

RESOLUTION of the
Greater Farallones National Marine Sanctuary Advisory Council

To adopt the Vessel Incidents Subcommittee’s recommended changes to the Office of National Marine Sanctuaries (ONMS) definition of “deserting” and forward to ONMS Director John Armor

At its meeting on August 18, 2022, the Greater Farallones National Marine Sanctuary Advisory Council made minor edits to the Vessel Incidents Subcommittee’s recommended changes to the ONMS definition of “deserting.” The council passed a resolution to adopt the edited definition and forward it to ONMS Director John Armor for consideration.

Attachments: GFNMS Advisory Council: Recommended Changes to ONMS Definition of Deserting

cc: John Armor, Director, Office of National Marine Sanctuaries; William J. Douros, Regional Director, ONMS West Coast Region; Maria Brown, Superintendent, Greater Farallones National Marine Sanctuary

This resolution was passed with majority vote by a quorum of primary members (or alternate members serving in place of primary members) at a public meeting on August 18, 2022 held via Google Meet. Council discussion regarding this resolution can be found in Meeting Highlights documentation at https://farallones.noaa.gov/manage/sac_meetings.html.

The council is an advisory body to the sanctuary superintendent. The opinions and findings of this letter/publication do not necessarily reflect the position of the sanctuary and the National Oceanic and Atmospheric Administration.

Greater Farallones National Marine Sanctuary (GFNMS) Advisory Council recommended changes to Office of National Marine Sanctuary (ONMS) definition of Deserting:

Current Definition:

Deserting: means leaving a vessel aground, adrift, wrecked, junked, or in a substantially dismantled condition without notification to the Director of the vessel going aground or becoming adrift, wrecked, junked, or substantially dismantled within 12 hours of its discovery and developing and presenting to the Director a preliminary salvage plan within 24 hours of such notification; after expressing or otherwise manifesting intention not to undertake or to cease salvage efforts, or when the owner/operator cannot after reasonable efforts by the Director be reached within 12 hours of the vessel's condition being reported to authorities; or leaving a vessel at anchor when its condition creates potential for a grounding, discharge, or deposit and the owner/operator fails to secure the vessel in a timely manner.

Recommendation: add following language in Bold Red type and remove “timely manner.”

Deserting: means leaving a vessel aground, adrift, wrecked, junked, or in a substantially dismantled condition without notification to the Director of the vessel going aground or becoming adrift, wrecked, junked, or substantially dismantled within 12 hours of its discovery and developing and presenting to the Director a preliminary salvage plan within 24 hours of such notification; after expressing or otherwise manifesting intention not to undertake or to cease salvage efforts, or when the owner/operator cannot after reasonable efforts by the Director be reached within 12 hours of the vessel's condition being reported to authorities; or leaving a vessel at anchor when its condition, **as determined by the Director**, creates potential for a grounding, discharge, deposit, **or poses an immediate and/or imminent threat to sensitive habitat, wildlife, or water quality¹** and the owner/operator fails to secure the vessel **within 24 hours of being notified by the Director**.

Recommendation Background: Prior to the [proposed rulemaking “Amendments to National Marine Sanctuary Regulations”](#), the definition of deserting only existed in Subpart H - Greater Farallones National Marine Sanctuary and Subpart M - Monterey Bay National Marine Sanctuary and there was no National Marine Sanctuary definition for deserting. This rulemaking will move the definition out of the Subparts H & M and create a National Definition which slightly alters the existing definition to now include “wrecked, junked, or in a substantially dismantled condition”. While the council supports and would have recommended moving the definition from site-specific Subparts H & M to ONMS New Section 922.11, there are additional changes needed to the proposed national definition of deserting that will eliminate enforcement issues caused by vague or unenforceable terms in the final clause of the definition such as “condition” and “timely manner”. In addition additional language was added to describe potential harm (or poses an immediate and/or imminent threat to sensitive habitat, wildlife, or water quality)

¹ Other potential language to consider: “marine and coastal waters and tidal areas”

which mimics Harbor and Navigation code 523(a)(6) descriptions of vessels at risk. This language was recommended to provide additional tools for the Sanctuary to address vessels at risk in the Estuarine environment.