



**Billing Code 3510-NK-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

Notice of Intent to Conduct Scoping and to Prepare a Draft Environmental Impact Statement for the Proposed Mallows Bay – Potomac River National Marine Sanctuary

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice of intent to conduct scoping, hold public scoping meetings and to prepare a draft environmental impact statement and management plan.

**SUMMARY:** In accordance with section 304(a) of the National Marine Sanctuaries Act, as amended, (NMSA) (16 U.S.C. 1431 et seq.) and based on the resources and boundaries described in the community-based nomination submitted to NOAA on September 16, 2014 ([nominate.noaa.gov/nominations](http://nominate.noaa.gov/nominations)) NOAA is initiating a process to consider designating Mallows Bay-Potomac River as a national marine sanctuary. The designation process, as required by the NMSA, will be conducted concurrently with a public process under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). This notice also informs the public that NOAA will coordinate its responsibilities under section 106 of the National Historic Preservation Act

(NHPA) (16 U.S.C. 470) with its ongoing NEPA process, pursuant to 36 CFR 800.8(a), including the use of NEPA documents and public and stakeholder meetings to also meet the requirements of section 106. The public scoping process is intended to solicit information and comments on the range of issues and the significant issues to be analyzed in depth in an environmental impact statement related to designating this area as a national marine sanctuary. The results of this scoping process will assist NOAA in moving forward with the designation process and in formulating alternatives for the draft environmental impact statement and proposed regulations, including developing sanctuary boundaries. It will also inform the initiation of any consultations with federal, state, or local agencies and other interested parties, as appropriate.

**DATES:** Comments must be received by January 15, 2016. Public scoping meetings will be held as detailed below:

**1) La Plata, MD**

Date: November 4, 2015

Location: Charles County Government Building Auditorium

Address: 200 Baltimore Street, La Plata, MD

Time: 6:30 – 9:00 pm

**2) Annapolis, MD**

Date: November 10, 2015

Location: Annapolis Maritime Museum

Address: 723 Second Street, Annapolis, MD

Time: 6:30 – 9:00 pm

**ADDRESSES:**

Comments may be submitted by any one of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal eRulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NOS-2015-0111>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Paul Orlando, Regional Coordinator, Northeast and Great Lakes Region, 410 Severn Ave, Suite 207-A, Annapolis MD 21403.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (for example, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily submitted by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Paul Orlando, Regional Coordinator, Northeast and Great Lakes Region, (240) 460-1978, [paul.orlando@noaa.gov](mailto:paul.orlando@noaa.gov)

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The NMSA authorizes the Secretary of Commerce (Secretary) to designate and protect as national marine sanctuaries areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. Day-to-day management of national marine sanctuaries has been delegated by the Secretary to ONMS. The primary objective of the NMSA is to protect the biological and cultural resources of the sanctuary system, such as coral reefs, marine animals, historical shipwrecks, historic structures, and archaeological sites.

The Mallows Bay area of the tidal Potomac River being considered for designation as a national marine sanctuary is an area 40 miles south of Washington, D.C. off the Nanjemoy Peninsula of Charles County, MD. The area includes submerged lands along the Potomac River that begin at the mean high tide water mark off Sandy Point and extend westward to the low water line just east of the Maryland-Virginia border near Clifton Point, VA. From there, the area extends southward following the Maryland-Virginia border to Brent's Point, VA. It then extends northeast to Smith Point, MD and follows the low water mark north along the Maryland shoreline back to Sandy Point. This area includes the waters of Wades Bay, Blue Banks, Mallows Bay, Liverpool Cove and the Mallows Bay "Burning Basin" as far east as the egress for Marlow Creek into the basin itself.

This is an area of national significance featuring unique historical, archaeological, cultural, ecological, and esthetic resources and qualities, which offer opportunities for conservation, education, recreation, and research. Its maritime landscape is home to a diverse

collection of historic shipwrecks from the Revolutionary War through the present, totaling nearly 200 known vessels including the remains of the largest “Ghost Fleet” of World War I, wooden steamships built for the U.S. Emergency Fleet.

The area’s archaeological and cultural resources cover centuries of history from the earliest American Indian presence in the region circa 12,000 years ago to the roles that this area played in the Revolutionary, Civil and two World Wars, as well as in successive regimes of Potomac fishing industries. Its largely undeveloped landscape and waterscape have been identified as one of the most ecologically valuable areas in Maryland, providing important habitat for fish and wildlife, including rare, threatened and endangered species. NOAA encourages the public to review the full nomination at [www.nominate.noaa.gov/nominations](http://www.nominate.noaa.gov/nominations).

## **II. Need for action**

On September 16, 2014, pursuant to Section 304 of the National Marine Sanctuaries Act and the Sanctuary Nomination Process (79 FR 33851), a coalition of community groups submitted a nomination asking NOAA to designate Mallows Bay-Potomac River as a national marine sanctuary. The nomination cited conservation goals to protect and conserve the fragile remains of the Nation’s cultural heritage as well as the opportunities to expand public access, recreation, tourism, research, and education to the area.

The Maryland Department of Natural Resources (DNR), Maryland Historical Trust, Maryland Department of Tourism, and Charles County, MD, have worked together with community partners to initiate additional conservation and compatible public access strategies in and around Mallows Bay, consistent with numerous planning and implementation documents. In 2010, DNR purchased a portion of land adjacent to Mallows Bay and made it available to

Charles County to create and manage Mallow's Bay County Park, the main launch point for access to the historic shipwrecks. Pursuant to the National Historic Preservation Act, Maryland Historical Trust has stewardship and oversight responsibility for the shipwrecks, along with hundreds of other historic sites around the state. Maryland DNR manages the waterbody and associated ecosystem resources, including land use, resource conservation and extraction activities. The lands on either side of Mallow's Bay County Park are held by the U.S. Department of Interior's Bureau of Land Management and a private citizen.

DNR and the Mallow's Bay Steering Committee convened a committee to discuss the concept of a national marine sanctuary and ultimately to develop the nomination that was submitted to NOAA. The committee, which represented a broad base of constituency groups, employed a consensus-based process to discuss a variety of issues, considerations, and priorities leading up to the nomination. The nomination was endorsed by a diverse coalition of organizations and individuals at local, state, regional and national levels including elected officials, businesses, Native Americans, environmental, recreation, conservation, fishing, tourism, museums, historical societies, and education groups. The nomination identified opportunities for NOAA to protect, study, interpret, and manage the area's unique resources, including by building on existing local, county, and State of Maryland efforts to manage the area for the protection of shipwrecks.

NOAA is initiating the process to designate this area as a national marine sanctuary based on the nomination submitted to the agency as part of the Sanctuary Nomination Process (SNP). NOAA's review of the nomination against the criteria and considerations of the SNP, including the requirement for broad-based community support indicated strong merit in proposing this area as a national marine sanctuary. NOAA completed its review of the nomination in accordance

with the Sanctuary Nomination Process and on January 12, 2015 added the area to the inventory of nominations that are eligible for designation. Designation under the NMSA would allow NOAA to supplement and complement work by the State of Maryland and other federal agencies to protect this collection of nationally significant shipwrecks.

### **III. Process**

The process for designating Mallow's Bay-Potomac River as a national marine sanctuary includes the following stages:

1. Public Scoping Process- Information collection and characterization, including the consideration of public comments received during scoping;
2. Preparation and release of draft designation documents including a draft environmental impact statement (DEIS) that identifies boundary alternatives, a draft management plan (DMP), as well as a notice of proposed rulemaking (NPRM) to define proposed sanctuary regulations. Draft documents would be used to initiate consultations with federal, state, or local agencies and other interested parties, as appropriate;
3. Public review and comment on the DEIS, DMP, and NPRM;
4. Preparation and release of a final environmental impact statement, final management plan, including a response to public comments, with a final rule and regulations, if appropriate.

With this notice, NOAA is initiating a public scoping process to:

1. Gather information and public comments from individuals, organizations, and government agencies on the designation of Mallow's Bay-Potomac River as a national marine sanctuary

based on the community-based nomination of September 2014, especially: a) the spatial extent of the proposed boundary; and b) the resources that would be protected;

2. Help determine the scope and significance of issues to be addressed in the preparation of an environmental analysis under NEPA including socioeconomic impacts of designation, effects of designation on cultural and biological resources, and threats to resources within the proposed area;
3. Help determine the proposed action and possible alternatives pursuant to NEPA and to conduct any appropriate consultations.

#### **IV. Consultation under Section 106 of the National Historic Preservation Act**

This notice confirms that NOAA will fulfill its responsibility under section 106 of the National Historic Preservation Act (NHPA) through the ongoing NEPA process, pursuant to 36 CFR 800.8(a) including the use of NEPA documents and public and stakeholder meetings to meet the section 106 requirements. The NHPA specifically applies to any agency undertaking that may affect historic properties. Pursuant to 36 CFR 800.16(1)(1), historic properties includes: “any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. The term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria.”

In fulfilling its responsibility under the NHPA and NEPA, NOAA intends to identify consulting parties; identify historic properties and assess the effects of the undertaking on such properties; initiate formal consultation with the State Historic Preservation Officer, the Advisory Council of

Historic Preservation, and other consulting parties; involve the public in accordance with NOAA's NEPA procedures, and develop in consultation with identified consulting parties alternatives and proposed measures that might avoid, minimize or mitigate any adverse effects on historic properties and describe them in any environmental assessment or draft environmental impact statement.

**Authority:** 16 U.S.C. 1431 et seq

Dated: September 30, 2015.

John Armor

Acting Director for the Office of National Marine Sanctuaries

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