

regarding boarding and debarking will appear in the actual permit conditions.)

11. Pursuant to section 310 of the NMSA, the permittee shall purchase and maintain a comprehensive general liability insurance policy in an amount to be negotiated upon selection of an applicant, but not less than \$100,000 plus the value of any vessel used under the special use permit. The policy shall insure against any claims that may arise from the activities conducted pursuant to the special use permit, including diver accidents and damage to the Monitor. A copy of such policy must be furnished to NOAA before conducting any activity authorized by the special use permit; and

12. Pursuant to section 310 of the NMSA, before conducting any activity under the special use permit, the permittee and all divers shall sign and furnish NOAA with a hold harmless and indemnification agreement, provided by NOAA, releasing and holding the United States harmless for any claim arising from the conduct of any activity under the special use permit and assuming the risk of harm from any such activity.

In addition, depending on the final agreement between the permittee and NOAA as to the exact role of the NOAA, observer, the permittee may also be asked to comply with the following condition:

13. The permittee shall document all activities conducted pursuant to the special use permit through the use of videotape and/or still photography, and written records. The permittee shall submit a report on all activities and copies of all photographs and videotapes taken of the activities.

Fees

The NMSA authorizes NOAA to assess fees for the costs incurred, or expected to be incurred from the review and processing of the special use permit, monitoring the permitted dive activities, and a fair market value of the use of the resources and a reasonable return to the United States. Therefore, NOAA will assess a fee for the special use permit issued pursuant to this notice. Based on the 1994 special use permit and NOAA's other experience with special use permits, the fee will be approximately (exact costs are subject to actual costs incurred): (1) \$500.00 to cover the cost of reviewing and processing the application, i.e., personnel hours, copying and other overhead; (2) \$200.00 per day that dives take place to cover the cost of monitoring the activity, i.e., personnel hours, equipment costs and travel expenses; and (3) 2% of the gross

receipts that the permittee receives to cover the fair market value and reasonable rate of return.

IV. Application Process

All applications should be submitted to Mr. John Broadwater, Manager at the address indicated in the **ADDRESSES** section. Applications must be submitted no later than February 9, 1996. Applicants will be notified as to the disposition of their applications by March 11, 1996.

Application Format and Contents

All applications must be typed double spaced. All applications must describe in detail:

1. The methodologies that would be employed to conduct dive activities at the site, including, but not limited to, the number of trips, the number of divers per trip, type of vessel, the minimum qualifications each diver would have to meet, the dive plan, and the diver safety contingency plans in the event of an accident;

2. The experience of the applicant in organizing and running dive expeditions, including information on expeditions involving diving of this type, including the number of divers, the depth of the dives, the time of year, and environmental conditions;

3. Information and/or statement showing that the applicant has the financial capability to organize and run the activity to be conducted under the special use permit and to obtain the required insurance;

4. The applicant's plans for documenting all activities conducted pursuant to the special use permit (assume that the NOAA Observer will not be participating in dives);

5. The applicant's plans to advertise the availability of dives at the MNMS, as NOAA believes that public access should be widely publicized in the diving community; and

6. The dates that applicant prefers to conduct dive activities.

Application Review and Evaluation

All applications will be reviewed by the Sanctuaries and Reserves Division (SRD). This will include the Sanctuary Manager, the technical projects staff and the regional management staff. Outside peer reviewers may also be used.

In selecting the permittee, SRD shall consider the applicants ability to address the criteria in B, above, and: (1) The experience of the applicant for organizing and running dive expeditions involving diving of this type; (2) the applicant's financial capability; (3) the likelihood that the permittee will be able to fully comply

with all permit conditions; and (4) such other factors as the SRD deems appropriate, based on review of submitted comments and information, consistent with the purposes of the NMSA.

SRD may solicit additional information from any applicant, or written clarification of an application, and may extend the solicitation period at its discretion. SRD may choose to reject all applications received at any time, re-request, or cancel this request at its discretion when in the best interest of preserving and conserving the Monitor MNMS. Any information made available to any applicant by SRD will be made available to all applicants, and will be available to the public upon request.

Once an applicant is selected, SRD shall draft and issue a special use permit incorporating as conditions the terms of this notice and the application. SRD may include additional conditions if necessary to protect the MNMS. The special use permit and application shall be subject to review by the State Historic Preservation Officer and Advisory Council on Historic Preservation pursuant to section 106 of the National Historic Preservation Act (NHPA).

NOAA considers diving to the depths of the Monitor (230 ft; 70.1 m) with compressed air to be extremely hazardous. All dive activities conducted pursuant to the special use permit are at the permittee's and each diver's own risk. The permittee is solely responsible for setting the minimum technical requirements and experience for a diver to participate in dives at the site. Further, the permittee is solely responsible for the adequacy and implementation of all diver safety requirements and the contingency plan for diver emergencies.

V. Request for Comments

NOAA requests comments and suggestions from applicants and other interested parties on: Methods to conduct safe dive activities at the Monitor site; conditions for the special use permit; methods to safeguard the wreck; the fair market value of the use of the MNMS and a reasonable return to the United States; and any other relevant information pertaining to the activities proposed to be permitted at the MNMS.

VI. Classification

This notice is not subject to review under E.O. 12866.

Prior notice and an opportunity for public comment, although voluntarily here given, are not required by the