

# APPENDIX I. REGULATIONS

## Subpart N—Stellwagen Bank National Marine Sanctuary

### SEC. 922.140 BOUNDARY.

(a) The Stellwagen Bank National Marine Sanctuary (Sanctuary) consists of an area of approximately 638 square nautical miles (NM) of Federal marine waters and the submerged lands thereunder, over and around Stellwagen Bank and other submerged features off the coast of Massachusetts. The boundary encompasses the entirety of Stellwagen Bank; Tillies Bank, to the northeast of Stellwagen Bank; and portions of Jeffreys Ledge, to the north of Stellwagen Bank.

(b) The Sanctuary boundary is identified by the following coordinates, indicating the most northeast, southeast, southwest, west northwest, and north-northwest points:

42 deg.45'59.83"N x 70 deg.13'01.77"W (NE);

42 deg.05'35.51"N x 70 deg.02'08.14"W (SE);

42 deg.07'44.89»W x 70 deg.28'15.44»W (SW);

42 deg.32'53.52»N x 70 deg.35'52.38»W (WNW); and

42 deg.39'04.08»N x 70 deg.30'11.29»W (NNW).

The western border is formed by a straight line connecting the most southwest and the west northwest points of the Sanctuary. At the most west-northwest point, the Sanctuary border follows a line contiguous with the three-mile jurisdictional boundary of Massachusetts to the most north-northwest point. From this point, the northern border is formed by a straight line connecting the most north-northwest point and the most northeast point. The eastern border is formed by a straight line connecting the most northeast and the most southeast points of the Sanctuary. The southern border follows a straight line between the most southwest point and a point located at 42 deg.06'54.57»N x 70 deg.16'42.7» W. From that point, the southern border then continues in a west-to-east direction along a line contiguous with the three-mile jurisdictional boundary of Massachusetts until reaching the most southeast point of the Sanctuary. The boundary coordinates are listed in appendix A to this subpart.

### Sec. 922.141 Definitions.

In addition to those definitions found at Sec. 922.3, the following definitions apply to this subpart:

*Industrial material* means mineral, as defined in Sec. 922.3.

*Traditional fishing* means those commercial or recreational fishing methods which have been conducted in the past within the Sanctuary.

### Sec. 922.142 Prohibited or otherwise regulated activities.

(a) Except as specified in paragraphs (b) through (f) of this section, the following activities are prohibited and thus

are unlawful for any person to conduct or to cause to be conducted:

(1)(i) Discharging or depositing, from within the boundary of the Sanctuary, any material or other matter except:

(A) Fish, fish parts, chumming materials or bait used in or resulting from traditional fishing operations in the Sanctuary;

(B) Biodegradable effluent incidental to vessel use and generated by marine sanitation devices approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1322 et seq.;

(C) Water generated by routine vessel operations (e.g., cooling water, deck wash down and gray water as defined by section 312 of the FWPCA) excluding oily wastes from bilge pumping; or

(D) Engine exhaust.

(ii) Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter, except those listed in paragraphs (a)(1)(i) (A) through (D) of this section, that subsequently enters the Sanctuary and injures a Sanctuary resource or quality.

(2) Exploring for, developing or producing industrial materials within the Sanctuary.

(3) Drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the seabed of the Sanctuary, except as an incidental result of:

(i) Anchoring vessels;

(ii) Traditional fishing operations; or

(iii) Installation of navigation aids.

(4) Moving, removing or injuring, or attempting to move, remove or injure, a Sanctuary historical resource. This prohibition does not apply to moving, removing or injury resulting incidentally from traditional fishing operations.

(5) Taking any marine reptile, marine mammal or seabird in or above the Sanctuary, except as permitted by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 et seq., the Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 et seq., and the Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 et seq.

(6) Lightering in the Sanctuary.

(7) Possessing within the Sanctuary (regardless of where taken, moved or removed from), except as necessary for valid law enforcement purposes, any historical resource, or any marine mammal, marine reptile or seabird taken in violation of the MMPA, ESA or MBTA.

(8) Interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the Act or any regulation or permit issued under the Act.

(b) The prohibitions in paragraphs (a) (1), and (3) through (8) of this section do not apply to any activity necessary to respond to an emergency threatening life, property or the environment.

(c)(1)(i) All Department of Defense military activities shall be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities.

(ii) Department of Defense military activities may be exempted from the prohibitions in paragraphs (a) (1) and (3) through (7) of this section by the Director after consultation between the Director and the Department of Defense.

(iii) If it is determined that an activity may be carried out, such activity shall be carried out in a manner that avoids to the maximum extent practicable any advance impact on Sanctuary resources and qualities. Civil engineering and other civil works projects conducted by the U.S. Army Corps of Engineers are excluded from the scope of this paragraph(c).

(2) In the event of threatened or actual destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an untoward incident, including but not limited to spills and groundings caused by the Department of Defense, the Department of Defense shall promptly coordinate with the Director for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the Sanctuary resource or quality.

(d) The prohibitions in paragraphs (a) (1) and (3) through (7) of this section do not apply to any activity executed in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit issued pursuant to Sec. 922.48 and Sec. 922.143 or a Special Use permit issued pursuant to section 310 of the Act.

(e) The prohibitions in paragraphs (a)(1) and (3) through (7) of this section do not apply any activity authorized by any lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation (November 4, 1992) and issued by any Federal, State or local authority of competent jurisdiction, provided that the applicant complies with Sec. 922.49, the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems necessary to protect Sanctuary resources and qualifies. Amendments, renewals and extensions of authorizations in existence on the effective date of designation constitute authorizations issued after the effective date.

(f) Notwithstanding paragraphs (d) and (e) of this section, in no event may the Director issue a permit under Sec. 922.48 and Sec. 922.143, or under section 310 of the act, authorizing, or otherwise approving, the exploration for, develop-

ment or production of industrial materials within the Sanctuary, or the disposal of dredged materials within the Sanctuary (except by a certification, pursuant to Sec. 922.47, of valid authorizations in existence on November 4, 1992) and any leases, licenses, permits, approvals or other authorizations authorizing the exploration for, development or production of industrial materials in the Sanctuary issued by other authorities after November 4, 1992, shall be invalid.

### **Sec. 922.143 Permit procedures and criteria.**

(a) A person may conduct an activity prohibited by Sec. 922.142 (a) (1) and (3) through (7) if conducted in accordance with scope, purpose, manner, terms and conditions of a permit issued under this section and Sec. 922.48.

(b) Applications for such permits should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Manager, Stellwagen Bank National Marine Sanctuary, 175 Edward Foster Rd., Scituate, MA 02066.

(c) The Director, at his or her discretion may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct an activity prohibited by Sec. 922.142(a) (1) and (3) through (7), if the Director finds that the activity will have only negligible short-term adverse effects on Sanctuary resources and qualities and will: further research related to Sanctuary resources and qualities; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; or assist in managing the Sanctuary. In deciding whether to issue a permit, the Director may consider such factors as: the professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and the duration of its effects; the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities; the cumulative effects of the activity; and the end value of the activity. In addition, the Director may consider such other factors as he or she deems appropriate.

(d) It shall be a condition of any permit issued that the permit or a copy thereof be displayed on board all vessels or aircraft used in the conduct of the activity.

(e) The Director may, *inter alia*, make it a condition of any permit issued that any data or information obtained under the permit be made available to the public.

(f) The Director may, *inter alia*, make it a condition of any permit issued that a NOAA official be allowed to observe any activity conducted under the permit an/or that the permit holder submit one or more reports on the status, progress or results of any activity authorized by the permit.

**Appendix A to Subpart N of Part 922--Stellwagen Bank National Marine Sanctuary Boundary Coordinates**

[Appendix Based on North American Datum of 1927]

Point	Latitude	Longitude
E1.....	42 deg.45'59.83 / 70 deg.13'01.77	
E2.....	42 deg.05'35.51 / 70 deg.02'08.14	
E3.....	42 deg.06'8.25 / 70 deg.03'17.55	
E4.....	42 deg.06'2.53 / 70 deg.04'03.36	
E5.....	42 deg.07'02.70 / 70 deg.05'13.61	
E6.....	42 deg.07'13.0 / 70 deg.06'23.75	
E7.....	42 deg.07'35.95 / 70 deg.07'27.89	
E8.....	42 deg.07'42.33 / 70 deg.08'26.07	
E9.....	42 deg.07'59.94 / 70 deg.09'19.78	
E10.....	42 deg.08'04.95 / 70 deg.10'24.40	
E11.....	42 deg.07'55.19 / 70 deg.11'47.67	
E12.....	42 deg.07'59.84 / 70 deg.13'03.35	
E13.....	42 deg.07'46.55 / 70 deg.14'21.91	
E14.....	42 deg.07'27.29 / 70 deg.15'22.95	
E15.....	42 deg.06'54.57 / 70 deg.16'42.71	
E16.....	42 deg.07'44.89 / 70 deg.28'15.44	
E17.....	42 deg.32'53.52 / 70 deg.35'52.38	
E18.....	42 deg.33'30.24 / 70 deg.35'14.96	
E19.....	42 deg.33'48.14 / 70 deg.35'03.81	
E20.....	42 deg.34'30.45 / 70 deg.34'22.98	
E21.....	42 deg.34'50.37 / 70 deg.33'21.93	
E22.....	42 deg.35'16.08 / 70 deg.32'32.29	
E23.....	42 deg.35'41.80 / 70 deg.31'44.20	
E24.....	42 deg.36'23.08 / 70 deg.30'58.98	
E25.....	42 deg.37'15.51 / 70 deg.30'23.01	
E26.....	42 deg.37'58.88 / 70 deg.30'06.60	
E27.....	42 deg.38'32.46 / 70 deg.30'06.54	
E28.....	42 deg.39'04.08 / 70 deg.30'11.29	