

Can you pull the affirming language that was referenced in the EIS and elsewhere (draft management plan) that discusses not impacting fishing activities and access? I believe AJ said he would look himself, but I would prefer if you could extract and show us the language.

Main affirming language:

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“NOAA determined that all of the areas evaluated in the alternatives described below possess special historical qualities that give them special national significance. As a result, the action alternatives will focus on the protection, access and interpretation of target resources associated with the maritime cultural features of the area, including the World War I “Ghost Fleet”, other vessels of historic significance, and related maritime infrastructure. These actions will be primarily non-regulatory in nature, but will include limited regulation and permitting of specific activities that supplement and complement authorities that already exist to mitigate known threats to these historic resources. NOAA will consider and execute any regulations and/or permits in cooperation with Maryland, Charles County and other Federal Authorities as appropriate. See below for proposed regulations and permit information.

As such, **the action alternatives will not include any direct management, regulation or authority by NOAA of the natural environment, including fish and wildlife, water quality, or habitat. Authorities related to natural resources and their management will remain with Maryland Department of Natural Resources and other local jurisdictions.** However, NOAA will execute education, science and interpretative programs that describe for visitors and user communities the relationship between the shipwreck structures and their interplay with the natural system.”

Other language that affirms:

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“**There are additional activities not considered a likely threat to the target resources** but are activities that could cause damage depending on the location of the activity relative to sensitive resources. Education and outreach programs that raise public awareness of the historic resources have a high likelihood to mitigate potential damage.

While large and heavy anchors raise concerns about damage as described above, small anchors such as “mushroom anchors” are an alternative for users engaging in boating activities near the historic shipwreck resources. Educating boaters about the location of the historic resources and encouraging the use of these smaller anchors will help boaters avoid damage to the resources.

**Use of net and lines and pound net anchoring could have the potential to cause damage. However, user education about the location of the historic resources can greatly mitigate the chances for damage since most users will voluntarily avoid shipwreck resources to avoid damaging their equipment.** Pound nets are defined in Maryland regulation (COMAR 08.02.05.01) as a fixed entrapment gear consisting of: (a) A net body or crib measuring at least 16 feet long by 16 feet wide at the surface of the water with a netting floor and open top; (b) Mesh webbing with a twine size of #12 or larger; (c) At least one heart leading into the crib; and (d) A leader or hedging. Pound net sites in the Maryland

portion of the Chesapeake Bay and its tributaries must be registered with the Department of Natural Resources. Sites in the Potomac River are registered with the Potomac River Fisheries Commission.

[...]

#### 2.4 Existing Legal Authorities

**The focus of this proposed action is on the protection of shipwrecks and associated maritime heritage resources. The State of Maryland currently has a comprehensive set of laws, regulations, and management measures for the protection of the natural environment, including wildlife, fish, birds, water quality, and habitat (Appendix B).** State and Federal laws also protect maritime heritage assets from looting, unwanted salvage, and other activities that threaten, damage or cause loss. However, each of these laws has important gaps for which the National Marine Sanctuaries Act would complement and/or supplement existing statutes. Each State and Federal statute is addressed in the following paragraphs and the capability of each statute to control impacts to the target resources is identified.”

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“NOAA is proposing to implement three regulations for all the action alternatives (Alternatives B, C, and D) under the NMSA to protect the maritime cultural heritage resources and supplement and complement existing Federal and State authorities in the geographic areas described in the boundary alternatives above. **The sanctuary-wide regulations would prohibit: 1) damaging sanctuary historical resources; 2) damaging any signs or markers related to the sanctuary; and 3) interfering with an investigation in connection with enforcement of the NMSA, sanctuary regulations, or sanctuary permit.** NOAA is proposing these regulations with an exception for activities that are necessary to respond to emergencies that threaten lives, property or the environment and for law enforcement activities.

NOAA is also proposing that Department of Defense (DOD) activities be carried out in a manner that avoids damage to sanctuary resources to the maximum extent practicable. In the event that DOD activities damage a sanctuary resource NOAA and DOD would coordinate to develop a mitigation and restoration plan. Given that **the definition of sanctuary resources is limited to the historical resources and does not include biological or ecological resources** NOAA does not anticipate that many, if any current DOD activities would impact the resources.

[...]

NOAA is proposing to consider allowing an otherwise prohibited activity if that activity is specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization. NOAA will consider issuing certifications for such activities that are in place at the time the sanctuary designation becomes effective provided that the holder of such authorization or right complies with NOAA’s certification procedures and criteria within the timeline NOAA lays out to complete certifications. The certification process essentially “grandfathers in” existing activities while seeking to minimize the impact on sanctuary resources through terms or conditions worked out during the certification process.”

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**“The MPNMS offers outstanding outdoor recreational and heritage and nature tourism opportunities including fishing, kayaking and canoeing, boating, wildlife viewing, fossil hunting, and immersion in important chapters in our nation’s history.”**

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**“Activity 2.2: Develop partnerships with commercial kayak operators, fishing guides, watermen and/or potential boat tour guides to facilitate high quality recreational and heritage tourism experiences in the sanctuary and help educate visitors about the sanctuary’s maritime heritage resources, boating safety and stewardship.”**