of the NMSA. However, NOAA has refined the final criteria to be more operational in determining national significance and manageability, and in doing so believes the national significance criteria and management considerations set clear standards for nominating and evaluating an area as a national marine sanctuary. When appropriate, NOAA will conduct a third party external peer review to further evaluate a nomination's ability to meet the final criteria and considerations. Nominations will not be judged against each other with regard to completeness or robustness of criteria. NOAA's final evaluation will be based on a qualitative analysis of a nomination's ability to demonstrate the relevant national significance criteria and management considerations; the agency will not apply a numerical value or score to any nomination.

9. Comment: Several commenters asked NOAA to define the number of criteria that need to be met in order to have a successful nomination, and how those criteria will be measured. Commenters also asked NOAA if there were mandatory and optional criteria, and how the criteria relate to each other.

Response: There is no minimum number of national significance criteria a nominator needs to meet for a successful nomination. NOAA encourages nominations to include information on all of the criteria relevant to the specific goals and intent a nominator has for an area. Nominations with high maritime heritage value, for example, may require less or no information on the natural resource criteria. Similarly, NOAA is not requiring nominations with high natural resource value to declare or define high maritime heritage value if that value does not exist. Nominations with both high natural resource and maritime heritage value should, however, include information on both qualities. The strongest nominations will have a clear sense of all the national significance criteria relevant to that area, and provide as much information as possible for those criteria. Nominations should provide information addressing all seven management, with special emphasis on consideration 7 describing community-based support.

10. Comment: Several commenters requested NOAA ensure the criteria consider the current management structure and level of protection for the area proposed.

Response: NOAA recognized this issue in the proposed rule and has also included it in the final rule under management consideration #5 ("The existing regulatory and management authorities for the area could be supplemented or complemented to meet the conservation and management goals for the area.").

11. Comment: Several commenters believed that the proposed process for evaluating nominations was incomplete and did not provide the public with a clear indication of how NOAA would proceed once it received nominations. They believed that several questions remained unanswered by the proposed regulations including: who will make a decision on the nomination; how will the process be transparent; how are other agencies and regional fishery management councils to be involved.

Response: NOAA has provided significant detail on the process for submitting national marine sanctuary nominations in section IV of the final rule, including what actions will occur at

each of the six steps, possible outcomes of the process, opportunities for nominators to discuss the process with NOAA, and that the ONMS Director will determine at the end of the review if a nomination is accepted into the inventory. NOAA will also include this and additional details on the ONMS website. Other federal agencies and the regional fishery management councils may choose to include themselves as part of the nomination of a new national marine sanctuary. If in the future, NOAA decides to begin designation for a nomination in the inventory, the NMSA defines the specific coordination and consultation requirements ONMS must follow with other Federal agencies and the respective regional fishery management councils.

12. Comment: Some commenters indicated that certain interested parties may not have the capacity to develop a nomination or have access to the information necessary to clearly demonstrate the criteria or management considerations. They asked if NOAA could provide technical services, assistance, or financial support for nomination development.

Response: NOAA may engage in discussion with communities as they develop and revise their nominations to provide informational assistance or recommendations. In some instances, the agency may be able to provide some technical services, but does anticipate providing any financial support. It will be the responsibility of the nominators to acquire and synthesize the information necessary to develop their nomination.

13. Comment: Several commenters were concerned that if sites were “weighted” in value, that those focusing solely on historic and cultural resources would not score as high as those which also include ecological values and that the process would be inherently biased against cultural resource nominations. These reviewers suggested constructing two separate review processes; one for nominating ecologically-focused national marine sanctuaries and the other for maritime heritage-focused national marine sanctuaries, so that these nominations are not weighed against each other.

Response: NOAA will not be scoring the nominations individually or against each other and will be looking at the merits of each nomination relative to the nominators’ specific intent for their respective nomination and the relevant criteria. Per the NMSA, the final criteria recognize both biological and cultural resources as under consideration for possible national marine sanctuary designation. See NOAA’s response to comment #9 above for additional information on how a nominator should consider the resources of their nomination.

14. Comment: Several commenters indicated they would like more transparency in the evaluation process once a nomination is received. They also suggested that NOAA develop and provide a timeline.

Response: Based on these comments, NOAA has revised its final criteria, management considerations, and process to provide more transparency and clarity. With regard to a timeline, the final rule indicates that NOAA will strive to complete the review process in 90 to 180 days as (see section IV). Furthermore, when NOAA adds an area to the inventory for areas to consider for national marine sanctuary designation, it will stay active in the inventory for up to 5 years.

15. Comment: Several commenters questioned moving forward with the sanctuary nomination process given recent trends of the Federal budget, as well as the provisions within section 304(f) of the NMSA, “Limitation on Designation of New Sanctuaries.”

Response: NOAA’s purpose with this final rule is to re-open the process by which the

public submits nominations to NOAA for consideration as new national marine sanctuaries. NOAA will address any resource issues, as well as NMSA section 304(f), when, in the future, it considers a nomination for designation. Designations of new national marine sanctuaries are not addressed in this action.

16. Comment: Several commenters asked NOAA to clarify how the nomination process for new national marine sanctuaries coincides with other government policy initiatives, such as the National Ocean Policy.

Response: While NOAA is implementing the sanctuary nomination process under the authority of the NMSA, this action also meets the goals of the National Ocean Policy Implementation Plan. The Implementation Plan includes a specific action to reactivate the ONMS Site Evaluation List (SEL). As described in both the proposed and final rule NOAA is replacing the SEL with the sanctuary nomination process but considers this action consistent with the Implementation Plan's goal of SEL reactivation. NOAA contemplates collaboration with other Federal agencies in management consideration #5 ("The existing regulatory and management authorities for the area could be supplemented or complemented to meet the conservation and management goals for the area."), as does section 301(b)(7) of the NMSA, which directs ONMS to develop and implement coordinated plans for the protection and management of national marine sanctuaries.

17. Comment: Several commenters asked NOAA to take into account the presence/absence of existing marine protected areas (MPAs) in the vicinity (e.g., who manages them, the extent they are currently working, etc.). Other commenters recommended or were concerned about the prospect of using the existing list of "special places" (e.g., MPAs) as a starting point as an existing inventory of worthy, nationally significant sites.

Response: A nominator may elect to include an existing protected area, such as marine reserve designated under state authority, as part of its nomination for a national marine sanctuary. However, nominators should consider that the final nomination criteria identified in this rule may be different from, or inconsistent with, the criteria applied to protected areas managed under other authorities. Nominators should consider the management scheme most appropriate for an area prior to submitting a nomination for a national marine sanctuary. While the NMSA is a robust and adaptive management tool that offers many alternatives for marine protection and conservation, as indicated by management consideration #4 ("A national marine sanctuary would provide unique conservation and management value for this area or adjacent areas."), it may not be suitable for certain areas or certain types of resources.

18. Comment: Several commenters expressed concern over how tribal governments will be included in the process. Some commenters asked that NOAA include "maintenance of native cultures" in its final criteria, and recognize "tribal governments" in its list of existing authorities.

Response: Final management consideration #7 identifies the types of community support NOAA recommends for a nomination, and includes tribal governments. Further, as discussed in section IV of this final rule, if a nomination includes waters in proximity to tribal lands or areas with customary and usual use of treaty waters or stations, NOAA recommends the nominator discuss its nomination with the respective tribal government. If a nomination does not indicate tribal consultation for these types of areas, NOAA will request the nominator do so before continuing its review of the nomination. Should ONMS consider any nomination for national

marine sanctuary designation, it would adhere to its consultation and coordination obligations under the NMSA and potential obligations under Section 106 of the National Historic Preservation Act with any tribal government included in, or in proximity to, the area. NOAA will also fulfill its obligations and responsibilities pursuant to Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments.”

19. Comment: Some commenters suggested NOAA include the term “traditional use” in addition to subsistence use in its final criteria, noting that “traditional/native uses may be broader than subsistence and this would be a helpful clarification.”

Response: NOAA has added “subsistence and traditional uses” to final criterion #3 (“The area supports present and potential economic uses, such as tourism, commercial and recreational fishing, subsistence and traditional uses, diving, and other recreational uses that depend on conservation and management of the area’s resources.”)

20. Comment: One commenter asked NOAA to consider how a proposed area would maintain native cultures.

Response: If a proposed nomination includes or is in proximity to tribal lands, NOAA recommends the nominator consider the maintenance of tribal cultures in its proposal. In addition, NOAA has added “subsistence and traditional uses” to final criterion #3 (“The area supports present and potential economic uses, such as tourism, commercial and recreational fishing, subsistence and traditional uses, diving, and other recreational uses that depend on conservation and management of the area’s resources.”)

21. Comment: Some commenters suggested that the idea of making the process more “bottom up” and “community-driven” was unclear and may exclude the views of stakeholders outside of the immediate geography of a nominated area. Some of these commenters noted there are ocean areas where the resources are managed for the benefit of the nation as a whole, not limited local user groups. These commenters wanted clarity on the role of “local” vs. “national” stakeholder groups, and more information on how NOAA defined “broad community support.” Commenters were also concerned about how NOAA would identify and evaluate support for the nomination to ensure that all voices with an interest are heard, not just the voices closest to the proposed area.

Response: NOAA provided a broad interpretation of ‘communities’ in the proposed rule, and acknowledges in this final rule that communities are not limited to a specific geography. To further emphasize this point, NOAA includes examples of what constitutes communities in its final management consideration #7 (“There is community-based support for the nomination expressed by a broad range of interests, such as: individuals or locally-based groups (e.g. friends of group, chamber of commerce); local, tribal, state, or national elected officials; or topic-based stakeholder groups, at the local, regional or national level (e.g. a local chapter of an environmental organization, a regionally-based fishing group, a national-level recreation or tourism organization, academia or science-based group, or an industry association.”). NOAA believes this revised description of “communities” provides for a diversity of interested parties to organize and submit national marine sanctuary nominations.

22. Comment: Several commenters asked for a clarification about the differences between the SEL and the new sanctuary nomination process.

Response: The primary difference between the SEL and the sanctuary nomination process is that the sanctuary nomination process necessitates nominations be developed by the public in a grass roots, bottom up model that promotes community-based stewardship of special marine and Great Lakes areas. In contrast, the SEL relied almost solely on input from regional review panels comprised of academic experts and ocean management practitioners. NOAA believes the final criteria, management considerations, and nomination process provide specific, well-defined parameters for communities across the nation to have a voice and opportunity to effectively nominate areas that meet the high standard of national marine sanctuary designation.

A secondary difference is that the sanctuary nomination process allows nominators to submit areas they feel best represent the most current marine and Great Lakes areas of national significance. All sites on the SEL were 20 or more years old and have likely experienced changes in resources (both ecological and cultural) and management. NOAA believes it prudent, therefore, to remove these sites as candidates for national marine sanctuary designation and allow the public to consider new areas. Nominators can submit areas on the SEL as part of the new sanctuary nomination process, but should ensure these areas are consistent with the final national significance criteria and management considerations.

23. Comment: Several commenters asked about the sites listed on the deactivated SEL and requested that NOAA reconsider removing these sites from consideration.

Response: While the SEL was last active in 1995, most of the sites on the SEL were originally put on the list in the 1980s, and there have not been any recent efforts by NOAA to update information about those sites. Therefore, NOAA has determined it appropriate to remove the existing SEL sites as pre-existing areas for consideration as national marine sanctuaries. However, nominators can re-propose areas from the SEL per the final national significance criteria, management considerations, and process identified in this final rule. Following the process described in this final rule, NOAA will evaluate all nominated areas, including any that may have previously been on the SEL.

24. Comment: One commenter asked NOAA to provide more information on how the sanctuary nomination process would deal with nominations to de-designate a national marine sanctuary. This commenter suggested that the goal of the ONMS should be to return the areas to the state's control.

Response: Designation and de-designation of national marine sanctuaries are beyond the scope of this action. There are other means by which NOAA evaluates the effectiveness of national marine sanctuary management, including a rigorous management plan review processes, that could consider changes in regulations and area of national marine sanctuary managed. This final rule does not contemplate the de-designation of any national marine sanctuary.

With regard to "returning areas to state control", this is not a goal of the NMSA. Many of the current national marine sanctuaries have strong partnerships with the respective state government and would anticipate to continue in any future designation of a national marine sanctuary adjacent to, or in proximity to, state lands.

25. Comment: Some commenters had suggestions for amending ONMS regulations to align the sanctuary nomination process proposed rule with a January 2012 proposed rule issued by NOAA designed to clarify and update several ONMS regulations. Commenters suggested that the two rules were conflicting, and that NOAA should withdraw both rules and begin the

process again with an advanced notice of rulemaking.

Response: In January 2012 (78 FR 5998), NOAA issued a proposal to amend national marine sanctuary regulations as part of a comprehensive regulatory review pursuant to Executive Order 13563. That proposed rule proposed to modify the SEL regulations so that rather than NOAA solely selecting potential sites from a periodically updated list (the SEL), the public would also be able to petition the agency for new national marine sanctuaries in areas not contemplated by the SEL.

Upon further analysis and after considering public comments on the June 2013 proposed rule for the sanctuary nomination process, NOAA believes the sanctuary nomination process described in this final rule provides a more structured process for stakeholder involvement in the nomination of new national marine sanctuaries. When NOAA ultimately revises its final rule for the January 2012 proposal to amend sanctuary regulations, it will address changes to the SEL prompted by the sanctuary nomination process.

26. *Comment:* Most commenters supported the regulatory amendments that were proposed. Some commenters suggested that the proposed amendment to 15 CFR 922.10 (b) be revised to include explicit steps for submitting a nomination. With regard to section 922.10(c), some commenters were concerned that NOAA simply stating “any further guidance issued by NOAA” could run afoul of the Administrative Procedures Act (APA). Another commenter suggested keeping section 922.21, but replacing references to SEL with references to “list of eligible candidates.”

Response: NOAA agrees regarding 15 CFR 922.21 and has replaced the reference to SEL with a definition of “Inventory” (section 922.3). NOAA has also revised section 922.10 based on comments requesting more detailed information on the criteria, management considerations, and review process for national marine sanctuary nominations. NOAA has removed from the final rule the language “any further guidance issued by NOAA.”

The final rule responds to all substantive comments, and describes the changes that were made to the rule between proposed and final. The changes in response to public comments include revising the nomination criteria from 12 general criteria (as listed in the NMSA), to a more specific set of four national significance criteria, and seven management considerations that NOAA will use to evaluate nominated areas. These changes to the criteria address the concerns raised by commenters. Commenters also wanted a more substantial description of the process NOAA will use to evaluate the nominations received. In response to these comments, NOAA also revised the nomination process to outline the steps involved. NOAA also created a website where nominations will be made publicly available, and has indicated in the final rule if and how outside parties will be utilized to assist NOAA in evaluating nominations. Data provided with nominations will be stored and made available at the www.nominate.noaa.gov.

9. Explain any decision to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payments or gifts will be provided to any respondents.

10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulations, or agency policy.

NOAA does not anticipate any confidential or proprietary information will be submitted with in conjunction with its final nomination process or its guidelines. Therefore, NOAA does not make any confidentiality statements in this final rule.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

NOAA is asking no sensitive questions in the sanctuary nomination process.

12. Provide an estimate of hours of the burden of the collection of information.

NOAA estimates a total of 290 hours to collect this information. This is based on an estimate of 10 nominations requiring approximately three responses each (initial response and two requests for additional information), for a total of 30 responses.

Burden Estimate. Public reporting burden for this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated to average twenty-nine hours per response (e.g. initial nomination submission, logging records, and follow-up information), as follows:

- Four (4) hours per response collecting information for nomination;
- Twenty (20) hours per response gathering public support and organizing community meetings;
- Two (2) hours per response of public meetings;
- Two (2) hours per response writing and submitting nomination request;
- Thirty (30) minutes per response for amendments to nomination; and
- Thirty (30) minutes per response for follow-up requests.

Total: 29 hours x 10 + 290 hours.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in Question 12 above).

The estimated annual cost for copying and mailing or submitting sanctuary nominations and subsequent responses is \$120. Most nominations will be well suited to submit electronically via email or through a web form, which will be encouraged, and should reduce additional mailing costs.

14. Provide estimates of annualized cost to the Federal government.

The cost to the Federal government for each nomination is estimated to be \$9,795, and is listed in the attached table. All costs are for the staff time required to process, review, and evaluate

sanctuary nominations and communicate with nominees.

15. Explain the reasons for any program changes or adjustments.

This will be a new information collection.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected may be used not only to inform the criteria review process for potential sanctuary designation, but may also be generally used as supporting material in any subsequent part of the designation process. For instance, socioeconomic information may be used to support regulatory flexibility analyses for small businesses. Environmental information may be used to in a draft or final environmental impact statement which would be part of the designation process. In addition, information about historical or cultural resources may help to support evaluation under the National Historical Preservation Act, Section 106 review.

17. If seeking approval to no display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

The OMB Control No. and expiration date for this information collection will be displayed on the instructions for the nomination, and on the nomination website, and other materials related to the sanctuary nomination process, including the final rule implementing the new sanctuary nomination process. For any nominations that are submitted via email and that do not have the OMB Control Number on them, the number and expiration date will be provided in a confirmation email of receipt of the nomination.

18. Explain each exception to the certification statement.

N/A.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

N/A.

New PRA Information Collection: Burden Estimate

Nominator Average Burden							
	Nominations/ Yr	Responses/ Nomination	Total Responses	Hrs/ Response	Total Hours	Labor Cost/ Response (\$)	Total Cost (\$)
Nomination	10	3	30	29	290	435	4,350
TOTAL	10		30	29	290	435	4,350

Federal Government					
	Number of Personnel	Hrs/Response /Person	Total Hours	\$/Hour	Total Cost (\$)
Scientific review	5	25	125	50	6,250
Management level discussions	3	5	15	65	975
Administrative and staff hours	2	7.5	15	30	450
Additional communications with nominator	Variable	2	40 (2/nomination)	53 (avg.)	2,120
TOTAL	Variable	39.5	195	53	9,795