

§ 922.91

15 CFR Ch. IX (1–12 Edition)

- (2) N 31.421064 degrees W 80.921201 degrees
- (3) N 31.421064 degrees W 80.828145 degrees
- (4) N 31.362732 degrees W 80.828145 degrees
- (5) N 31.362732 degrees W 80.921200 degrees

§ 922.91 Definitions.

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

Handline means fishing gear that is set and pulled by hand and consists of one vertical line to which may be attached leader lines with hooks.

Rod and reel means a rod and reel unit that is not attached to a vessel, or, if attached, is readily removable, from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel manually or electrically.

Stowed and not available for immediate use means not readily accessible for immediate use, e.g., by being securely covered and lashed to a deck or bulkhead, tied down, unbaited, unloaded, partially disassembled, or stowed for transit.

§ 922.92 Prohibited or otherwise regulated activities—Sanctuary-wide.

(a) Except as specified in paragraphs (b) through (d) of this section and in § 922.94 regarding additional prohibitions in the research area, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted within the Sanctuary:

(1) Dredging, drilling into, or otherwise altering in any way the submerged lands of the Sanctuary (including bottom formations).

(2) Constructing any structure other than a navigation aid, or constructing, placing, or abandoning any structure, material, or other matter on the submerged lands of the Sanctuary.

(3) Discharging or depositing any material or other matter except:

- (i) Fish or fish parts, bait, or chumming materials;
- (ii) Effluent from marine sanitation devices; and
- (iii) Vessel cooling water.

(4) Operating a watercraft other than in accordance with the Federal rules and regulations that would apply if there were no Sanctuary.

(5)(i) Injuring, catching, harvesting, or collecting, or attempting to injure, catch, harvest, or collect, any marine organism, or any part thereof, living or dead, within the Sanctuary by any means except by use of rod and reel, and handline gear;

(ii) There shall be a rebuttable presumption that any marine organism or part thereof referenced in this paragraph found in the possession of a person within the Sanctuary has been collected from the Sanctuary.

(6) Using any fishing gear within the Sanctuary except rod and reel, and handline gear, or for law enforcement purposes.

(7) Using underwater any explosives, or devices that produce electric charges underwater.

(8) Breaking, cutting, damaging, taking, or removing any bottom formation.

(9) Moving, removing, damaging, or possessing, or attempting to move, remove, damage, or possess, any Sanctuary historical resource.

(10) Anchoring any vessel in the Sanctuary, except as provided in § 922.92 when responding to an emergency threatening life, property, or the environment.

(11) Possessing or carrying any fishing gear within the Sanctuary except:

- (i) Rod and reel, and handline gear;
- (ii) Fishing gear other than rod and reel, handline gear, and spearfishing gear, provided that it is stowed on a vessel and not available for immediate use;

(iii) Spearfishing gear provided that it is stowed on a vessel, not available for immediate use, and the vessel is passing through the Sanctuary without interruption; and

(iv) For law enforcement purposes.

(b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to the prohibitions in this section and § 922.94. The exemption of additional activities having significant

impacts shall be determined in consultation between the Director and the Department of Defense.

(c) The prohibitions in this section and in §922.94 do not apply to any activity conducted under and in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.93.

(d) The prohibitions in this section and in §922.94 do not apply to any activity necessary to respond to an emergency threatening life, property, or the environment.

[76 FR 63832, Oct. 14, 2011]

§ 922.93 Permit procedures and criteria.

(a) A person may conduct an activity prohibited by §922.92(a)(1) through (10) and §922.94 if conducted in accordance within the scope, purpose, manner, terms and conditions of a permit issued under this section and §922.48.

(b) Applications for such permits should be addressed to the Director, National Marine Sanctuary Program, ATTN: Manager, Gray's Reef National Marine Sanctuary, 10 Ocean Science Circle, Savannah, GA 31411.

(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 §922.92(a)(1) through (10). The Director must also find that the activity will:

(1) Further research related to the resources and qualities of the Sanctuary;

(2) Further the educational, natural, or historical resource value of the Sanctuary;

(3) Further salvage or recovery operations in connection with a recent air or marine casualty; or

(4) Assist in managing the Sanctuary.

(d) The Director shall not issue a permit unless the Director also finds that:

(1) The applicant is professionally qualified to conduct and complete the proposed activity;

(2) The applicant has adequate financial resources available to conduct and complete the proposed activity;

(3) The duration of the proposed activity is no longer than necessary to achieve its stated purpose;

(4) The methods and procedures proposed by the applicant are appropriate to achieve the proposed activity's goals in relation to the activity's impacts on Sanctuary resources and qualities;

(5) The proposed activity will be conducted in a manner compatible with the primary objective of protection of Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any indirect, secondary or cumulative effects of the activity, and the duration of such effects;

(6) The proposed activity will be conducted in a manner compatible with the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information considering the extent to which the conduct of the activity may result in conflicts between different users of the Sanctuary, and the duration of such effects;

(7) It is necessary to conduct the proposed activity within the Sanctuary to achieve its purposes;

(8) The reasonably expected end value of the activity to the furtherance of Sanctuary goals and purposes outweighs any potential adverse impacts on Sanctuary resources and qualities from the conduct of the activity; and

(9) There are no other factors that make the issuance of a permit for the activity inappropriate.

(e) 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.

(f) The Director shall, *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.

(g) The Director may, *inter alia*, make it a condition of any permit issued to require the submission of one or more reports of the status and progress of such activity.

(h) 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 and/or that the permit holder submit one or more reports