



MARINE SANCTUARIES

Growing movement could threaten commercial shipping through restrictive zoning

In 1972 Congress passed the National Marine Sanctuaries Act and authorized the Secretary of Commerce to identify and designate areas of the marine environment for protection. While you probably think marine sanctuaries protect coral reefs in Florida, which they do, sanctuaries can be justified for a host of other reasons, such as recreational, historic, archeological, educational or aesthetic qualities. Federal regulations control the types of activities that can and cannot occur within sanctuary boundaries. Civil penalties can be levied on violators.

From 1972 to 2014 a total of 14 marine sanctuaries were established in the United States, including one in the Great Lakes. The Thunder Bay National Marine Sanctuary was established in 2000 and included 448 square miles of Lake Huron. In 2014, it was expanded to nearly 10-times its original size, engulfing 4,300 square miles of water. Of course, Lake Huron has no coral reefs to protect. The Thunder Bay Sanctuary was established to protect shipwrecks.

In recent years, interest in Great Lakes marine sanctuaries has exploded. This is no accident. The National Oceanic and Atmospheric Administration (NOAA) manages the national marine sanctuary program. In 2014, the agency launched a national sanctuary nominating process and encouraged citizens to nominate candidate sites.

In December, 2014, the State of Wisconsin nominated 875 square miles of Lake Michigan waters to be designated as the Wisconsin-Lake Michigan National Marine Sanctuary. Again, the focus is not the marine environment, but rather, shipwrecks.

In December, 2015, Erie County, Pennsylvania nominated all Pennsylvania waters of Lake Erie—a total of 759 square miles—as the Lake Erie Quadrangle Na-



Runaway marine sanctuary designations should concern the maritime industry.

SOURCE: THUNDER BAY MARINE SANCTUARY

tional Marine Sanctuary. Yet again, local officials seek to protect shipwrecks.

While their application has not yet been submitted, four New York counties and the City of Oswego are working to nominate a large section of southeast Lake Ontario as the Great Lake Ontario National Marine Sanctuary. Similarly, Buffalo area activists are developing a proposal to nominate New York portions of eastern Lake Erie and western Lake Ontario as the Erie Niagara National Marine Sanctuary. In Lake Superior, three marine sanctuary proposals are under development—the Lake Superior National Marine Sanctuary, the Keweenaw National Marine Sanctuary and the Chequamegon Bay Sanctuary.

Maritime industry concerns. Runaway marine sanctuary designations should concern the maritime industry. For example, until recently, Coast Guard regulations prohibited ballast water discharges within marine sanctuaries, this restriction was enough of a concern that the Lake

Carriers' Association sought and secured legislative relief in the Coast Guard Authorization Bill of 2015. Sanctuary designations could negatively impact dredging operations if navigation channels are included within sanctuary boundaries. Similar problems could occur if open lake dredge material disposal sites are included within sanctuary boundaries. In-water disposal has to be permitted by state environmental agencies. Will states be inclined to permit dredge disposal within a federal marine sanctuary? If not, the region's dredge disposal capacity problem will become even more acute.

NOAA does not propose sanctuary boundaries, but rather, they are crafted by the state, county or community group putting forward the sanctuary proposal. These sanctuary advocates may or may not be sensitive to, or even aware of, maritime operations. Clearly, the maritime industry will need to be engaged in each sanctuary proposal and participate in public meetings.

It is critical that harbor areas, navigation channels, dredge material disposal sites and private water lots are excluded from sanctuary boundaries.

Restricting activities. By encouraging and assisting local officials to nominate large areas of the Great Lakes as new sanctuaries, NOAA is expanding its own role and control. While it may not be their intention, NOAA is effectively zoning sections of the Great Lakes.

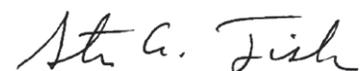
The idea of zoning U.S. waters has been controversial. Known as “marine spatial planning,” the practice was a centerpiece of President Obama’s 2010 National Ocean Policy. His opponents in Congress were vocal, citing their fear that certain activities would be restricted in U.S. waters and certain users negatively impacted—particularly shipping, fishing and energy interests. More than 80 national trade associations, including the U.S. Chamber of Commerce, appealed to Congress to block the policy.

Should we really be concerned? Here is a list of the types of activities restricted at existing marine sanctuaries: over-flights by aircraft, aquaculture, seabed cables, mineral extraction, commercial shipping, commercial fishing, recreational fishing, size and speed restrictions on watercraft and discharges.

An advocate would argue that the proposed Great Lakes marine sanctuaries preserve shipwrecks, maritime heritage and will stimulate tourism. Another view is that marine sanctuaries represent a new tool of federal control over the waters of the Great Lakes, creating a structure that might someday be used to restrict certain activities.

The proliferation of Great Lakes marine sanctuaries raises an age-old regional debate. Who controls the Great Lakes? How do we balance competing interests? What regional institutions should manage that discussion?

The ongoing debate over appropriate use of the Great Lakes is the heart of dialogue at the Great Lakes Commission, the International Joint Commission, the Conference of Great Lakes and St. Lawrence Governors and Premiers and other regional policy forums. This dialogue is healthy and allows the United States and Canada to balance competing interests. While NOAA is certainly at the table, it currently does not run the table. In the future it may. ■



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