Update on Marine Scientific Research (MSR) Diplomatic Consent

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Quick Refresher: MSR and LOSC

1982 Law of the Sea Convention

- Article 238: right to conduct MSR
- Article 245: coastal state jurisdiction over MSR conducted within territorial seas
- Article 246: coastal state jurisdiction over MSR conducted within EEZ
- Article 250: communications concerning MSR projects shall be made through appropriate official channels
 MSR Consent: It’s complicated…

- Optics
- Geopolitics (maritime boundaries)
- Cannot rely solely on past practice—relationships and situations evolve
- Diplomatic consent may be cumbersome, but it is necessary
- Diplomatic consent is never guaranteed
- We are involved for all of these reasons
  - Like a good neighbor, State Department is there
President Proclamation on MSR

Policy updated via Presidential Proclamation No. 10071 signed September 9, 2020:

- Applies only to foreign scientists wishing to conduct MSR in the U.S.
- Advance consent in all instances consistent with international law
- In the U.S. EEZ and on the continental shelf (was always required in the territorial sea)
U.S. Scientists in Foreign Waters
Process to Request MSR Consent for U.S. citizens in Foreign Waters

1. Dept. of State creates RATS user account
2. Platform Operator submits in RATS
3. Dept. of State processes application to U.S. Embassy
4. Coastal State sends consent letter to U.S. Embassy
5. Dept. of State verifies consent letter and approves application
6. Dept. of State submits Preliminary Report
7. Platform Operator submits Final Report to RATS
8. U.S. Embassy submits Final Report to coastal State
9. Dept. of State verifies Final Report
10. Application marked Complete

Chief Scientist creates draft
U.S. Embassy sends to coastal State
U.S. Embassy uploads consent letter to RATS
Platform Operator submits Preliminary Report to RATS
U.S. Embassy submits Preliminary Report to coastal State
U.S. Embassy submits Final Report to coastal State
Dept. of State verifies Final Report
Application marked Complete
U.S. MSR Abroad
CY 2020

- 221 MSR Consent Requests for U.S. scientists abroad
- 10 rescheduled because of COVID
- 53 cancelled because of COVID

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Trends/Challenges

- **Bureaucratic/Diplomatic Challenges**
  - 6 months advance, many coastal States firm
  - Increased scrutiny, evolving requirements, no uniform system

- **Late Reports/Data**
  - Hundreds of late reports and data from U.S. scientists
  - Coastal States are asking – they can withhold consent from any U.S. scientist for another U.S. scientist’s late reports

- **Extreme Events**
  - Hurricanes, COVID, etc.
More Trends...

- The timing of requirement changes can be a challenge
- Timing of forms and documents for additional observers
- Upward trend in requiring participants, which can present challenges
- Challenges with port call visits
Coastal State Requirement Updates

- Please check the Marine Science Guidance Page for all new Coastal State updates.

- Bahamas - currently has a moratorium on sampling and requires all CVs of scientists involved.

- Barbados – more extensive review process, with Prime Minister review.

- Canada – January 2020 firm 6 month time requirement.
  - Port calls allowed but cannot disembark.

- Cuba – It’s complicated. Still processing applications but challenges exist.
Coastal State Requirement Updates

- **France**
  - Preliminary cruise report must be sent between 1-3 months or 3-6 months after the end of the cruise, based on the Diplomatic Note.
  - The Final report must be sent within a year after the cruise has been completed.
  - If non U.S. Flag vessel, please provide proof of liability insurance.
  - Very strict on 6.5 month processing deadline.

- **Mexico** – Processing has been significantly delayed due to COVID-19. Still receiving consent with delays.

- **Philippines** – Now welcoming MSR applications.

- **Solomon Islands** – Now requires 11 additional documents.
MISSING SINCE 2010: 100+ UNOLS Reports
Help us bring them home!

U.S. DEPARTMENT OF STATE | Oceans and International Environmental and Scientific Affairs
Who Requests MSR Consent?

- Most Coastal States
  - Flag State of Vessel
- United States
  - Nationality
- Canada
  - Owner of the Data
- Does it matter? YES!
Helpful Tips

- SUBMIT EARLY!!!! With Covid the earlier the better
- Talk to others for lessons learned
- Build in time buffer (~1 week either end)
- No maritime boundaries on cruise track
- SUBMIT EARLY (7 months)
- Sell your science-benefits (lay audience)
- Outreach/engagement/public diplomacy?
- Engage local scientists
- Follow up regularly on status of request
- Timely submission of prelim report, final report, data
- Did we say submit early?
U.S. MSR Policy General:
https://www.state.gov/marine-scientific-research/

About the Research Application Tracking System (RATS):
https://www.state.gov/research-application-tracking-system/

**Documentation Required by Coastal State**: https://www.state.gov/guidance-on-supporting-documentation/
Your DoS MSR Team

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Thank you!

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