

fishing and diving, scientific research, and educational activities.

Article 4. Scope of Regulation

Section 1. Activities Subject to Regulation

The following activities are subject to regulations under the NMSA, either throughout the entire Sanctuary or within identified portions of it or, as indicated, in areas beyond the boundary of the Sanctuary, to the extent necessary and reasonable. Such regulation may include prohibitions to ensure the protection and management of the conservation, recreational, ecological, historical, scientific, educational, cultural, archaeological or aesthetic resources and qualities of the area. Because an activity is listed here does not mean that such activity is being or will be regulated. All listing means is that the activity can be regulated, after compliance with all applicable regulatory laws, without going through the designation procedures required by paragraphs (a) and (b) of section 304 of the NMSA, 16 U.S.C. 1434(a) and (b).

1. Dredging, drilling into, or otherwise altering the submerged lands of the Sanctuary;
2. Within the boundary of the Sanctuary, discharging or depositing any material or other matter or constructing, placing, or abandoning any structure, material or other matter; or discharging or depositing any material or other matter outside the boundary of the Sanctuary that enters and injures a Sanctuary resource or quality;
3. Vessel operations, including anchoring;
4. Injuring, catching, harvesting, or collecting any marine organism or any part thereof, living or dead, or attempting any of these activities, by any means except by use of rod and reel and handline gear;
5. Possessing fishing gear that is not allowed to be used in the Sanctuary;
6. Using explosives, or devices that produce electric charges underwater; and
7. Removing, injuring, or possessing historical resources.

Section 2. Emergency Regulation

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality; or to minimize the imminent risk of such destruction, loss or injury, any activity, including any not listed in Section 1 of this article, is subject to immediate temporary regulation, including prohibition.

Article 5. Relation to Other Regulatory Programs

Section 1. Defense Activities

The regulation of activities listed in Article 4 shall not prohibit any Department of Defense activity that is essential for national defense or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practical.

Section 2. Other Programs

All applicable regulatory programs will remain in effect, and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by a regulation implementing Article 4.

Article 6. Alteration of This Designation

The terms of designation, as defined in paragraph (a) of section 304 of the NMSA, 16 U.S.C. 1434(a), may be modified only by the procedures outlined in paragraphs (a) and (b) of section 304 of the NMSA, 16 U.S.C. 1434(a) and (b), including public hearings, consultation with interested federal, state, and local government agencies, the South Atlantic Fishery Management Council, review by the appropriate Congressional committees, and approval by the Secretary of Commerce, or his or her designee.

Gray's Reef National Marine Sanctuary Boundary Coordinates based on the North American Datum of 1983 (NAD 83).

The boundary of the Gray's Reef National Marine Sanctuary includes all waters and the submerged lands thereunder within a rectangle starting at coordinate north 31.362732 degrees, west 80.921200 degrees; then runs northward to coordinate north 31.421064 degrees, west 80.921201 degrees; then eastward to coordinate north 31.421064 degrees, west 80.828145 degrees; then southward to coordinate north 31.362732 degrees, west 80.828145 degrees; and then back to the point of origin.

Summary of the Proposed Regulatory Amendment

The proposed regulatory changes would clarify that "submerged lands" are within the boundary and are part of the Sanctuary. This would update the boundary regulation to make it consistent with the NMSA and its definition of areas of the "marine environment" that may be designated as a sanctuary.

The proposed regulations would also modify the Sanctuary fishing regulations that have been in effect

since 1981. The current regulations prohibit the use of specific fishing gear within the Sanctuary, particularly wire fish traps and bottom trawls. Pursuant to section 304(a)(5) of the NMSA (16 U.S.C. 1434(a)(5)), the South Atlantic Fishery Management Council (SAFMC) was provided the opportunity to draft fishing regulations for the Sanctuary. During its meeting on March 6, 2003, the Council endorsed Sanctuary fishing regulations that would prohibit the use of all fishing gear in the Sanctuary except rod and reel and handline gear. Unlike the current sanctuary fishing regulations that allow all gear types except those specifically prohibited, this approach specifies the gear types that would be allowed and would prohibit all others. The regulation would prohibit the injuring, catching, harvesting, or collecting of any marine organism by any means except by rod and reel and handline. This would establish a clearer, more enforceable approach for the Sanctuary fishing regulations than those currently in effect. Rod and reel gear is the predominant fishing gear now in use at GRNMS and would continue to be allowed under the regulations recommended by the SAFMC. To facilitate enforcement of the gear restriction, a related regulation would require that all forms of fishing gear other than rod and reel and handline be stowed when vessels are in the Sanctuary.

The SAFMC's recommendation is consistent with public input received by the NMSP during the management plan review, and is supported by the Georgia Department of Natural Resources and NOAA Fisheries (National Marine Fisheries Service) Southeast Region. The SAFMC also recommended that the Sanctuary regulations require that fishing gear other than rods and reels and handlines be stowed when vessels are in the Sanctuary. Therefore, this regulation is also being proposed, as are definitions of "rod and reel and handline". The definitions would be based largely on existing definitions adopted by NOAA Fisheries in its regulations for the Fisheries of the Caribbean, Gulf, and South Atlantic, at 50 CFR 622.2. However, the proposed definitions for the Sanctuary regulations would allow only 3 hooks per line. The proposed regulation would apply to "any marine organism, or any part thereof, living or dead," and would encompass the taking of any marine organisms or parts by divers.

The proposed regulations would also prohibit anchoring vessels within the Sanctuary. The unique bottom formations and habitats at GRNMS are