



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
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## Preliminary Findings Required under the National Marine Sanctuaries Act, Sec. 304(f)

### Introduction

The National Marine Sanctuaries Act (NMSA) provides the National Oceanic and Atmospheric Administration (NOAA), acting through the Office of National Marine Sanctuaries (ONMS), with 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 the Lake Ontario National Marine Sanctuary. The sanctuary would encompass 1,302 nmi<sup>2</sup> (1,724 mi<sup>2</sup>) square miles of New York State waters and bottomlands in eastern Lake Ontario. The 43 known historic shipwrecks and one aircraft in the proposed sanctuary span more than two centuries and possess exceptional archaeological, historical, and recreational value. Based on historical records, an additional 20 shipwrecks and three aircraft may be located there. The proposed sanctuary would have a targeted set of regulations that includes a prohibition on damaging these resources.

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." NOAA is publishing these preliminary findings with the publication of the proposed regulations for the designation of Lake Ontario National Marine Sanctuary.

NOAA preliminarily makes the following findings for the three elements required by 304(f): The sanctuary designation currently being proposed will not have a negative impact on the National Marine Sanctuary System (System); sufficient resources exist to effectively implement sanctuary management plans; and sufficient resources exist to complete site characterizations and inventory known sanctuary resources, 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

On January 17, 2017, leaders of Oswego, Wayne, Cayuga and Jefferson counties and the City of Oswego, with support from Governor Cuomo, submitted the Lake Ontario National Marine Sanctuary nomination to NOAA for consideration as a new national marine sanctuary through the Sanctuary Nomination Process (SNP). The nomination called for increased protection of maritime heritage resources within state waters and bottomlands of Lake Ontario. The nomination included broad support from local government and non-government organizations.

After NOAA reviewed the nomination, on March 21, 2017, it accepted the Lake Ontario nomination onto the inventory of areas NOAA may consider for sanctuary designation.



NOAA published a notice of intent on April 19, 2019 to initiate the sanctuary designation process for Lake Ontario. NOAA published a draft environmental impact statement and draft management plan July 7, 2021. The DEIS evaluated a reasonable range of alternatives (including a no action alternative) and also served as a resource assessment under the NMSA, documenting present and potential uses of the areas considered in the alternatives.

The sanctuary would enhance and facilitate broader lake conservation efforts and heritage tourism within the New York communities that have embraced their centuries-long maritime relationship with Lake Ontario, the Great Lakes region, and the nation. Establishing a national marine sanctuary in eastern Lake Ontario would a) allow NOAA to complement and supplement existing state and federal efforts to protect underwater cultural and historical resources and actively manage, study, and interpret them for the public; b) through outreach and communication, recognize and promote this area's nationally significant historical and cultural properties; c) provide access to NOAA's extended network of scientific expertise and technological resources, enhance ongoing research, and provide an umbrella for the coordination of these activities; d) create and build upon existing educational initiatives and provide programming and technology for students, teachers, and the general public across the country; e) enhance and facilitate public stewardship of these underwater cultural and historical resources; and f) bolster broader lake conservation efforts and stimulate maritime heritage-related tourism within the many communities that have embraced their centuries-long relationship with Lake Ontario, the St. Lawrence River, the Great Lakes region, and the nation. The sanctuary would attract federal, university, private and non-profit resources and expertise.

## **Preliminary Findings for the Proposed Designations of Lake Ontario**

### **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 2021, the System consists of 15 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 to ensure it fulfills the purposes of the NMSA across the System. For this designation, ONMS staff from the Eastern 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. 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 Lake Ontario NMS 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 FY23, 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 is 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 ten year period.

NOAA uses condition reports to document site characterization and to 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.

Accordingly, NOAA finds all necessary site characterization and resource inventories have been completed.

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