

SHIP TIME REQUEST

Submit completed form electronically to: Shiprequest.MAOC@noaa.gov					
1. REQUESTED FISCAL YEAR		2. ORIGINATING OFFICE		3. DATE OF REQUEST	
4. RECAP ACTIVITY					
5. PROJECT NAME					
6. PROJECT PURPOSE (Provide a brief description.)					
7. OBJECTIVE BASED METRICS (Measurable Accomplishments Planned - list with number required.)					
8. NOAA LONG-TERM GOALS SUPPORTED BY THE PROJECT/MISSION (Check all goals that apply. Show percentages of each if more than one is checked.)					
CAM	%	WRN	%	HO	%
RCCE	%	UNKNOWN		%	%
9. NOAA LONG-TERM GOAL OBJECTIVES SUPPORTED BY THE PROJECT/MISSION					
Primary Long-Term Goal Objective:					
Secondary Long-Term Goal Objective:					
10. FIELD OF SCIENCE CATEGORY			11. NATIONAL SCIENCE FOUNDATION R&D CATEGORY		
1.	%	2.%	1.%
2.	%	2.%	1.%
12. IMPACT STATEMENT (State how the absence of this data collection will negatively affect NOAA's mission, noting the products and services provided to the general public.)					
13. PREFERRED VESSEL OPERATOR			(If a NOAA vessel is not preferred, complete only blocks 1-13 and 37-40.)		14. PREFERRED NOAA VESSEL
15. JUSTIFICATION FOR NOAA VESSEL PREFERENCE					
16A. FOREIGN PORT CALLS AND RESEARCH CLEARANCES			16B. DOMESTIC LICENSES AND PERMITS		
17A. PROJECT AREA		17B. PROJECT AREA COORDINATES (Indicate extreme latitudes and longitudes of the project area.)			
		Northern most latitude		Eastern most longitude	
		Southern most latitude		Western most longitude	
18. OPERATIONAL AREA SEA DAY REQUIREMENT		19A. EARLIEST POSSIBLE START DATE	19B. LATEST POSSIBLE END DATE		20. PROJECT PRIORITY
Maximum (.....) Minimum (.....)					Primary Piggyback
21. SUGGESTED PIGGYBACK PROJECTS			22A. STAGING PORT	22B. STAGING DAYS (.....)	22C. TRANSIT DAYS FROM (.....)
23. INTERMEDIATE PORT CALLS			24A. DESTAGING PORT	24B. DESTAGING DAYS (.....)	24C. TRANSIT DAYS TO (.....)
25A. SCIENTIFIC BERTHS REQUIRED		25B. NUMBER	26A. FOREIGN NATIONAL PARTICIPANTS		26B. COUNTRY OF ORIGIN OF EACH FOREIGN NATIONAL
YES NO			YES NO		
27. SHIP FURNISHED CAPABILITIES (Indicate project requirements of each category listed below.)					
27A. ELECTRONICS		27B. OCEANOGRAPHIC EQUIPMENT		27C. SPECIALIZED GEAR HANDLING SUPPORT	
28. DECK DEPARTMENT AVAILABILITY		29. SURVEY DEPARTMENT AVAILABILITY		30. ON-STATION OPERATING HOURS	
				A. Static Operations HOURS	
				B. Trawling Operations HOURS	
				C. Towing Operations HOURS	
				D. Survey Operations HOURS	
				E. Anchorage Operations HOURS	

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31. OTHER SHIP CAPABILITY REQUIREMENTS		32. WORK BOAT AND LAUNCH CAPABILITY REQUIREMENTS	
Transit Speed (kts)	Wet Lab Space (ft ²)	Number	Speed (kts)
Survey Speed (kts)	Dry Lab Space (ft ²)	Purpose	Draft (ft)
Endurance (days)	Position Accuracy (meters)	OP hours / day	Equipment
Dynamic Positioning	Fisheries Calibrated to:	Passengers (each)	Gear Weight (lbs)

33A. PROVIDE REMOTELY OPERATED VEHICLE (ROV) REQUIREMENTS	33B. PROVIDE AUTONOMOUS UNMANNED VEHICLE (AUV) REQUIREMENTS
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33C. PROVIDE UNMANNED AIRCRAFT SYSTEM (UAS) REQUIREMENTS	33D. PROVIDE MANNED SUBMERSIBLE REQUIREMENTS
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34. PROJECT FURNISHED EQUIPMENT (Provide pertinent information on project furnished equipment such as box containers, large moorings, or electronics, in the table below.)

EQUIPMENT DESCRIPTION	WEIGHT (lbs.)	POWER REQUIRED (V / A)	SPACE REQUIRED (FT ²)	LOCATION PREFERENCE

35. ALTERNATIVE PLATFORMS
 If a NOAA ship is unavailable or not economical, would a charter vessel meet project requirements? YES NO

36. FUNDING SOURCE (Check all that apply.)

<input type="checkbox"/> NOAA MARINE OPERATIONS & MAINTENANCE	<input type="checkbox"/> NOAA PROGRAM FUNDING	<input type="checkbox"/> Non-NOAA FUND	<input type="checkbox"/> UNKNOWN
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37. ADDITIONAL INFORMATION

38. LAB DIRECTOR APPROVAL YES NO

39. PRINCIPAL INVESTIGATOR / CHIEF SCIENTIST		40. SENIOR NOAA EXECUTIVE WITH AUTHORITY TO APPROVE SHIP TIME REQUESTS	
NAME		NAME	
LABORATORY/OFFICE		TITLE	
ADDRESS		ADDRESS	
PHONE NUMBER		PHONE NUMBER	
FAX NUMBER		FAX NUMBER	
E-MAIL ADDRESS		E-MAIL ADDRESS	

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41. LEGISLATIVE MANDATES, EXECUTIVE ORDERS and INTERNATIONAL TREATIES		
41A. Identify the Legislative Mandate (LM), Legislative Authorization (LA), Executive Order (EO), International Treaty (IT) or International Agreement (IA) met by the project. Indicate the actual reference(s) within the law, order, treaty or agreement that applies to the data collected.	<input type="checkbox"/> all that apply:	Reference(s)
41B. How does the primary objective of this project directly support the LM, LA, EO, IT, or IA? (maximum 300 characters)		
41C. Why is a NOAA ship the most efficient and effective platform that can acquire the required data to meet the Congressional legislation?		
41D. What are the risks incurred (e.g., law suits, voidance of existing treaties or impaired response to proposed treaties, effects on international partnerships, impacts to NOAA's leadership role, etc.) by not meeting the LM, LA, EO, IT or IA if this project is not completed? (maximum 300 characters)		
42. IMPACT TO SOCIETY		
42A. What NOAA product and/or service will be affected, if the requested sea days are not allocated? (Provide a specific name and a short description of the product and/or service affected.)		
42B. If data for this project isn't collected during the fiscal year indicated in block 1, will the NOAA product and/or service indicated in question 42A (Choose one.)		
42C. What are the specific impacts to the product or service, and to the users of this product or service, by not conducting this project?		
42D. Does this project provide data that has a direct and timely link to a NOAA product or service that will help prevent risks to lives, economy or the environment?		YES NO
42E. If 42D was "Yes", how does the data collection support the stated products/services in block 42A? Provide a description of the source documentation (provide web links if available), and other supporting documents, that best state how the data has a direct and timely link to a NOAA product or service that helps prevent risks to lives, the economy or the environment.		
42F. If 42D was "Yes", identify the following quantitative factors that will likely result from loss of project data. (These factors must be the conclusions found in the source documentation or other supporting documents described in question 42E.)		
i. Risk to human lives will likely result in:	ii. Risk to our nation's economy will likely result in the loss of:	iii. Risk to the environment will likely result in:
Choose One	Choose one	Choose one

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43. VESSEL CAPABILITY

<p>43A. Which capabilities, unique to NOAA vessels, are absolutely required to successfully accomplish the project's primary objectives? (Select all that apply.)</p>	<p>1. Clam system 2. Acoustic quieting 3. Doppler Radar 4. Dedicated salinity chamber</p>	<p>5. Nitrox system 6. Hyperbaric chamber 7. Multiple survey launches</p>
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43B. If 43A indicates only one unique vessel capability, does it also need other physical capabilities that are not unique to a NOAA vessel, but provide a combination that is unique, and required to successfully accomplish the project's primary objectives? If so, identify the unique combination.

43C. How does the required unique physical capability or the combinations of physical capabilities meet the project's primary objectives or performance outcomes?

43D. Indicate any unique NOAA personnel requirements. Justify how those needed skills are required to meet the primary project objectives or performance outcomes.

43E. Briefly describe the impacts to the project objectives or the costs to the program that would be incurred by chartering, if sea days are not allocated aboard a NOAA vessel.

44. LONG TERM DATA SERIES

44A. Is this project a long term time series according to the definition found in the instructions? YES NO

<p>44B. If 44A is "Yes", how many years has the long term data series been conducted? Years</p>	<p>44C. What is the frequency of the data collection? (quarterly, semiannual, annual, biennial, triennial, etc.)</p>
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44D. What are the specific impacts to the continuity of the data, if the project is not completed during the year indicated in block 1?

44E. If 44A is "No", and the project length is 1 to 3 years, provide justification that shows the potential for becoming a long term data series of environmental or physical trends.

45. PROMOTE "One NOAA" PROJECTS

45A. Is the project a result of a formal collaboration between Line Offices promoting a single multi-purpose mission that was originally two or more separate projects under individual Principal Investigators? YES NO

45B. If 45A is "Yes", provide the collaborating LOs and Principal Investigators for this project.

45C. Will this formal collaboration allow collaborators to meet their current data requirements while reducing the number of sea days historically requested? YES NO

<p>45D. If 45C is "Yes", provide the best estimate of number of sea days reduced and describe how the reduction was accomplished.</p>	<p>Number of Sea Days)</p>
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45E. If the project has no formal collaboration that promotes multi-purpose missions, but has a formal data sharing agreement that allows other NOAA entities to access the project data, please identify those entities (e.g., NGDC) where data can be acquired.

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Block 1: Requested Fiscal Year - Indicate the Fiscal Year in which this requested project will occur.

Block 2: Originating Office - Identify appropriate Line Office within NOAA.

Block 3: Date of Request - Indicate the date that the form is filled out.

Block 4: ReCap Activity - Select the Fleet Recapitalization Plan Activity that best describes the project. Further descriptions of all the current ReCap Activities can be found at: http://www.oma.noaa.gov/publications/08_ship_recap_plan.pdf Chapter 5 pp. 21-45.

Block 5: Project Name - Provide a project title/name that best identifies the scientific mission.

Block 6: Project Purpose - Provide a brief description of the project, its purpose, overall mission and expected contribution to a broader program such as a national or international effort.

Block 7: Objective Based Metrics - List the minimum required measureable accomplishments that will achieve the Project Purpose stated in block 6 including the accomplishments and the number of this accomplishment required. (e.g., Square nautical miles hydrographic multibeam data - 500, CTDs - 45, Deep bottom trawl stations - 65).

Block 8: NOAA Long-Term Goals Supported By The Project/Mission - Check the appropriate box(es) and identify the percentages supported if selecting more than one NOAA Long-Term Goal. CAM = Climate Adaptation and Mitigation, WRN = Weather-Ready Nation, HO = Healthy Oceans and RCCE = Resilient Coastal Communities & Economies.

Block 9: NOAA Long-Term Goal Objectives Supported By the Project - Select the primary and secondary objectives within the Line Office Long-Term Goals that are supported by the project. The Long-Term Goal Objectives can be found at: _____

Block 10: Field of Science Category - Select the number and appropriate category from the following list that applies to the project. If using more than one please show percentage of each:

(1) Basic Research - Not applicable to NOAA

(2) Applied Research - Research directed towards gaining knowledge or understanding necessary for determining the means by which a recognized and specific need may be met.

(3) Development Directed - The systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

(4) NON R&D - Routine product testing, quality control, mapping and surveys, collection of general-purpose statistics, experimental production, and activities concerned primarily with the dissemination of scientific information and the training of scientific staff.

Block 11: National Science Foundation R&D Category - Select the number and appropriate category from the following list – if using more than one please show percentage of each:

N/A Not applicable - if NSF code is 4- Non R&D

11	Astronomy	42	Astronautical Engineering	61	Biological Psychology
12	Chemistry	43	Chemical Engineering	69	Psychological Science
13	Physics	44	Civil Engineering	71	Anthropology
19	Physical Science	45	Electrical Engineering	72	Economics
21	Mathematics	46	Mechanical Engineering	75	Political Science
22	Computer Science	47	Metallurgy & Material	76	Sociology
29	Math/Computer Science	49	Engineering	79	Social Sciences
31	Atmospheric Science	51	Biological	80	Cryogenics (NIST)
32	Geological Science	54	Environmental Biology	81	Measurement (NIST)
33	Oceanography	55	Agricultural	82	Other Engineering (NIST)
39	Environmental Science	56	Medical	99	Other Science
41	Aeronautical Engineering	59	Life Science		

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Block 12: Impact Statement - Describe the impact to NOAA and the nation if this ship time request is not allocated sea days or not funded.

Block 13: Preferred Vessel Operator - Select one of the following four options: A.) NOAA vessel, B.) Non-NOAA Federal vessel, C.) UNOLS vessel or D.) Non-Federal charter vessel. (If option B, C or D is indicated, skip to block 37).

Block 14: Preferred NOAA Vessel - Indicate the most desirable NOAA vessel as a platform for this particular project.

Block 15: Justification for NOAA Vessel Preference - Provide specific justification as to why the indicated NOAA vessel is most desired for support of this project. If other NOAA vessels could perform the project equally well, list other options.

Block 16: Foreign Port Calls and Research Clearances - Indicate the foreign ports or foreign waters that may be entered that will require foreign clearances through established diplomatic channels.

Block 16B: Domestic Licenses and Permits - Indicate any license or permit that may be required from another federal, state or local agency.

Block 17A: Project Area - Provide a specific location or ocean area of the project area. For example, if project is located in the South Atlantic Bight do not identify that project area as Atlantic Ocean.

Block 17B: Project Area Coordinates - Indicate extreme latitudes and longitudes of the operation area (to the nearest 1/10th of a minute).

Block 18: Operational Area Sea Day Requirement - Indicate both the maximum number of days desired and the minimum days in which meaningful work could be accomplished in the project area.

Block 19A: Earliest Possible Start Date - Indicate the earliest possible start date for the accomplishment of this project. Use block 37 to describe any issues affecting this date such as environmental or biological conditions that would affect the success of the project.

Block 19B: Latest Possible End Date - Indicate the latest possible end date for the project.

Block 20: Project Type - Indicate whether this project is the primary focus of the ship or that it is a piggyback-type project with minimum interference to the principle users.

Block 21: Suggested Piggyback Projects - Indicate whether there will be time for piggyback projects or if piggyback projects could be accommodated on a noninterference basis. If there will be time for piggyback projects, indicate how much time will be available.

Block 22A: Staging Port - Indicate the preferred port to be used for staging the vessel prior to departure.

Block 22B: Staging Days - Estimate the number of business days required for staging the vessel before the project begins. A staging day is a full day in port with a significant portion of the ship's complement working a regular 8 hour work day to load, store or calibrate scientific equipment, construct scientific workstations or support the scientific party before departure.

Block 22C: Transit Days From - Indicate the number of days needed to transit from the staging port to the project area.

Block 23: Intermediate Port Calls - Indicate up to three intermediate port calls and the number of days at each location.

Block 24A: Destaging Port - Indicate the preferred port to be used for destaging the vessel after project completion.

Block 24B: Destaging Days - Estimate the number of business days required for destaging the vessel after the project ends. A destaging day is a full day in port with a significant portion of the ship's complement working a regular 8 hour work day to unload scientific equipment or samples, deconstruct scientific work stations or support the scientific party upon project completion.

Block 24C: Transit Days To - Indicate the number of days needed to transit to the destaging port from the project area.

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Block 25A: Scientific Berthing - Indicate whether scientific berthing will be required for this project.

Block 25B: Scientific Berths Required - If scientific berthing is required, indicate the number of berths needed for the scientific complement including NOAA program personnel and/or Non-NOAA personnel (i.e., scientists, technicians).

Block 26A: Foreign National Participants - Indicate whether Foreign Nationals are expected to participate in this project.

Block 26B: Foreign National Country of Origin - If applicable, indicate the country or countries these Foreign Nationals are representing.

Block 27: Ship Furnished Capabilities - Indicate special project requirements for Electronics, Oceanographic Equipment and Specialized Gear Handling Support for the project or "NONE".

Block 28: Deck Department Availability - Select the hours per day the Deck Department needs to be available for deck operations:
A.) 24 hrs per day, B.) Daylight hours only or C.) Minimally.

Block 29: Survey Department Availability - Select the hours per day the Survey Department needs to be available for survey operations:
A.) 24 hrs per day, B.) Less than 12 hours per set schedule or C.) Opportunistically.

Block 30: On-Station Operating Hours - Indicate the hours per day that the project will require the vessel to be conducting:
A. Static operations (to include CTD casts, small boat deployments, buoy servicing, ROV operations and bottom grabs)
B. Trawling operations (to include mid-water trawls, bottom trawls and scallop dredging)
C. Towing operations (to include plankton nets, side scan sonar, acoustic arrays, MOCNESS and other plankton nets)
D. Survey operations (vessel is constantly making way to conduct hydrographic or marine mammal surveys)
E. Anchorage operations (launch deployments or other operations that are conducted while the ship is at anchor)

Block 31: Ship Capability Requirements - In addition to the required electronic, oceanographic and gear handling requirements identified in block 27, specify other capabilities that will be required of the ship to support the project. If there is a requirement that the vessel be calibrated for trawling operations, indicate which vessel it must be calibrated with. Also indicate whether the project requires the ship to have Dynamic Positioning and if so, whether it requires a specific minimum IMO Classification:
Class 1 - Automatic and manual position and heading control under specified maximum environmental conditions.
Class 2 - Automatic and manual position and heading control under specified maximum environmental conditions, during and following any single fault excluding loss of a compartment.
Class 3 - Automatic and manual position and heading control under specified maximum environmental conditions, during and following any single fault including loss of a compartment due to fire or flood.

Block 32: Work Boat Requirements - For work boats and launches, indicate the number of science party passengers required. The ship command will determine the number of required crew. If multiple types of boats are required, explain in block 37.

Block 33A: ROV Requirements - If a Remotely Operated Vehicle (ROV) is required, provide operational details as well as ship support requirements.

Block 33B: AUV Requirements - If an Autonomous Underwater Vehicle (AUV) is required, provide operational details as well as ship support requirements.

Block 33C: UAS Requirements - If an Unmanned Aircraft System (UAS) is required, provide operational details as well as ship support requirements.

Block 33D: Manned Submersible Requirements - If required, provide operational details as well as ship support requirements.

Block 34: Project Furnished Equipment - List major equipment that will be brought aboard by the scientific party such as vans, electronics, moorings, winches, or other equipment that will need to be secured to the ship's deck or hull and provide the necessary specifications.

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Block 35: Alternative Platforms - Indicate whether a charter vessel would be capable of meeting project requirements if a NOAA ship is not available due to schedule conflicts or cost.

Block 36: Funding source (check all that apply) - Indicate by checking the appropriate box(es). NOAA Marine Operations & Maintenance Fund = OMAO base funding; NOAA Program funding = NOAA Line Office funds; Non-NOAA funds = funds from an outside agency.

Block 37: Additional Information - Please list any additional information that would be helpful in describing special circumstances of this project or clarifications to any of the above blocks.

Block 38: Lab Director Approval - Confirm the lab or science center director has approved this ship time request before going to the NOAA Line Office approving authority for signature.

Block 39: Principal Investigator/Chief Scientist (Include lab/office affiliation, complete address, phone, fax, E-mail address) - Provide contact information for ship time request. When the form has been properly submitted, a copy will be forwarded to this email address.

Block 40: Senior NOAA Executive with Authority to Approve Ship Time Requests - Provide contact information for the senior NOAA Executive Accountable for the Goal or designee. This person shall submit the ship time request (if requesting the use of a NOAA vessel) in order for OMAO to accept the request for consideration. Any request not submitted through the appropriate channel will be returned to the Principal Investigator listed in block 39. **If requesting a NOAA vessel, completion of blocks 1-45 is mandatory.**

Block 41: Legislative Mandates, Executive Orders & International Treaties - Activities carried out under NOAA's Strategic Plan are dictated, in large part, by Congressional legislation (i.e., legislative mandates/authorizations). This includes any legislation which defines a clear, on-going role for NOAA. Legislative Mandates or Legislative Authorizations do not include earmarks. Activities carried out under NOAA's Strategic Plan are also dictated by Executive Order, International Treaties and International Agreements.

Block 41A: If the primary driver for the project is a Legislative Mandate (LM) or Legislative Authorization (LA), indicate it as such with the two letter designator after the referenced Act. Review Page 10 to determine whether the primary driver is a Legislative Mandate or Legislative Authorization, or contact NOAA General Counsel.

Block 41B, 41C and 41D: Answer the questions as indicated.

Block 42: Impact to Society - This criterion measures the link between the proposed project and societal benefits such as public health, safety of life, and public welfare. Public welfare is defined in terms of the environment, property, and economic values.

Block 42A, 42B, 42C, 42D and 42E: Answer the questions as indicated.

Block 42F: Select one option for each of the three risk assessments.

- i. Risk to human lives will likely result in:
 - A.) Death,
 - B.) Serious injury or illness or
 - C.) Minor injury or illness.

- ii. Risk to our nation's economy will likely result in the loss of:
 - A.) Billions of dollars,
 - B.) Millions of dollars or
 - C.) Thousands of dollars .

- iii. Risk to the environment will likely result in:
 - A.) Lethal damage to large populations of aquatic or terrestrial species or extreme damage to marine or land ecosystems,
 - B.) Moderate damage but not lethal or
 - C.) Limited damage.

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Block 43: Vessel Capability (Unique to NOAA) - NOAA vessels have unique physical capabilities, or combination of physical capabilities, not available in the academic fleet or other charter services to support your project. Unique physical capabilities of the NOAA Fleet include the following:

1. Clam system (set of winches and clam dredges).
2. Acoustic quieting.
3. Doppler 5cm Weather Radar.
4. Dedicated chamber for conducting precision salinity measurements (+ or – one degree Celsius).
5. Nitrox filling systems.
6. Permanent hyperbaric chamber and dedicated supervisor and Diving Medical Officer.
7. Ship with multiple survey launches (i.e., 4 or more) required to complete project.

Note: NOAA vessels may provide unique skills related to the people aboard the NOAA vessel (though these are not considered physical capabilities).

Block 43A: The list of seven “unique” physical capabilities shown in the above description can only be found on NOAA vessels. Which capabilities are absolutely required to successfully complete the project’s primary objectives?

Block 43B, 43C, 43D and 43E: Answer the questions as indicated.

Block 44: Long Term Data Series - Acquisition of data at a set frequency will build on a time series in order to maintain the appropriate continuity and accuracy needed to detect trends in environmental (biological, chemical or physical) changes. For this application indicate;

- A.) The project is a long term data series when the project has 10 or more years of periodic data collection,
- B.) The project is becoming a long term data series when the project has 4-9 years of periodic data collection or
- C.) The project is in the development or research phase when the project has 1-3 years of periodic data collection.

Block 44A: Is this project a long term time series according to the definition in the above description?

Block 44B: If the answer to question 44A is “Yes”, how many years has the project been in series? (e.g., 15 years, 2001-2015)

Block 44C: Indicate quarterly, semiannually, annually, biennially, triennially, quadrennially, quinquennially or decadal.

Block 44D and 44E: Answer the questions as indicated.

Block 45: Promote “One NOAA” Projects - Functioning as “One NOAA” enables integration and cooperation between NOAA Line Offices and their associated Long-Term Goals to efficiently maximize days at sea. Cooperation can take the form of NOAA collaboration on a project during a cruise, or two projects sharing the same cruise or sea day. The “One NOAA” concept promotes and encourages multi-mission project development allowing better efficiency of at-sea days by enabling more than one program to benefit from ship time. Promoting “One NOAA” projects on platforms enables data collection for applied research and repeated coverage for temporal and spatial requirements.

Block 45A, 45B, 45C, 45D and 45E: Answer the questions as indicated.

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Legislative Mandates versus Legislative Authorizations

Congress, through the laws it enacts, empowers agencies of the U.S. Government to perform responsibilities and functions in furtherance of important public policies as stated in such laws. These laws, with varying degrees of direction and specificity, authorize and, in some case, direct agencies to perform certain functions. In determining the intent of Congress, it is important to closely study the words of a statute to determine the nature of the authorization(s). The words “shall,” “may” or “authorize” are frequently used in statutes to express Congressional intent and provide important insight into the nature of the authorization.

Some laws use the word “shall” when describing agency responsibilities, which is commonly interpreted as directive in nature. That is, the agency is directed by Congress to perform a certain function. Such laws are often viewed as “legislative mandates”, leaving the agency little to no discretion as to whether to do the thing so directed by Congress. For example, the Tsunami Warning and Education Act of 2007 states: “The National Weather Service shall maintain or establish a Pacific Tsunami Warning Center in Hawaii and West Coast and Alaska Tsunami Warning Center in Alaska ...” Through the use of the word “shall” in this law Congress has clearly indicated that is mandating the NWS to establish these Centers. The Congress has provided the agency no discretion as to whether or not to establish such Centers. In fact, Congress has gone so far as to require that they be located in Hawaii and Alaska.

Other laws use words such as “may” or “authorize,” which are commonly interpreted as discretionary in nature. These laws empower an agency to perform a certain function but do not require it, leaving it to the discretion of the agency as to whether to act on the authority so provided. The decision as to whether to act to exercise the authority can be influenced by such matters as available budget and other resources and competing agency priorities. For example, 33 U.S.C. § 883d states: “The Secretary of Commerce is authorized to conduct developmental work for the improvement of surveying and cartographic methods...”, through the use of the word “authorize” Congress has made clear that it is providing authority to carry out the specified functions but is not directing that such authority be exercised. Another example is the Methane Hydrate and Development Act of 2000 which provides that the Secretary of Commerce “may” award grants, contracts or cooperative agreements to conduct basic research into methane hydrates. Again, Congress has provided the authority to make awards but is not directing that it be exercised.

When interpreting laws that make use of the terms “shall” versus “may” or “authorize”, it is important to avoid an overly simplistic approach. It is not safe to assume that just because a law uses the word “shall” the agency has no discretion in carrying out the law. There are laws that mandate a certain function but also provide significant discretion to the agency in determining how to satisfy the mandate. In particular, agency discretion will often exist as to timing, resources and processes.

For example, The National Weather Service Organic Act states: “The Secretary of Commerce shall have charge of the forecasting of the weather, the issue of storm warnings ... and the taking of such meteorological observations as may be necessary to establish and record the climatic conditions of the United States ...” This law makes clear that the Secretary of Commerce is responsible for issuing weather forecasts and warnings and recording the climate of the United States. In this sense, the law provides a mandate. However, the law provides no direction as to how the Secretary is to carry out these duties. Instead, Congress, through its lack of direction, has provided the discretion to the Secretary to determine how best to satisfy this mandate. Similarly, with respect to the Tsunami Warning and Education Act of 2007, discussed above, Congress has mandated establishment of Centers in Hawaii and Alaska, but the Secretary retains significant discretion to determine how those Centers will be organized.

As the above examples make clear, the extent of Congressional direction depends upon the specific wording of the law. NOAA General Counsel should be contacted for additional guidance if the discretion afforded to the agency or the intent of Congress cannot be discerned.