

12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding a new AD to read as follows:

Scheibe Flugzeugbau GmbH: Docket No. 94-CE-35-AD.

Applicability: SF34 and SF34B gliders (serial number 5102 through 5131), certificated in any category.

Note 1: This AD applies to each glider identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For gliders that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the

presence of any modification, alteration, or repair remove any glider from the applicability of this AD.

Compliance: Required within the next 50 hours TIS after the effective date of this AD, unless already accomplished.

To prevent fatigue failure of the wing, which could result in loss of control of the glider, accomplish the following:

(a) Add armature (supportive covering) to both wings in accordance with the job instructions section of Scheibe Technical Note (TN) No. 336-2, dated March 10, 1989.

(b) Modify the root rib of the left wing in accordance with the job instructions section of Scheibe TN No. 336-2, dated March 10, 1989.

(c) Accomplish the following flight manual changes:

(1) Replace pages 1 and 13 of the flight manual with the revised pages 1 and 13 included with Scheibe TN Number 336-1, dated March 10, 1989.

(2) Replace pages 1 and 11 in the Instructions for Continued Airworthiness with the revised pages 1 and 11 included with Scheibe TN Number 336-1, dated March 10, 1989.

(3) In page 8 of the flight manual, add 1 kg to the current empty weight of the glider and deduct 1kg from the current maximum load as specified in paragraph 3 of the Instructions section of Scheibe TN Number 336-1, dated March 10, 1989.

(4) Remove existing operating limitations and incorporate new operating limitations into the Limitations section of the flight manual as specified in paragraph 4 of the Instructions section of Scheibe TN Number 336-1, dated March 10, 1989.

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the glider to a location where the requirements of this AD can be accomplished.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(f) All persons affected by this directive may obtain copies of the document referred to herein upon request to Scheibe Flugzeugbau GmbH, Dachau, Aug. Pfaltz - Str. 23, Dachau, Germany; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City,

Missouri 64106. Issued in Kansas City, Missouri, on March 24, 1995.

Dwight A. Young,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95-7799 Filed 3-29-95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Parts 929 and 937

[Docket No. 941085-4285]

RIN 0648-AD85

Florida Keys National Marine Sanctuary Proposed Regulations

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; removal and revision of regulations; Summary of Draft Management Plan; Proposed Designation Document; Public Availability of Draft Management Plan and Draft Environmental Impact Statement.

SUMMARY: NOAA, as required by section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act, is proposing a comprehensive management plan and implementing regulations to manage an approximately 2,800 square nautical mile area of coastal and ocean waters and the submerged lands thereunder, surrounding the Florida Keys in and adjacent to the State of Florida, designated by the Florida Keys National Marine Sanctuary and Protection Act as the Florida Keys National Marine Sanctuary (the "Sanctuary"). This document publishes the Designation Document, and summarizes the draft comprehensive management plan, for the Sanctuary. The draft management plan details the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance, activities for the Sanctuary. The proposed regulations would implement the comprehensive management plan and govern the conduct of activities consistent with the provisions of the Designation Document. The intended effect of the Designation Document, proposed regulations, and DEIS/MP is to protect the conservation, recreational, ecological, historical, research,

educational, and aesthetic qualities of the Florida Keys coastal and ocean waters and the submerged lands thereunder.

DATES: Comments are invited and will be considered if submitted in writing to the address below by December 31, 1995.

ADDRESSES: Requests for the above described documents and comments should be submitted to the Superintendent, Florida Keys National Marine Sanctuary, P.O. Box 500368, Marathon, Florida 33050.

FOR FURTHER INFORMATION CONTACT: Billy Causey, Sanctuary Superintendent, 305/743-2437 or Edward Lindelof, Atlantic, Great Lakes and Gulf Branch Chief, 301/713-3137 X 131.

SUPPLEMENTARY INFORMATION:

I. Introduction

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.* (the "MPRSA"), authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries to protect their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities.

The Florida Keys National Marine Sanctuary was designated by an act of Congress entitled the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA, Pub. L. 101-605) signed into law on November 16, 1990.

NOAA held six public scoping meetings during the months of April and May, 1991, to solicit public comments on the proposed management of the Sanctuary: Key Largo on April 10th, Miami on April 11th, Marathon on April 15th, and Key West on April 16th, Key Largo on April 17, and Washington, D.C. on May 6. Notice of the scoping meetings was published in local newspapers. NOAA invited all interested persons to attend, and asked those attending the meeting to comment on readily identifiable issues, suggest additional issues for examination, and provide information useful in managing the Sanctuary.

The authority of the Secretary to designate national marine sanctuaries was delegated to the Under Secretary of Commerce for Oceans and Atmosphere by the Department of Commerce, Organization Order 10-15, section 3.01(z) (Jan. 11, 1988). The authority to administer the other provisions of the Act was delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by

NOAA Circular 83-38, Directive 05-50 (Sept. 21, 1983, as amended).

Holders of, owners of, or future applicants for leases, permits, licenses, approvals, other authorizations, or rights of subsistence use of, or access to, Sanctuary resources, are specifically invited to comment on how they may be affected by the designation of the Sanctuary and particularly sections 929.14-929.16 of the proposed regulations.

Comments are also specifically sought on the adequacy of the regulatory regime to protect Sanctuary resources and qualities.

After the comments received during the comment period have been considered, a final environmental impact statement and management plan will be prepared, and final regulations implementing the comprehensive management plan will be published in the **Federal Register**. The designation document, management plan, and regulations will become final and take effect at the close of a 45-day Congressional review period unless a joint resolution disapproving any of the terms of designation is enacted, in which case only the terms not disapproved will take effect, or the Governor of the State of Florida certifies to the Secretary of Commerce that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable terms will not take effect in the area of the Sanctuary lying within the seaward boundary of the State. A document will be published in the **Federal Register** announcing the effective date.

II. Summary of Draft Environmental Impact Statement/Management Plan

The DEIS/MP for the Florida Keys National Marine Sanctuary sets forth the Sanctuary's location and provides details on the most important resources and uses of the Sanctuary. The DEIS/MP describes the resource protection, research, education and interpretive programs, and details the specific activities to be conducted in each program. The DEIS/MP includes a detailed discussion, by program area, of agency roles and responsibilities. The proposed goals and objectives for the Sanctuary are: (1) Enhance resource protection through comprehensive and coordinated conservation and ecosystem management that complements existing regulatory authorities; (2) support, promote, and coordinate scientific research on, and monitoring of, the site-specific marine resources to improve management decision-making in national marine sanctuaries; (3) enhance public awareness, understanding, and

the wise use of the marine environment through public interpretive, educational, and recreational programs, and (4) facilitate, to the extent compatible with the primary objective of resource protection, multiple uses of the Sanctuary.

A. Resource Protection

The highest priority management goal is to protect the marine environment, resources, and qualities of the Sanctuary. The specific objectives of protection efforts are to: (1) Reduce threats to Sanctuary resources; (2) encourage participation by interested agencies and organizations in the development of procedures to address specific management concerns (*e.g.*, monitoring and emergency-response programs); (3) develop an effective and coordinated program for the enforcement of Sanctuary regulations in addition to other regulations already in place; (4) promote public awareness of, and voluntary compliance with, Sanctuary regulations and objectives through an educational/interpretive program stressing resource sensitivity and wise use; (5) ensure that the water quality of the Florida Keys is maintained at a level consistent with the purposes of Sanctuary designation; (6) establish cooperative agreements and other mechanisms for coordination among all the agencies participating in Sanctuary management; (7) ensure that the appropriate management agencies incorporate research results and scientific data into effective resource protection strategies; and (8) coordinate policies and procedures among the agencies sharing responsibility for protection and management of resources.

B. Research Program

Effective management of the Sanctuary requires the conduct of a Sanctuary research program. The purpose of Sanctuary research is to improve understanding of the Florida Keys' coastal and offshore environment, resources, and qualities, and to resolve specific management problems. Some of these management problems involve resources common to coastal and offshore waters, and nearby Federal, State, and local refuges and reserves. Research results will both support management efforts to protect Sanctuary resources and qualities, and be incorporated into interpretive programs for visitors and others interested in the Sanctuary.

Specific objectives for the research program are to: (1) establish a framework and procedures for administering research to ensure that

research projects are responsive to management concerns and that results contribute to improved management of the Sanctuary; (2) focus and coordinate data collection efforts on the physical, chemical, geological, and biological oceanography of the Sanctuary; (3) encourage studies that integrate research from the variety of coastal habitats with nearshore and open ocean processes; (4) initiate a monitoring program to assess environmental changes as they occur due to natural and human processes; (5) identify the range of effects on the environment that would result from predicted changes in human activity or natural phenomena; (6) encourage information exchange and cooperation among all the organizations and agencies undertaking management-related research in the Sanctuary to promote more informed management; and (7) incorporate research results into the interpretive/education program in a format useful for the general public.

C. Education

The goal for the Sanctuary education program is to improve public awareness and understanding of the significance of the Sanctuary and the need to protect its resources and qualities.

The management objectives designed to meet this goal are to: (1) Provide the public with information on the Sanctuary and its goals and objectives, with an emphasis on the need to use Sanctuary resources and qualities wisely to ensure their long-term viability; (2) broaden support for Sanctuary management by offering programs suited to visitors with a diverse range of interests; (3) provide for public involvement by encouraging feedback on the effectiveness of education programs, collaboration with Sanctuary management staff in extension and outreach programs, and participation in other volunteer programs; and (4) collaborate with other organizations to provide educational services complementary to the Sanctuary program.

D. Visitor Use

The Sanctuary goal for visitor use management is to facilitate, to the extent compatible with the primary objective of resource protection, public and private uses of the resources of the Sanctuary not prohibited pursuant to other authorities.

Specific management objectives are to: (1) Provide relevant information about Sanctuary regulations, use policies, and standards; (2) collaborate with public and private organizations in promoting compatible uses of the Sanctuary; (3) encourage the public who

use the Sanctuary to respect sensitive Sanctuary resources and qualities; and (4) monitor and assess the levels of use to identify and control potential degradation of resources and qualities, and minimize potential user conflicts.

The Sanctuary would be managed from a headquarters facility located in the Florida Keys region.

III. Designation Document

Section 304(a)(4) of the MPRSA requires that the Terms of Designation include the geographic area included within the Sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or aesthetic value; and the types of activities that will be subject to regulation by the Secretary to protect these characteristics. Section 304(a)(4) also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made. Thus the terms of designation serve as a constitution for the Sanctuary.

Designation Document for the Florida Keys National Marine Sanctuary

On November 16, 1990, the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA), Public Law 101-605, set out as a note to 16 U.S.C. 1433, was signed into law. The Florida Keys National Marine Sanctuary and Protection Act designated an area of waters and submerged lands, including the living and nonliving resources within those waters, as described in section 5 of the FKNMSPA, as the Florida Keys National Marine Sanctuary.

Article I. Effect of Designation

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 as amended (the "MPRSA"), 16 U.S.C. 1431 et seq., authorizes the issuance of such regulations as are necessary and reasonable to implement the designation, including managing and protecting the conservation, recreational, ecological, historical, research, educational and esthetic resources and qualities of the Florida Keys National Marine Sanctuary. Section 1 of Article IV of this Designation Document lists activities of the type that will be regulated initially, or may be subject to regulated subsequent regulation in order to protect Sanctuary resources and qualities. Such listing does not necessarily mean that a type of activity will be regulated; however, if a type of activity is not listed it may not be regulated, except on an emergency basis, unless Section 1 of Article IV is

amended to include the type of activity by the procedures outlined in section 304(a) of the MPRSA.

Article II. Description of the Area

The Florida Keys National Marine Sanctuary boundary encompasses approximately 2,800 square nautical miles (9,500 square kilometers) of coastal and oceanic waters, and the submerged lands thereunder, surrounding the Florida Keys in and adjacent to the State of Florida. The Sanctuary boundary extends from the northeasternmost point of Biscayne National Park out to the Dry Tortugas, a linear distance of approximately 320 kilometers. The boundary on the Atlantic Ocean side of the Florida Keys runs south from Biscayne National Park following approximately the 300-foot isobath, which curves in a southwesterly direction along the Florida Keys archipelago ending at the Dry Tortugas. The boundary on the Gulf of Mexico-side of the Florida Keys runs in an easterly direction from the Dry Tortugas paralleling the Florida Keys, approximately five miles to the north, and then follows the Everglades National Park boundary until Division Point at which time the boundary follows the western shore of Manatee Bay, Barnes Sound, and Card Sound. The boundary then follows the southern boundary of Biscayne National Park and up its eastern boundary until its northeasternmost point.

The shoreward boundary of the Sanctuary is the mean high-water mark. The Sanctuary boundary encompasses all of the Florida coral reef tract, all of the mangrove islands of the Florida Keys, and some of the seagrass meadows of Florida Bay. The precise boundary of the Sanctuary is set forth at the end of this Designation Document.

Article III. Characteristics of the Area that Give it Particular Value

The Florida Keys are a limestone island archipelago extending southwest over 320 kilometers from the southern tip of the Florida mainland. The Keys are located at the southern edge of the Floridian Plateau, a large carbonate platform made of a depth of up to 7,000 meters of marine sediments, which have been accumulating for 150 million years and have been structurally modified by subsidence and sea level fluctuation. The Keys region is generally divided into five distinct areas: the Florida reef tract, one of the world's largest coral reef tracts and the only barrier reef in the United States; Florida Bay, described as an active lime-mud factory because of the high carbonate content of the silts and muds; the Southwest

Continental Shelf; the Straits of Florida; and the Keys themselves.

The 2.4 million-acre Sanctuary contains one of North America's most diverse assemblages of estuarine and marine fauna and flora, including, in addition to the Florida reef tract, thousands of patch reefs, one of the world's largest seagrass communities covering 1.4 million acres, mangrove-fringed shorelines, mangrove islands, and various hardbottom habitats. These diverse habitats provide shelter and food for thousands of species of marine plants and animals, including over 50 species of animals identified by either Federal or State law as endangered or threatened. Federal, State, local, and private organizations currently protect, preserve and set regulations at 121 sites throughout the Keys, covering approximately 2.0 million acres.

The Keys were at one time a major seafaring center for European and American trade routes in the Caribbean, and submerged cultural and historic resources (i.e., shipwrecks) abound in the surrounding waters. In addition, the Sanctuary may contain substantial archaeological resources of pre-European cultures.

The uniqueness of the marine environment draws multitudes of visitors to the Keys. The major industry in the Florida Keys is tourism, including activities related to the Keys' marine resources, such as dive shops, charter fishing and dive boats and marinas, as well as hotels and restaurants. The abundance of the resources also supports a large commercial fishing employment sector.

The number of visitors to the Keys grows each year, with a concomitant increase in the number of residents, homes, jobs, and businesses. As population grows and the Keys accommodate ever-increasing resource-use pressures, the quality and quantity of Sanctuary resources are increasingly threatened. These pressures require coordinated and comprehensive management, monitoring and research of the Florida Keys' region.

Article IV. Scope of Regulations

Section 1. Activities Subject to Regulation

In order to protect the characteristics and values of the Sanctuary described above, all activities adversely affecting the resources or property of the Sanctuary, whether individually or cumulatively, or that pose harm to users of the Sanctuary are subject to regulation, including regulation of method, location and times of conducting the activity, assessment of

fees for conducting the activity, and prohibition of the activity, either throughout the entire Sanctuary (including both land and water areas), after public notice and an opportunity for comment, or within identified portions of the Sanctuary or in areas adjacent to the Sanctuary to the extent necessary and reasonable to ensure the protection and management of the conservation, recreational, ecological, historical, research, educational or esthetic resources and qualities of the area. Such activities include, but are not limited to:

a. Discharging or depositing, from within or from beyond the boundary of the Sanctuary, any material or other matter, including aerially-sprayed pesticides, that enters or could enter the Sanctuary; and reporting of discharges or deposits, from within or from beyond the boundary of the Sanctuary, any material or other matter, including aerially-sprayed pesticides, that enters or could enter the Sanctuary;

b. Exploring for, developing, or producing oil, gas or minerals (e.g., clay, stone, sand, gravel, metalliferous ores and nonmetalliferous ores or any other solid material or other matter of commercial value) in the Sanctuary;

c. Drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the seabed of the Sanctuary;

d. Taking, removing, moving, catching, collecting, harvesting, feeding, injuring, destroying or causing the loss of, or attempting to take, remove, move, catch, collect, harvest, feed, injure, destroy or cause the loss of a marine mammal, marine reptile, seabird, historical resource or other Sanctuary resource;

e. Touching with any part of the body, climbing on, taking, removing, moving, catching, collecting, harvesting, injuring, destroying or causing the loss of, or attempting to take, remove, move, catch, collect, harvest, feed, injure, destroy or cause the loss of living or dead coral;

f. Possessing within the Sanctuary a Sanctuary resource or any other resource, regardless of where taken, removed, moved, caught, collected or harvested, that, if it had been found within the Sanctuary, would be a Sanctuary resource;

g. Operation of a vessel (i.e., watercraft of any description), including but not limited to anchoring or otherwise mooring a vessel; and all activities necessary for vessel operation or maintenance, such as pump-out of sanitary wastes and refueling, in the Sanctuary or any part thereof or in

marinas or at docks within or adjacent to the Sanctuary;

h. Removal of vessels grounded, lodged, stuck or otherwise perched on coral reefs or other Sanctuary resources; and removal from any location within the Sanctuary and disposal of derelict or abandoned vessels or other vessels for which ownership cannot be determined or for which owner takes no action for removal or disposal; and salvaging and towing of abandoned or disabled vessels or of vessels otherwise needing salvaging and towing;

i. Possessing or using within the Sanctuary or any part thereof, any fishing gear, trap, device, equipment or means, whether regulated based on method or based on quantity of fish present or quantity of fish caught in identified fisheries; and providing information to Federal, State, and local officials within the Sanctuary and adjacent to the Sanctuary about the quantity and type of fish and other living Sanctuary resources caught during any vessel travel;

j. Possessing or using explosives or air guns or releasing electrical charges or substances poisonous or toxic to fish and other living resources within the Sanctuary boundary or adjacent to the Sanctuary boundary;

k. Stocking or release of native or exotic species;

l. Harvesting or otherwise taking sponges;

m. Removal and disposal of lost or out-of-season gear discovered within the Sanctuary boundary;

n. Development or conduct in the Sanctuary of mariculture activities;

o. Flying a motorized aircraft above the Sanctuary;

p. Construction, alteration, repair or other work on docks and marinas;

q. Activities or situations on land that may result in water quality degradation, including but not limited to:

1. Dredging and filling, particularly of wetlands;

2. Construction activities;

3. Use and management of hazardous chemicals, including, but not limited to, pesticides, fertilizers, and motor oil;

4. Waste disposal and discharge on land; and

5. Water quality in basins and canals; and

r. Interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the Act or any regulation or permit issued under the Act.

Section 2. Emergencies

Where necessary to prevent or minimize the destruction of, loss of, or

injury to a Sanctuary resource or quality; or minimize the imminent risk of such destruction, loss or injury, any activity, including any not listed in section 1 of this article, is subject to immediate temporary regulation, including prohibition.

Article V. Effect on Leases, Permits, Licenses, and Rights

If any valid law or regulation issued by any Federal, State or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, or his or her designee to be more protective of Sanctuary resources and qualities shall govern.

Pursuant to section 304(c)(1) of the Act, 16 U.S.C. 1434(c)(1), no valid lease, permit, license, approval or other authorization issued by any Federal, State, or local authority of competent jurisdiction, or any right of subsistence use or access, may be terminated by the Secretary of Commerce, or his or her designee, as a result of this designation, or as a result of any Sanctuary regulation, if such authorization or right was in existence on the effective date of Sanctuary designation (November 16, 1990). However, the Secretary of Commerce or designee may regulate the exercise (including, but not limited to, the imposition of terms and conditions) of such authorization or right consistent with the purposes for which the Sanctuary is designated.

In no event may the Secretary or designee issue a permit authorizing, or otherwise approving: (1) The exploration for, leasing of, development of, or production of minerals or hydrocarbons within the Sanctuary; or (2) the disposal of dredged material within the Sanctuary, or the discharge of untreated or primary treated sewage (except by a certification, pursuant to Section 940.10, of valid authorizations in existence on the effective date of Sanctuary designation). Any purported authorizations issued by other authorities after the effective date of Sanctuary designation for any of these activities within the Sanctuary shall be invalid.

Article VI. Alteration of this Designation

The terms of designation, as defined under Section 304(a) of the MPRSA, may be modified only by the procedures outlined in such section, including public hearings, consultation with interested Federal, State, and local agencies, review by the appropriate Congressional committees, and the

Governor of the State of Florida, and approval by the Secretary of Commerce or designee.

Florida Keys National Marine Sanctuary Boundary Coordinates (based on North American datum of 1983.)

The boundary of the Florida Keys National Marine Sanctuary—

(a) Begins at the northeasternmost point of Biscayne National Park located at approximately 25 degrees 39 minutes north latitude, 80 degrees 5 minutes west longitude, then runs eastward to the 300-foot isobath located at approximately 25 degrees 39 minutes north latitude, 80 degrees 4 minutes west longitude;

(b) Then runs southward and connects in succession the points at the following coordinates:

(i) 25 degrees 34 minutes north latitude, 80 degrees 4 minutes west longitude,

(ii) 25 degrees 28 minutes north latitude, 80 degrees 5 minutes west longitude, and

(iii) 25 degrees 21 minutes north latitude, 80 degrees 7 minutes west longitude;

(iv) 25 degrees 16 minutes north latitude, 80 degrees 8 minutes west longitude;

(c) Then runs southwesterly approximating the 300-foot isobath and connects in succession the points at the following coordinates:

(i) 25 degrees 7 minutes north latitude, 80 degrees 13 minutes west longitude,

(ii) 24 degrees 57 minutes north latitude, 80 degrees 21 minutes west longitude,

(iii) 24 degrees 39 minutes north latitude, 80 degrees 52 minutes west longitude,

(iv) 24 degrees 30 minutes north latitude, 81 degrees 23 minutes west longitude,

(v) 24 degrees 25 minutes north latitude, 81 degrees 50 minutes west longitude,

(vi) 24 degrees 22 minutes north latitude, 82 degrees 48 minutes west longitude,

(vii) 24 degrees 37 minutes north latitude, 83 degrees 6 minutes west longitude,

(viii) 24 degrees 40 minutes north latitude, 83 degrees 6 minutes west longitude,

(ix) 24 degrees 46 minutes north latitude, 82 degrees 54 minutes west longitude,

(x) 24 degrees 44 minutes north latitude, 81 degrees 55 minutes west longitude,

(xi) 24 degrees 51 minutes north latitude, 81 degrees 26 minutes west longitude, and

(xii) 24 degrees 55 minutes north latitude, 80 degrees 56 minutes west longitude;

(d) Then follows the boundary of Everglades National Park in a southerly then northeasterly direction through Florida Bay, Buttonwood Sound, Tarpon Basin, and Blackwater Sound;

(e) After Division Point, then departs from the boundary of Everglades National Park and follows the western shoreline of Manatee Bay, Barnes Sound, and Card Sound;

(f) Then follows the southern boundary of Biscayne National Park to the southeasternmost point of Biscayne National Park; and

(g) Then follows the eastern boundary of Biscayne National Park to the beginning point specified in paragraph (a).

IV. Summary of Proposed Regulations

Two sets of existing regulations will be eliminated and replaced by the proposed rule. Specifically, parts 929 and 937 to title 15, Code of Federal Regulations, implementing the Key Largo and Looe Key sanctuaries, respectively, will be removed and replaced by the proposed revision to part 929. Pursuant to section 5 of the Florida Keys National Marine Sanctuary and Protection Act, the existing Key Largo and Looe Key National Marine Sanctuaries will be incorporated into the Florida Keys National Marine Sanctuary.

The proposed regulations set forth the boundary of the Sanctuary; prohibit a range of activities generally and within specific Sanctuary zones; establish procedures for applying for National Marine Sanctuary permits to conduct otherwise prohibited activities, establish procedures for applying for Special Use permits; establish certification procedures for existing leases, licenses, permits, approvals, other authorizations, or rights authorizing the conduct of a prohibited activity; establish notification procedures for applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity; set forth the maximum per-day penalties for violating Sanctuary regulations; and establish procedures for administrative appeals.

Section 929.1 sets forth as the purpose of the regulations to implement the designation and comprehensive management plan for the Florida Keys National Marine Sanctuary by regulating activities affecting the Sanctuary in order to protect, preserve and manage the conservation, ecological, recreational, research, educational,

historical and aesthetic resources and qualities of the area.

Section 929.2 and appendix I following § 929.16 describe the boundary of the Sanctuary as established by Section 5 of the Florida Keys National Marine Sanctuary and Protection Act.

Section 929.3 defines various terms used in the regulations. Other terms appearing in the regulations are defined at 15 CFR 922.2 and/or in the NMSA.

Section 929.4 allows all activities except those prohibited by § 929.5 or by § 929.6 to be conducted subject to all applicable access and use restrictions imposed within Sanctuary zones pursuant to § 929.6, subject to all prohibitions, restrictions and conditions validly imposed by any other Federal, State, or local authority of competent jurisdiction, subject to any emergency regulations promulgated pursuant to § 929.7, and subject to the liability established by Section 312 of the NMSA. This section is intended to assure that activities other than those prohibited or otherwise restricted or conditioned pursuant to this part, or pursuant to any other Federal, State, or local authority of competent jurisdiction, are allowed within the Sanctuary. Accordingly, such provision for allowed activities is not intended to preempt other, more protective, regulatory provisions imposed by any other Federal, State or local authority of competent jurisdiction.

Section 929.5 prohibits a variety of activities and thus makes it unlawful for any person to conduct them or cause them to be conducted. However, any of the prohibited activities except for: (1) The exploration for, leasing, development or production of minerals or hydrocarbons within the Sanctuary, or (2) the disposal of dredged material or primary (or untreated) sewage within the Sanctuary (except by a certification, pursuant to § 929.14, of valid authorizations in existence on the effective date of Sanctuary designation) could be conducted lawfully if one of the following three (3) situations applies:

(1) The activity is necessary to respond to an emergency threatening life or the environment.

(2) The activity is specifically authorized by, and conducted in accordance with the scope, purpose, terms and conditions of: a National Marine Sanctuary permit issued under § 929.10; or a National Marine Sanctuary Historical Resources permit issued under § 929.11.

(3) The activity is specifically authorized by a valid lease, permit, license, approval or other authorization

issued by any Federal, State or local authority of competent jurisdiction in existence on (or conducted pursuant to any valid right of subsistent use or access in existence on) the effective date of the Sanctuary designation, provided that the Director of the Office of Ocean and Coastal Resource Management (hereinafter the Director) was notified of the existence of such authorization or right and the holder requests certification by the Director or designee pursuant to § 929.14, the holder complies with the requirements of § 929.14, and the holder complies with any terms and conditions on the exercise of such authorization the Director or designee imposes as a condition of certification to achieve the purposes for which the Sanctuary was designated.

(4) The activity is specifically authorized by a valid lease, permit, license or approval or other authorization issued after the effective date of the Sanctuary designation by any Federal, State or local authority of competent jurisdiction, provided that the Director or designee was notified of the application in accordance with the requirements of § 929.15, the applicant complies with the requirements of § 919.15, the Director or designee notifies the applicant or authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director or designee deems reasonably necessary to protect Sanctuary resources and qualities.

The first activity prohibited is exploring for, developing, or producing minerals or hydrocarbons within the Sanctuary. This prohibition is based on best available scientific information which establishes that the Sanctuary's significant natural resources and qualities are especially sensitive to potential impacts from outer continental shelf minerals or hydrocarbon activities and should be protected. Specifically, the corals, seagrasses, and mangroves of the Florida Keys and the Sanctuary's high water quality are especially vulnerable to oil and gas activities in the area. A prohibition on oil and gas activities within the Sanctuary boundary would help protect the Sanctuary's resources and qualities. A prohibition on mineral activities within the Sanctuary is necessary to protect Sanctuary resources and qualities, consistent with the prohibition on drilling into, dredging or otherwise altering the seabed discussed below.

The second activity prohibited is the removal of, injury to, or possession of coral or live rock. The intent of this prohibition is to conserve the coral

reefs, to protect the biodiversity of the Sanctuary, to protect the habitats of commercially and ecologically important species, and to preserve the natural functional aspects of the ecosystem.

The third activity prohibited is the alteration of, or construction on the seabed. This prohibition includes the use of propeller wash deflectors. The intent of this prohibition is to protect the resources of the Sanctuary, such as seagrasses, from the harmful effects of activities such as, but not limited to, treasure hunting, drilling into the seabed, mining, ocean mineral extraction, and dumping of dredge spoils.

The fourth activity prohibited is the discharging or depositing of materials or other matter. The intent of this prohibition is to protect the Sanctuary resources and qualities against the harmful effects of land based and vessel source pollution, to reduce and prevent contamination by marine debris and related impacts associated with pollution of the marine environment of the Sanctuary.

The fifth activity prohibited is the operation of: (1) A tank vessel or a vessel greater than 50 meters in registered length in an area to be avoided (ATBA); or (2) any vessel in a manner that is either dangerous to people or harms Sanctuary resources. The boundary coordinates for the ATBAs are listed in Appendix VII to part 929. The prohibition is designed to prevent vessel groundings on the coral reef, and thus to minimize the risk of extensive physical damage, spills and associated, possibly irreparable, injury to Sanctuary resources likely to result from a grounding of a large vessel and tank vessel. This prohibition further is intended to prevent injury to Sanctuary resources, prevent injury to humans (e.g., divers and swimmers), and to reduce shoreline erosion.

The sixth activity prohibited is diving without a red and white "divers down" flag or a blue and white "alpha" flag in Federal waters. The intent of this prohibition is to prevent injury to humans and thereby facilitate safe, multiple use of the Sanctuary.

The seventh activity prohibited is the release of exotic species. Exotic species can permanently alter an ecosystem by out competing indigenous species, preying on indigenous species, etc. The intent of this prohibition is to prevent injury to Sanctuary resources, to protect the biodiversity of the Sanctuary, and to preserve the natural functional aspects of the ecosystem.

The eighth activity prohibited is the tampering with official signs or markers

or navigational aids. The intent of this prohibition is to prevent injury to Sanctuary resources, primarily corals and seagrasses, and to prevent injury to humans.

The ninth activity prohibited is the removing or injuring Sanctuary historical resources. Submerged historical resources constitute important, irreplaceable, public resources of the Sanctuary because they contain important information about human history and culture. This prohibition is designed to protect these resources so that they may be researched, and information about their contents and type made available for the benefit of the public. This prohibition does not apply to accidental moving, possession, or injury during normal fishing operations.

The tenth activity prohibited is taking or possessing protected wildlife. The Sanctuary is an important staging area, breeding area, and feeding area for a variety of wildlife, including a number of endangered and threatened species. The intent of this prohibition is to protect Sanctuary resources and endangered and/or threatened species.

The eleventh activity prohibited is the possession or use of explosives and electrical discharges. The intent of this prohibition is to prevent injury to Sanctuary resources or to humans.

The twelfth activity prohibited is interfering with law enforcement officers. The intent of this prohibition is to prevent the obstruction of justice.

Section 929.5(b) regulates the taking or landing of marine life species, in accordance with the Marine Life rule of the Florida Administrative Code reproduced in Appendix VIII to this part. The intent of this regulation is to protect Sanctuary resources and biodiversity by adopting relevant portions of the Florida Marine Life rule as a uniform regulation to be applied throughout the (federal and state) waters of the Sanctuary.

Section 929.6 establishes five types of water use zones within the Sanctuary, the prohibitions applicable to uses within such zones, and the regulations governing access to, and use of, the resources of such zones. The five zone types are: Existing Management Areas; Wildlife Management Areas; Sanctuary Preservation Areas; Replenishment Reserves and Special Use Areas. The proposed location of these zones is specified in Appendices II, III, IV, V and VI to this part, respectively, corresponding to the five zone types stated above. The intent of the zoning regulations is to protect Sanctuary resources and biodiversity, and provide for effective management and

facilitation of multiple, compatible uses, consistent with the purposes of the Sanctuary designation.

Section 929.6(a) provides that the regulations applicable to the conduct of activities within any of the five types of Sanctuary zones are in addition to the general prohibitions set forth in paragraphs (a) and (b) of § 929.5. Activities conducted in those areas of the Sanctuary that are located in two or more overlapping zones shall be concurrently subject to the regulations applicable to each such overlapping zone.

Section 929.6 identifies certain Existing Management Areas which are listed in Appendix II to part 929. Existing Management Areas are existing Federal, State or local resource management areas subject to the continuing management and control of another agency, notwithstanding the exercise of concurrent authority by the Assistant Administrator in accordance with this part. To the extent possible, consistent with the purposes for which the Sanctuary was designated, the regulations applicable to Existing Management Areas shall be applied in a manner that is compatible with such existing management authorities. Identification of the Key Largo and Looe Key Existing Management Areas constitutes recognition of these areas as pre-existing National Marine Sanctuaries that were subject to the management and control of the Assistant Administrator prior to Sanctuary designation, and for which continuing regulation as Existing Management Areas will serve to maintain, to the extent possible, a level of management and control of uses in such areas that is at least as protective of Sanctuary resources and qualities as that provided by their former status as discrete National Marine Sanctuaries.

Section 929.6(b)(2) further prohibits the operation of personal watercraft, airboats or water skiing within the Great White Heron or Key West National Wildlife Existing Management Areas. The intent of this prohibition is to protect Sanctuary resources and qualities through coordination with the U.S. Fish and Wildlife Service in a manner that recognizes and complements the existing management of these areas as components of the National Wildlife Refuge System.

Section 929.6(c) sets forth the rules governing access to, and use of, the Wildlife Management Areas described in Appendix III to part 929. Specifically, access and use restrictions may include the designation of any such zones as an "idle/no-wake speed", a "no motor" or a "no access buffer" areas. The Director

or designee, in cooperation with other Federal, State, or local resource management authorities, as appropriate, shall effect such designation by posting official signs conspicuously, using mounting posts, buoys, or other means according to location and purpose, at appropriate intervals and locations. The intent of these rules is to protect Sanctuary wildlife resources from injury or harmful disturbance within sensitive areas and habitats of the Sanctuary.

Section 929.6(d) sets forth prohibitions applicable to activities conducted within Sanctuary Preservation Areas and Replenishment Reserves. Specific prohibitions include possessing, harvesting or otherwise injuring any coral, marine invertebrate, fish, bottom formation, algae, seagrass or other living or dead organism in such areas; fishing by any means; touching living or dead coral, including but not limited to standing on a living or dead coral formation; placing anchors so as to touch living or dead coral or any sessile organism. Vessels shall use mooring buoys or anchoring areas when such facilities or areas have been designated and are available.

Section 929.6(d) further provides that the Director or designee may impose a limited access designation, or temporary area closure, within any Sanctuary Preservation Area if the Director determines that such action is reasonably necessary to allow for recovery of the living resources of such area from the adverse, cumulative effects of concentrated use.

The intent of the establishment of, and regulation of uses within, the Sanctuary Preservation Areas is to avoid concentrations of uses that could result in significant declines in species populations or habitat, to reduce conflicts between uses, to protect areas that are critical for sustaining important marine species or habitats, or to provide opportunities for scientific research. The intent of the establishment of, and regulation of uses within, the Replenishment Reserves is to minimize human influences, to provide natural spawning, nursery, and permanent residence areas for the replenishment and genetic protection of marine life, and also to protect and preserve natural assemblages of habitats and species within areas representing a broad diversity of resources and habitats found within the Sanctuary.

Section 929.6(e) establishes procedures and criteria pursuant to which the Director or designee may set aside discrete areas of the Sanctuary as Special Use Areas, and designate such areas as "recovery areas", "restoration areas", "research only areas" or

"facilitated use areas", as appropriate, to protect the Sanctuary resources and qualities and allow for multiple, compatible uses within the Sanctuary. Section 929.6(e) further provides criteria pursuant to which the Director or designee may issue an emergency notice modifying the number, location or designation applicable to Special Use Areas if the Director or designee determines that such immediate action is reasonably necessary to prevent significant injury to Sanctuary resources or to initiate restoration or research activities where, due to emergency or unforeseen circumstances, delay would impair the ability of such activities to succeed.

Section 929.7 authorizes the regulation, including prohibition, on an immediate, temporary basis of any activity where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss or injury.

Section 929.8 sets forth the maximum statutory civil penalty for violating the NMSA, the regulations or any permit issued pursuant thereto—\$100,000. Each such violation shall be subject to forfeiture of property or Sanctuary resources seized in accordance with section 307 of the NMSA. Each day of a continuing violation constitutes a separate violation.

Section 929.9 repeats the provision in Section 312 of the NMSA that any person who destroys, causes the loss of, or injures any Sanctuary resource is liable to the United States for response costs, damages and interest resulting from such destruction, loss or injury, and any vessel used to destroy, cause the loss of, or injure any Sanctuary resource is liable in rem to the United States for response costs, damages and interest resulting from destruction, loss or injury. The purpose of these sections is to notify the public of the liability for violating a Sanctuary regulation, a permit issued pursuant thereto or the NMSA.

Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions and denials for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property appear at 15 CFR part 904.

Section 929.10 sets forth the procedures for applying for a National Marine Sanctuary permit to conduct a prohibited activity and the criteria governing the issuance, denial, amendment, suspension and revocation of such permits. A permit may be issued by the Director or designee if he or she

finds that the activity will have only negligible short-term adverse effects on Sanctuary resources and qualities and will: further research or monitoring related to Sanctuary resources and qualities; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; or assist in managing the Sanctuary. For activities proposed to be conducted within Replenishment Reserves or Sanctuary Preservation Areas, the Director or designee shall further find that such activities will further and are consistent with the purposes for which such zone was established. In deciding whether to issue a permit, the Director or designee is required to consider such factors as the professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and the duration of its effects; the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities; the indirect, secondary or cumulative effects of the activity; and the end value of the activity. In addition, the Director or designee is authorized to consider any other factors she or he deems appropriate.

Section 929.11 sets forth the application procedures and issuance criteria for National Marine Sanctuary Historical Resources permits to conduct specific research activities involving the exploration for, recovery of, or transfer of historical Sanctuary resources specified under § 929.11 and otherwise prohibited by the regulations. A permit may be issued by the Director or designee at his or her discretion in accordance with the requirements of § 929.11 and consistent with the Programmatic Agreement Among NOAA, the Advisory Council on Historic Preservation, and the State of Florida on Submerged Cultural Resources (hereinafter SCR Agreement). Recovery of historical resources will only be permitted when developed in conjunction with research to preserve the historic information for public use. Intrusive research and/or recovery will be based upon a balancing of factors and criteria to determine whether the goals of preservation, research, education, and public access are better served by permitting this type of activity as opposed to leaving the historic resources in place.

Section 929.12 sets forth criteria governing the issuance of Special Use

permits to conduct concession-type, commercial activities within the Sanctuary. In accordance with the provisions of Section 310 of the NMSA, the Director or designee may require a Special Use permit for any such activity if he or she determines such authorization is necessary to establish conditions of access to and use of any Sanctuary resource, or to promote public use and understanding of any Sanctuary resource. No special use permit may be issued unless the activity is compatible with the purposes for which the Sanctuary was designated and can be conducted in a manner that does not destroy, cause the loss of, or injure any Sanctuary resource.

Applicants for Special Use permits are required to follow the same procedures specified for National Marine Sanctuary permits in § 929.10 (d) through (g).

All National Marine Sanctuary, National Marine Sanctuary Historical Resources, or Special Use permits are subject to the general permit conditions specified in § 929.10(h). With respect to any such permit, the Director or designee, at his or her discretion, also may impose special permit conditions in accordance with § 929.10(i).

Section 929.13 provides that any person conducting research in the Sanctuary, including such research not involving prohibited activities, may voluntarily register with the appropriate Sanctuary field office. Upon registration, the Sanctuary office will issue a research flag to be used while conducting research within the Sanctuary. Copies of research results, abstracts, and reports may be submitted to the Sanctuary field office to be retained for Sanctuary management purposes, public observation, and peer review.

Section 929.14 sets forth procedures for requesting certification of leases, permits, licenses, approvals, other authorizations or rights in existence on the date of Sanctuary designation authorizing the conduct of an otherwise prohibited activity. Notwithstanding the prohibitions under paragraph (a) of § 929.5 or § 929.6, a person may conduct any activity specifically authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the holder of such authorization or right complies with the requirements of § 929.14 (e.g., notifies the Director or designee of the

existence of, requests certification of, and provides requested information regarding such authorization or right) and complies with any terms and conditions on the exercise of such authorization or right imposed by the Director or designee as she or he deems reasonably necessary to achieve the purposes for which the Sanctuary was designated.

Section 929.14 allows the holder 90 days from the effective date of the proposed Sanctuary regulations in part 929 to request certification. The holder is allowed to conduct the activity without being in violation of paragraph (a) of § 929.5 or 929.6 pending final agency action on his or her certification request, provided the holder has complied with all requirements of § 929.14.

Section 929.14 also allows the Director or designee to request additional information from the holder and to seek the views of other persons.

As a condition of certification, the Director or designee will impose such terms and conditions on the exercise of such lease, permit, license, approval or other authorization or right as she or he deems reasonably necessary to achieve the purposes for which the Sanctuary was designated. This is consistent with the Secretary's authority under Section 304(c)(2) of the NMSA. (Section 929.14 has no application to mineral or hydrocarbon activities as there is no existing lease, permit, license, approval, other authorization or right for any of these activities within the Sanctuary).

The holder may appeal any action conditioning, amending, suspending or revoking any certification in accordance with the procedures set forth in § 929.16.

Any amendment, renewal or extension not in existence as of the date of Sanctuary designation of a lease, permit, license, approval, other authorization or right is subject to the provisions of § 929.15.

Section 929.15 provides, consistent with paragraph (f) of § 929.5, that notwithstanding the prohibitions under paragraph (a) of § 929.5 or § 929.6, a person may conduct any activity specifically authorized by any valid lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, provided that the applicant notifies the Director or designee of the application for such authorization within 15 days of the date of filing of the application or of the effective date of the proposed Sanctuary regulations, whichever is later, that the applicant is in compliance

with the other provisions in § 929.15, that the Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and that the applicant complies with any terms and conditions the Director or designee deems reasonably necessary to protect Sanctuary resources and qualities.

Section 929.15 allows the Director or designee to request additional information from the applicant and to seek the views of other persons.

An application or an amendment to, an extension of, or a renewal of an authorization is also subject to the provisions of § 929.15.

The applicant may appeal any objection by, or terms or conditions imposed by, the Director or designee to the Assistant Administrator or designee in accordance with the procedures set forth in § 929.16.

Section 929.16 sets forth the procedures for appealing to the Assistant Administrator or designee actions of the Director or designee with respect to: (1) the granting, denial, conditioning, amendment, suspension or revocation of a National Marine Sanctuary permit under § 929.10, a National Marine Sanctuary Historical Resources permit under § 929.11, or a Special Use permit under § 929.12 or Section 310 of the NMSA; (2) the conditioning, amendment, suspension, or revocation of a certification under § 929.14; or (3) the objection to issuance or the imposition of terms and conditions under § 929.15.

Prior to conditioning the exercise of existing leases, permits, licenses, approvals, other authorizations or rights or conditioning or objecting to proposed authorizations NOAA intends to consult with relevant issuing agencies as well as owners, holders or applicants.

V. Miscellaneous Rulemaking Requirements

Marine Protection, Research, and Sanctuaries Act

Section 304 of the MPRSA requires the Secretary to submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the same day as this notice is published, the proposed terms of the designation, the proposed regulations, a draft environmental impact statement, and a draft management plan detailing the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement and

surveillance activities, for the area. In accordance with Section 304, the required documents are being submitted to the specified Congressional Committees.

Executive Order 12866

Under Executive Order 12866, if the proposed regulations are "significant" as defined in section 3(f) (1), (2), (3) or (4) of the Order, an assessment of the potential costs and benefits of the regulatory action must be prepared and submitted to the Office of Information and Regulatory Affairs (OIRA) of OMB. The Administration of NOAA has determined that the proposed regulations are significant. The required assessment has been prepared and submitted to OIRA.

Regulatory Flexibility Act

The regulations proposed in this notice would allow all activities to be conducted in the Sanctuary other than those activities that are specifically prohibited. The procedures proposed in these regulations for applying for National Marine Sanctuary permits to conduct otherwise prohibited activities, for requesting certifications for pre-existing leases, licenses, permits, approvals, other authorizations or rights authorizing the conduct of a prohibited activity, and for notifying NOAA of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity would all act to lessen any adverse economic effect on small entities. The proposed regulations, in total, if adopted in final form as proposed, are not expected to have a significant economic impact on a substantial number of small entities, and the General Counsel of the Department of Commerce has so certified to the Chief Counsel for Advocacy of the Small Business Administration. As a result, an initial Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This proposed rule contains a collection of information requirement subject to the requirements of the Paperwork Reduction Act (Pub. L. 96-511). The collection of information requirement applies to persons seeking permits to conduct otherwise prohibited activities and is necessary to determine whether the proposed activities are consistent with the management goals for the Sanctuary. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the

Paperwork Reduction Act. The public reporting burden per respondent for the collection of information contained in this rule is estimated to average 1.65 hours annually. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments from the public on the collection of information requirement are specifically invited and should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: Desk Officer for NOAA); and to Richard Roberts, Room 724, 6010 Executive Boulevard, Rockville, MD 20852.

Executive Order 12612

A Federalism Assessment (FA) was prepared for the proposed designation document, draft management plan, and proposed implementing regulations. The FA concluded that all would be fully consistent with the principles, criteria, and requirements set forth in sections 2 through 5 of Executive Order 12612, Federalism Considerations in Policy Formulation and Implementation (52 FR 41685). Copies of the FA are available upon request to the Office of Ocean and Coastal Resource Management at the address listed in the address section above.

National Environmental Policy Act

In accordance with Section 304(a)(2) of the Act (16 U.S.C. 1434(a)(2)), and the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370(a)), a Draft Environmental Impact Statement (DEIS) has been prepared for the designation and the proposed regulations. As required by Section 304(a)(2), the DEIS includes the resource assessment report required by section 303(b)(3) of the Act (16 U.S.C. 1433(b)(3)), maps depicting the boundaries of the designated area, and the existing and potential uses and resources of the area. Copies of the DEIS are available upon request to the Office of Ocean and Coastal Resource Management at the address listed in the address section above.

Executive Order 12630

This proposed rule, if issued in final form as proposed, would not have takings implications within the meaning of Executive Order 12630 because it would not appear to have an effect on private property sufficiently severe as effectively to deny economically viable use of any distinct legally potential property interest to its owner or to have the effect of, or result in, a permanent

or temporary physical occupation, invasion, or deprivation. While the prohibition on the exploration for, development, production of minerals and hydrocarbons from the Sanctuary might have a takings implication if it abrogated an existing lease for Outer Continental Shelf (OCS) tracts within the Sanctuary or an approval of an exploration or development and production plan, no OCS leases have been sold for tracts within the Sanctuary and no exploration or production and development plans have been filed or approved.

List of Subjects in 15 CFR Parts 929 and 937

Administrative practice and procedure, Coastal zone, Marine resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 13, 1995.

Frank W. Maloney,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Chapter IX is proposed to be amended as follows:

SUBCHAPTER B—OCEAN AND COASTAL RESOURCE MANAGEMENT

1. Part 929 is revised to read as follows:

PART 929—FLORIDA KEYS NATIONAL MARINE SANCTUARY

Sec.

- 929.1 Purpose.
- 929.2 Boundary.
- 929.3 Definitions.
- 929.4 Allowed activities.
- 929.5 Prohibited activities; Sanctuary wide.
- 929.6 Additional activity regulations by Sanctuary zone.
- 929.7 Emergency regulations.
- 929.8 Penalties.
- 929.9 Response costs and damages.
- 929.10 National Marine Sanctuary Permits; application procedures and issuance criteria.
- 929.11 National Marine Sanctuary Historical Resources Permits; exploration, research/recovery, research/recovery/transfer; application procedures and issuance criteria.
- 929.12 Special Use Permits.
- 929.13 Sanctuary registry; research notice.
- 929.14 Certification of pre-existing leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.
- 929.15 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.
- 929.16 Appeals of administrative action.

Appendix I to Part 929—Florida Keys National Marine Sanctuary boundary coordinates
 Appendix II to Part 929—Existing Management Areas
 Appendix III to Part 929—Wildlife Management Areas
 Appendix IV to Part 929—Replenishment Reserves
 Appendix V to Part 929—Sanctuary Preservation Areas
 Appendix VI to Part 929—Special Use Areas
 Appendix VII to Part 929—Coordinates for the Area to be Avoided
 Appendix VIII to Part 929—Marine Life Rule
Authority: 16 U.S.C. 1431 *et seq.*; Pub. L. 101-605, 104 Stat. 3090-3093.

§ 929.1 Purpose.

The purpose of the regulations in this part is to implement the comprehensive management plan for the Florida Keys National Marine Sanctuary by regulating activities affecting the resources of the Sanctuary or any of the qualities, values, or purposes for which the Sanctuary is designated, in order to protect, preserve and manage the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area. In particular, the regulations in this part are intended to protect, restore, and enhance the living resources of the Sanctuary, to contribute to the maintenance of natural assemblages of living resources for future generations, to provide places for species dependent on such living resources to survive and propagate, to facilitate to the extent compatible with the primary objective of resource protection all public and private uses of the resources of the Sanctuary not prohibited pursuant to other authorities, to reduce conflicts between such compatible uses, and to achieve the other policies and purposes of the Florida Keys National Marine Sanctuary and Protection Act and the National Marine Sanctuaries Act.

§ 929.2 Boundary.

The Sanctuary consists of all submerged lands and waters from the mean high water mark to the boundary described in Appendix I to this part, with the exception of areas within the Dry Tortugas National Park. Appendix I to this part sets forth the precise Sanctuary boundary established by the Florida Keys National Marine Sanctuary and Protection Act. (See FKNMSPA section 5 (b)(2)).

§ 929.3 Definitions.

(a) The following definitions apply to this part:

Acts means the Florida Keys National Marine Sanctuary and Protection Act, as amended, (FKNMSPA) (Pub. L. 101-605, 104 Stat. 3090-3093), and the

National Marine Sanctuaries Act (NMSA), also known as Title III of the Marine Protection, Research, and Sanctuaries Act, as amended, (MPRSA) (16 U.S.C. 1431 *et seq.*).

Adverse effect means any factor, force, or action that would independently or cumulatively damage, diminish, degrade, impair, destroy, or otherwise harm any Sanctuary resource, as defined in section 302(8) of the NMSA (16 U.S.C. 1432(8)) and in this § 929.3, or any of the qualities, values, or purposes for which the Sanctuary is designated.

Airboat means a vessel operated by means of a motor driven propeller that pushes air for momentum.

Area to be avoided means the area described in which vessel operations are prohibited pursuant to section 6(a)(1) of the FKNMSPA (see § 929.5(a)(1)).

Appendix VII to this part sets forth the geographic coordinates of the area to be avoided, including any modifications thereto made in accordance with section 6(a)(3) of the FKNMSPA.

Assistant Administrator means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service.

Director means the Director of the Office of Ocean and Coastal Resource Management, National Ocean Service.

Existing Management Area means a portion of the Sanctuary that is within an existing resource management area established by NOAA or by another Federal, State, or local authority of competent jurisdiction within the Sanctuary and that is identified in Appendix II to this Part.

Exotic species means a species of plant, invertebrate, fish, amphibian, reptile or mammal whose natural zoogeographic range would not have included the waters of the Atlantic Ocean, Caribbean, or Gulf of Mexico without passive or active introduction to such area through anthropogenic means.

Federal Project means any water resources development project conducted by the U.S. Army Corps of Engineers or operating under a permit or other authorization issued by the Corps of Engineers and authorized by Federal law.

Fish means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, and birds.

Fishing means:

- (1)(i) The catching, taking, or harvesting of fish;
- (ii) The attempted catching, taking, or harvesting of fish;
- (iii) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(iv) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1)(i) through (iii) of this definition.

(2) Such term does not include any scientific research activity which is conducted by a scientific research vessel.

Historical resource means any resource possessing historical, cultural, archaeological or paleontological significance, including sites, contextual information, structures, districts, and objects significantly associated with or representative of earlier people, cultures, and human activities and events. Historical resources include "submerged cultural resources", and also include "historical properties", as defined in the National Historic Preservation Act, as amended, and implementing regulations, as amended.

Idle/no-wake speed means a speed at which a boat is operated that is no greater than 4 knots and does not produce a wake.

Injure means to change adversely, either in the long or short term, a chemical, biological, or physical attribute of, or the viability of. To "injure" therefore includes, but is not limited to, to cause the loss of and to destroy.

Live rock means any living marine organism or an assemblage thereof attached to a hard substrate (including dead coral or rock). For example, such living marine organisms associated with hard bottoms, banks, reefs, and live rock may include, but are not limited to: sea anemones (Phylum CNIDARIA: Class Anthozoa: Order Actinaria); sponges (Phylum PORIFERA); tube worms (Phylum ANNELIDA), including fan worms, feather duster worms, and christmas tree worms; bryozoans (Phylum BRYOZOA); sea squirts (Phylum CHORDATA); and marine algae, including Mermaid's fan and cups (*Udotea* spp.), coralline algae, green feather, green grape algae (*Caulerpa* spp.) and watercress (*Halimeda* spp.). Individual mollusk shells (scallop, clam, oysters, etc.) are not intended to be included in the definition as hard substrate.

Marine Life Species means any species of fish, invertebrate, or plant included in sections (2), (3), or (4) of Rule 46-42.001, Florida Administrative Code, set forth in Appendix VIII to this part.

Mineral means clay, stone, sand, gravel, metalliferous ore, nonmetalliferous ore, or any other non-living solid material or other non-living solid matter of commercial value.

Person means any private individual, partnership, corporation, or other entity;

or any officer, employee, agent, department, agency, or instrumentality of the Federal Government or of any State, regional, or local unit of government, or of any foreign government.

Personal watercraft means any jet and air-powered watercraft operated by standing, sitting, or kneeling on or behind the vessel, in contrast to a conventional boat, where the operator stands or sits inside the vessel, and that uses a two-cycle inboard engine to power a water jet pump for propulsion, instead of a propeller as in a conventional boat.

Prop-dredging means the use of a vessel's propulsion wash to dredge or otherwise alter the seabed of the Sanctuary, excluding disturbance to bottom sediments resulting from normal vessel propulsion. Prop-dredging includes, but is not limited to, the use of propulsion wash deflectors or similar means of dredging or otherwise altering the seabed of the Sanctuary.

Prop-scarring means the injury to seagrasses or other immobile organisms attached to the seabed of the Sanctuary caused by operation of a vessel in a manner that allows its propeller or other running gear, or any part thereof, to cause such injury, excluding minor disturbances to bottom sediments or seagrass blades resulting from normal vessel propulsion.

Replenishment Reserve means a Sanctuary zone encompassing an area of contiguous, diverse habitats, within which uses are subject to conditions, restrictions and prohibitions, including public access restrictions, intended to minimize human influences, to provide natural spawning, nursery, and permanent residence areas for the replenishment and genetic protection of marine life, and also to protect and preserve natural assemblages of habitats and species within areas representing a broad diversity of resources and habitats found within the Sanctuary.

Sanctuary means the Florida Keys National Marine Sanctuary.

Sanctuary Preservation Area means a Sanctuary zone encompassing a discrete, biologically important area, within which uses are subject to conditions, restrictions and prohibitions, including public access restrictions, to avoid concentrations of uses that could result in significant declines in species populations or habitat, to reduce conflicts between uses, to protect areas that are critical for sustaining important marine species or habitats, or to provide opportunities for scientific research.

Sanctuary quality means any of those ambient conditions, physical-chemical

characteristics and natural processes, the maintenance of which is essential to the ecological health of the Sanctuary, including, but not limited to, water quality, sediment quality and air quality.

Sanctuary resource means any living or non-living resource that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the Sanctuary, including, but not limited to, the seabed and substratum, bottom formations, hard and soft corals and coralline structures, algae, phytoplankton, seagrasses, mangroves and other marine plants, zooplankton, marine invertebrates, fish, marine amphibians and reptiles, marine mammals, sea birds, and other marine wildlife and their habitats, and historical resources.

Sanctuary wildlife means any species of fauna, including avifauna, that occupy or utilize the submerged resources of the Sanctuary as nursery areas, feeding grounds, nesting sites, shelter, or other habitat during any portion of their life cycles.

Seagrass means any species of marine angiosperms (flowering plants) that inhabit portions of the seabed in the Sanctuary. Those species include, but are not limited to: *Thalassia testudinum* (turtle grass); *Syringodium filiforme* (manatee grass); *Halodule wrightii* (shoal grass); *Halophila decipiens*, *H. engelmannii*, *H. johnsonii*; and *Ruppia maritima*.

Taking means:

(1)(i) For any marine mammal, sea turtle or seabird listed as either endangered or threatened pursuant to the Endangered Species Act, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure, or to attempt to engage in any such conduct;

(ii) For any other marine mammal, sea turtle or seabird, to harass, hunt, capture, kill, collect or injure, or to attempt to engage in any such conduct.

(2) For the purpose of both paragraphs (1)(i) and (ii) of this definition, the term includes, but is not limited to, collecting any dead or injured marine mammal, sea turtle or seabird, or any part thereof, no matter how temporarily; tagging any sea turtle, marine mammal or seabird; operating a vessel or aircraft or doing any other act that results in the disturbing or molesting of any marine mammal, sea turtle or seabird.

Tank vessel means any vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(1) Is a United States flag vessel;

(2) Operates on the navigable waters of the United States; or

(3) Transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States (46 U.S.C. 2101).

Traditional fishing means those commercial or recreational fishing activities that were customarily conducted within the Sanctuary prior to its designation.

Tropical fish means any species, or part thereof, included in section (2) of Rule 46-42.001, Florida Administrative Code, (as set forth in Appendix VIII to this part).

Vessel means a watercraft of any description, including, but not limited to, motorized and non-motorized watercraft, personal watercraft, airboats, and float planes while maneuvering on the water, capable of being used as a means of transportation in/on the waters of the Sanctuary. For purposes of this part, the terms "vessel," "watercraft," and "boat" are deemed to have the same meaning.

Wildlife Management Area means a Sanctuary zone established for the management, protection, and preservation of Sanctuary wildlife resources, including such a zone established for the protection and preservation of endangered or threatened species or their habitats, within which access is restricted or otherwise regulated to minimize disturbances to Sanctuary wildlife; to ensure protection and preservation consistent with the Sanctuary designation and other applicable law governing the protection and preservation of wildlife resources in the Sanctuary.

(b) Other terms appearing in the regulations in this part are defined at 15 CFR 922.2, and/or in the Marine Protection, Research, and Sanctuaries Act (MPRSA), as amended, 33 U.S.C. 1401 *et seq.* and 16 U.S.C. 1431 *et seq.*

§ 929.4 Allowed activities.

(a) All activities, except those prohibited pursuant to § 929.5 or § 929.6, may be conducted subject to all applicable access and use restrictions imposed within sanctuary zones pursuant to § 929.6, subject to the provisions of § 929.12, subject to all prohibitions, restrictions, and conditions validly imposed by any other Federal, State or local authority of competent jurisdiction, subject to any emergency regulations promulgated pursuant to § 929.7, and subject to the liability established by Section 312 of the NMSA (see § 929.9).

(b) Fishing activities may be conducted subject to all applicable regulations imposed by Federal and State fishery management authorities of

competent jurisdiction within the Sanctuary, provided that the Assistant Administrator may regulate fishing activities within the Sanctuary, pursuant to the procedure set forth in Section 304(a)(5) of the NMSA, to the extent such Sanctuary fishing regulations are reasonably necessary to fulfill the purposes and policies of the NMSA and the goals and objectives of the Sanctuary designation.

§ 929.5 Prohibited activities; Sanctuary-wide.

(a) Except as specified in paragraph (c) of this section, the following activities are prohibited and thus are unlawful for any person to conduct or cause to be conducted:

(1) *Mineral and hydrocarbon exploration, development and production.* Exploring for, developing, or producing minerals or hydrocarbons within the Sanctuary.

(2) *Removal of, injury to, or possession of coral or live rock.*

(i) Moving, removing, taking, harvesting, damaging, disturbing, breaking, cutting, or otherwise injuring, or possessing (regardless of where taken from) any living or dead coral, or coral formation, or attempting any of these activities, except as permitted under 50 CFR Part 638.

(ii) Harvesting, or attempting to harvest, any live rock from the Sanctuary, or possessing (regardless of where taken from) any live rock within the Sanctuary, except as authorized by a permit for the possession or harvest from aquaculture operations in the Exclusive Economic Zone, issued by the National Marine Fisheries Service pursuant to applicable regulations under the appropriate Fishery Management Plan, or as authorized by the applicable state authority of competent jurisdiction within the Sanctuary for live rock cultured on state submerged lands leased from the State of Florida, pursuant to applicable state law. See section 370.027, Florida Statutes and implementing regulations.

(3) *Alteration of, or construction on, the seabed.* Drilling into, dredging, or otherwise altering the seabed of the Sanctuary, or engaging in prop-dredging; or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary, except as an incidental result of:

(i) Anchoring vessels in a manner not otherwise prohibited by this part (see paragraph (a)(3)(iii) of this section and § 929.6(d)(1)(iv));

(ii) Traditional fishing activities outside Replenishment Reserves or Sanctuary Preservation Areas;

(iii) Installation and maintenance of navigational aids by, or pursuant to valid authorization by, any Federal, State, or local authority of competent jurisdiction;

(iv) Harbor maintenance in areas necessarily associated with Federal Projects in existence on the effective date of Sanctuary designation, including maintenance dredging of entrance channels and repair, replacement, or rehabilitation of breakwaters or jetties;

(v) Construction, repair, replacement, or rehabilitation of docks, seawalls, breakwaters, or piers authorized by any valid lease, permit, license, approval, or other authorization issued by any Federal, State, or local authority of competent jurisdiction.

(4) *Discharging or depositing materials or other matter.* (i)

Discharging or depositing, from within the boundary of the Sanctuary, any material or other matter, except:

(A) Fish, fish parts, fish chum or bait that is produced, or used, and discarded while conducting a traditional fishing activity in the Sanctuary;

(B) Biodegradable effluent incidental to vessel use and generated by a marine sanitation device approved in accordance with Section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1322 *et seq.*;

(C) Water generated by routine vessel operations (e.g., deck wash down and graywater as defined by section 312 of the FWPCA), excluding oily wastes from bilge pumping; or

(D) Cooling water from vessels or engine exhaust.

(ii) Discharging or depositing, from beyond the boundary of the Sanctuary, any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except those listed in paragraphs (a)(4)(i)(A) through (D) of this section.

(iii) Notwithstanding the exceptions contained in paragraphs (a)(4)(i)(A) through (D) of this section, discharging or depositing any material or other matter, except cooling water or engine exhaust into the waters of any Wildlife Management Area, Replenishment Reserve, Sanctuary Preservation Area, or Special Use Area.

(5) *Operation of vessels.* (i) Operating a tank vessel or a vessel greater than 50 meters in registered length in an area to be avoided. The prohibition in this subparagraph shall not apply to necessary operations of public vessels, defined as operations essential for national defense, law enforcement, or responses to emergencies that threaten life, property, or the environment.

(ii) Operating a vessel in such a manner as to strike or otherwise injure coral, seagrass, or any other immobile organism attached to the seabed, including, but not limited to, operating a vessel in such a manner as to cause prop-scarring.

(iii) Anchoring a vessel on coral, in depths less than 50 feet.

(iv) Operating a vessel at a speed greater than idle/no-wake speed within a residential canal, within 100 yards of the red and white "divers down" flag (or the blue and white "alpha" flag in Federal waters), or within 200 yards of:

(A) Residential shorelines;

(B) Mangrove fringed islands;

(C) Stationary vessels; or

(D) Signs indicating emergent or shallow reefs.

(v) Operating a vessel in such a manner as to injure or cause disturbance to wading or nesting birds or marine mammals.

(vi) The prohibitions contained in this paragraph shall not apply to law enforcement officials while in the performance of enforcement duties.

(6) *Diving without flag.* Diving or snorkeling without flying in a conspicuous manner the red and white "divers down" flag (or the blue and white "alpha" flag in Federal waters).

(7) *Release of exotic species.*

Introducing or releasing an exotic species of plant, invertebrate, fish, amphibian, or reptile into the Sanctuary.

(8) *Tampering with markers.* Marking, defacing, or damaging in any way or displacing, removing, or tampering with any signs, notices, or placards, whether temporary or permanent, or with any navigational aids, monuments, stakes, posts, mooring buoys, boundary buoys, trap buoys, or scientific equipment.

(9) *Removing or injuring Sanctuary historical resources.* Moving, removing, injuring, or possessing, or attempting to move, remove, injure, or possess, a Sanctuary historical resource.

(10) *Taking or possessing protected wildlife.* Taking any marine mammal, sea turtle, or seabird in or above the Sanctuary, except as authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 *et seq.*, the Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 *et seq.*, and the Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 *et seq.*

(11) *Possession or use of explosives or electrical charges.* Possessing, or using explosives, except powerheads, or releasing electrical charges within the Sanctuary.

(12) *Interfering with law enforcement.* Interfering with, obstructing, delaying or preventing an investigation, search,

seizure or disposition of seized property in connection with enforcement of the Acts or any regulation or permit issued under the Acts.

(b) *Marine Life rule.* No person shall harvest, possess, or land any marine life species, or part thereof, within the Sanctuary, except in accordance with rules 46-42.001 through 46-42.003, 46-42.0035, and 46-42.005 through 46-42.007 of the Florida Administrative Code, (set forth in Appendix VIII to this part), and such rules shall apply *mutatis mutandis* (with necessary editorial changes) to all federal and state waters within the Sanctuary.

(c) Notwithstanding the prohibitions in this § 929.5 and § 929.6, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by, and conducted in accordance with the scope, purpose, terms, and conditions of, a National Marine Sanctuary permit issued pursuant to § 929.10, or a National Marine Sanctuary Historical Resources permit issued pursuant to § 929.11.

(d) Notwithstanding the prohibitions in this § 929.5 and § 929.6, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the holder of such authorization or right complies with § 929.14 and with any terms and conditions on the exercise of such authorization or right imposed by the Director or designee as a condition of certification as he or she deems reasonably necessary to achieve the purposes for which the Sanctuary was designated.

(e) Notwithstanding the prohibitions in this § 929.5 and § 929.6, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by any valid lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, provided that the applicant complies with § 929.15, the Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director or designee deems

reasonably necessary to protect Sanctuary resources and qualities. Amendments, renewals and extensions of authorizations in existence on the effective date of designation constitute authorizations issued after the effective date.

(f) Notwithstanding paragraph (c) of this section and § 929.15(a), in no event may the Director or designee issue a permit under §§ 929.10, 929.11 or 929.12, or under Section 310 of the NMSA, authorizing, or otherwise approving, the exploration for, leasing, development, or production of minerals or hydrocarbons within the Sanctuary, the disposal of dredged material within the Sanctuary, or the discharge of untreated or primary treated sewage (except by a certification, pursuant to § 929.14, of a valid authorization in existence on the effective date of Sanctuary designation), and any purported authorizations issued by other authorities after the effective date of Sanctuary designation for any of these activities within the Sanctuary shall be invalid.

(g)(1) All military activities shall be carried out in a manner that avoids to the maximum extent practical any adverse impacts on Sanctuary resources and qualities. Military activities are activities conducted by the Department of Defense with or without participation by foreign forces. The prohibitions in paragraphs (a) and (b) of this section and § 929.6 do not apply to existing classes of military activities, which were conducted prior to the effective date of the regulations in this part, as identified in the Environmental Impact Statement and Management Plan for the Florida Keys National Marine Sanctuary. New military activities in the Sanctuary are allowed and may be exempted from the prohibitions in paragraphs (a) and (b) of this section and § 929.6 by the Director or designee after consultation between the Director or designee and the Department of Defense pursuant to section 304(d) of the NMSA. When a military activity is modified such that it is likely to destroy, cause the loss of, or injure a Sanctuary resource in a manner significantly greater than was considered in a previous consultation under section 304(d) of the NMSA, or any Sanctuary resource or quality not previously considered in a previous consultation under section 304(d) of the NMSA, the activity will be treated as a new activity under this paragraph. If it is determined that an activity may be carried out, such activity shall be carried out in a manner that avoids to the maximum extent practical any adverse impact on Sanctuary resources and qualities. Civil engineering and

other civil works projects conducted by the U.S. Army Corps of Engineers are excluded from the scope of this paragraph (g)(1).

(2) In the event of threatened or actual destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an untoward incident, including but not limited to spills and groundings caused by the Department of Defense, the cognizant component shall promptly coordinate with the Director or designee for the purpose of taking appropriate actions to prevent, respond to or mitigate the harm and, if possible, restore or replace the Sanctuary resource or quality.

§ 929.6 Additional activity regulations by Sanctuary zone.

(a) In addition to the prohibitions set forth in § 929.5, which apply throughout the Sanctuary, the following requirements in this § 929.6 apply with respect to activities conducted within the Sanctuary zones described in this § 929.6 and in Appendices II through V to this part. Activities conducted in those areas of the Sanctuary that are located within two or more overlapping Sanctuary zones shall be concurrently subject to the regulations applicable to each such overlapping zone.

(b) *Existing Management Areas.*—(1) *Key Largo and Looe Key Management Areas.* The following activities are prohibited within the Key Largo and Looe Key Management Areas (the former Key Largo and Looe Key National Marine Sanctuaries as described in Appendix II to this part):

(i) Removing, taking, damaging, harmfully disturbing, breaking, cutting, spearing or similarly injuring any coral or other marine invertebrate, or any plant, soil, rock, or other material, except commercial taking of spiny lobster and stone crab by trap and recreational taking of spiny lobster by hand which is consistent with both the applicable regulations under the appropriate Fishery Management Plan and the regulations in this part is allowed.

(ii) Taking or collecting any tropical fish.

(iii) Using wire fish traps, bottom trawls, dredges, fish sleds, or similar vessel-towed or anchored bottom fishing gear or nets.

(iv) Using, carrying or possessing, except while passing without interruption through the zones or for law enforcement purposes, the following: Pole spears, air rifles, bows and arrows, slings, Hawaiian slings, rubber powered arbaletes, pneumatic and spring loaded guns or similar devices known as spearguns.

(2) *Great White Heron and Key West National Wildlife Refuge Management Areas.* Within the Great White Heron and Key West National Wildlife Refuge Management Areas (The Great White Heron and Key West National Wildlife Refuges as described in Appendix II to this part), operating a personal watercraft (PWC), operating an airboat, or water skiing, except within the following areas:

Township 66 South, Range 29 East, Sections 5, 11, 12 and 14;

Township 66 South, Range 28 East, Section 2;

Township 67 South, Range 26 East, Sections 16 and 20 all Tallahassee Meridian, is prohibited.

(c) *Wildlife Management Areas.* (1) Persons conducting activities within the Wildlife Management Areas described in Appendix III to this part shall comply with the regulations governing access to, and use of, such areas, also set forth in Appendix III to this part. The following activities are prohibited:

(i) Operating a vessel in a wildlife management area designated as an "idle/no-wake speed" zone, in accordance with paragraph (c)(2) of this section, at a speed greater than idle/no-wake speed as defined in § 929.3.

(ii) Operating a vessel in a Wildlife Management Area designated as a "no motor" zone, in accordance with paragraph (c)(2) of this section, using a boat motor powered by combustible fuel, except that vessels with such motors are permitted access to "no motor" zones only through the use of a push pole, paddle, electric motor or similar means of operation not involving the use of a gasoline or diesel powered boat motor.

(iii) Operating a vessel, by any means whatsoever, in a wildlife management area designated as a "no access buffer zone", in accordance with paragraph (c)(2) of this section.

(2) Access and use restrictions applicable to the Wildlife Management Areas listed in Appendix III to this part may include the designation of any such zone as an "idle/no-wake speed", a "no motor" or a "no access buffer" area. The Director or designee, in cooperation with other Federal, State, or local resource management authorities, as appropriate, shall effect such designation by posting official signs conspicuously, using mounting posts, buoys, or other means according to location and purpose, at appropriate intervals and locations. Official signs posted pursuant to this paragraph shall display the official logo of the Sanctuary. Each such sign shall clearly delineate such zone as an "idle/no-wake speed", a "no motor" or a "no access

buffer" zone, and shall allow instant, long-range recognition by boaters.

(3) The Director or designee shall coordinate with other Federal, State, or local resource management authorities, as appropriate, in the establishment, management, and enforcement of Wildlife Management Areas.

(4) The Director or designee may modify the number, location, or access and use restrictions applicable to Wildlife Management Areas if the Director or designee finds that such action is reasonably necessary to minimize disturbances to Sanctuary wildlife, or to ensure protection and preservation of Sanctuary wildlife consistent with the purposes of the Sanctuary designation and other applicable law governing the protection and preservation of wildlife resources in the Sanctuary. The Director or designee will effect such modification by:

(i) Publishing in the **Federal Register**, after notice and a request for public comments in accordance with the Administrative Procedure Act, an amendment to the list of such areas set forth in Appendix III to this part, and a notice regarding the time and place where maps depicting the precise locations of such areas will be made available for public inspection; and

(ii) Posting official signs designating such areas in accordance with paragraph (c)(2) of this section.

(d) *Sanctuary Preservation Areas and Replenishment Reserves.* (1) In addition to the prohibitions set forth in § 929.5, and the regulations applicable to any overlapping zones set forth in this section, the following activities are prohibited within the Replenishment Reserves described in Appendix IV to this part, and within the Sanctuary Preservation Areas, described in Appendix V to this part:

(i) Possessing (regardless of where taken from), moving, harvesting, removing, taking, damaging, disturbing, breaking, cutting, spearing, or otherwise injuring any coral, marine invertebrate, fish, bottom formation, algae, seagrass or other living or dead organism, including shells, or attempting any of these activities.

(ii) Fishing by any means. However, possession of gear capable of harvesting fish aboard a vessel, provided such gear is stowed away prior to entering and during transit through the zone, shall not be deemed a violation of this prohibition, and no presumption of fishing activity shall be drawn therefrom.

(iii) Touching living or dead coral, including but not limited to, standing on a living or dead coral formation.

(iv) Placing any anchor in a way that allows the anchor or any portion of the anchor apparatus (including the anchor, chain or rope) to touch living or dead coral, or any sessile organism. When anchoring dive boats, the first diver down shall inspect the anchor to ensure that it is not touching living or dead coral, and will not shift in such a way as to touch such coral or other sessile organisms. No further diving is permitted until the anchor is placed in accordance with these requirements.

(2) Vessels shall use mooring buoys or anchoring areas when such facilities or areas have been designated and are available.

(3) Notwithstanding paragraph (d)(1) of this section, the following activities are allowed within the Key Largo Replenishment Reserve described in Appendix IV to this part:

(i) catch and release fishing from the shore to a depth of 12 feet; and

(ii) harvest of spiny lobster by trap from sand or seagrass bottom habitats.

(4) The Director or designee may impose a limited access designation, or temporary area closure, within any Sanctuary Preservation Area if the Director determines that such action is reasonably necessary to allow for recovery of the living resources of such area from the adverse, cumulative effects of concentrated use:

(i) Except for passage without interruption through the area, for law enforcement or for monitoring pursuant to paragraph (d)(4)(iii) of this section, no person shall:

(A) Enter a Sanctuary Preservation Area subject to a limited access designation, except by the use of such mooring buoys or anchoring areas as are designated and available for use within such area at the time of the entry; or

(B) Enter a Sanctuary Preservation Area subject to a temporary area closure, during the pendency of the area closure.

(ii) In adopting any limited access designation or temporary area closure pursuant to this paragraph (d)(4), the Director or designee will determine, on the basis of the best available data, information and studies, that:

(A) A concentration of use appears to be causing or contributing to significant degradation of the living resources of the area;

(B) The access restriction or temporary area closure to be imposed is reasonably necessary to allow recovery of the living resources of the area.

(iii) The Director or designee will provide for continuous monitoring of the area during the pendency of the limited access designation or temporary area closure.

(iv) The Director or designee will provide public notice of the limited access designation or temporary area closure through publishing notice in the **Federal Register**, and such other means as the Director or designee may deem appropriate. With respect to a temporary area closure, the Director or designee will specify the period of such closure.

(e) *Special Use Areas.* (1) The Director or designee may set aside discrete areas of the Sanctuary as Special Use Areas, and, by designation pursuant to this paragraph (e), impose the use restrictions specified in paragraph (e)(3) of this section. Special Use Areas are described in Appendix VI to this part, in accordance with the following designations and corresponding objectives:

(i) "Recovery areas" to provide for the recovery of Sanctuary resources from degradation or other injury attributable to human uses;

(ii) "Restoration areas" to provide for restoration of degraded or otherwise injured Sanctuary resources;

(iii) "Research only areas" to provide for scientific research or education relating to protection and management; and

(iv) "Facilitated use areas" to provide for the prevention of use or user conflicts or the facilitation of access and use, or to promote public use and understanding, of Sanctuary resources through the issuance of Special Use permits pursuant to § 929.12.

(2) The total restricted area shall not exceed a size the Director or designee deems reasonably necessary to accomplish these objectives.

(3) Persons conducting activities within any Special Use Area shall comply with the access and use restriction specified in this paragraph and made applicable to such an area by means of its designation as a "recovery area", "restoration area", "research only area" or "facilitated use area." Except for passage without interruption through the area and for law enforcement, no person may enter into a Special Use Area except to conduct or cause to be conducted the following uses and activities:

(i) Habitat manipulation related to restoration of degraded or otherwise injured Sanctuary resources, or activities reasonably necessary to monitor recovery of degraded or otherwise injured Sanctuary resources within such an area designated as either a "recovery area" or a "restoration area";

(ii) Scientific research or educational use specifically authorized by and conducted in accordance with the scope, purpose, terms and conditions of

a valid Sanctuary permit issued pursuant to § 929.10 or § 929.11 within such an area designated as a "research only area"; or

(iii) Uses and activities specified by the Director or designee or specifically authorized by and conducted in accordance with the scope, purpose, terms, and conditions of a valid special use permit issued pursuant to § 929.12 within such an area designated as a "facilitated use area."

(4) (i) The Director or designee may modify the number, location or designation applicable to Special Use Zones by publishing in the **Federal Register**, after notice and a request for public comments in accordance with the Administrative Procedure Act, an amendment to Appendix VI to this part, except that, with respect to such zones designated as "recovery areas", "restoration areas," or "research only areas," the Director or designee may modify the number, location or designation of such zones by publishing a notice of such action in the **Federal Register** if the Director determines that immediate action is reasonably necessary to:

(A) Prevent significant injury to Sanctuary resources where circumstances create an imminent risk to such resources;

(B) Initiate restoration activity where a delay in time would significantly impair the ability of such restoration activity to succeed;

(C) Initiate research activity where an unforeseen natural event produces an opportunity for scientific research that may be lost if research is not initiated immediately.

(ii) If the Director or designee determines that a notice of modification must be promulgated immediately in accordance with paragraph (e)(4)(i) of this section, the Director or designee will, as part of the same notice, invite public comment and specify that comments will be received for 15 days after the effective date of the notice. As soon as practicable after the end of the comment period, the Director will either rescind, modify or allow the modification to remain unchanged through notice in the **Federal Register**.

§ 929.7 Emergency regulations.

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all activities are subject to immediate temporary regulation, including prohibition.

§ 929.8 Penalties.

(a) Each violation of the NMSA or FKNMSPA, any regulation in this part, or any permit issued pursuant thereto, is subject to a civil penalty of not more than \$100,000. Each such violation shall be subject to forfeiture of property or Sanctuary resources seized in accordance with section 307 of the NMSA. Each day of a continuing violation constitutes a separate violation.

(b) Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions and denials for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property appear at 15 CFR Part 904.

§ 929.9 Response costs and damages.

Under Section 312 of the NMSA, any person who destroys, causes the loss of, or injures any Sanctuary resource is liable to the United States for response costs, damages, and interest resulting from such destruction, loss, or injury, and any vessel used to destroy, cause the loss of, or injure any Sanctuary resource is liable in rem to the United States for response costs, damages, and interest resulting from such destruction, loss, or injury.

§ 929.10 National Marine Sanctuary Permits; application procedures and issuance criteria.

(a) A person may conduct an activity prohibited by § 929.5 or § 929.6 if such activity is specifically authorized by, and provided such activity is conducted in accordance with the scope, purpose, terms and conditions of, a permit issued under this § 929.10 or an Historical Resources permit issued under § 929.11.

(b)(1) The Director or designee, at his or her discretion, may issue a permit, in accordance with this section, and subject to such terms and conditions as he or she deems appropriate, to conduct an activity prohibited by § 929.5 or § 929.6 if the Director or designee finds that the activity will have only negligible short-term adverse effects on Sanctuary resources and qualities and will:

(i) Further research or monitoring related to Sanctuary resources and qualities;

(ii) Further the educational, natural or historical resource value of the Sanctuary;

(iii) Further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; or

(iv) Assist in managing the Sanctuary.

(2) For activities proposed to be conducted within Replenishment

Reserves or Sanctuary Preservation Areas, the Director or designee shall further find that such activities will further and are consistent with the purposes for which such zone was established.

(c) In deciding whether to issue a permit, the Director or designee may consider:

(1) The professional qualifications and financial ability of the applicant as related to the proposed activity;

(2) The duration of the activity and the duration of its effects;

(3) The appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity;

(4) The extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities;

(5) Any indirect, secondary or cumulative effects of the activity;

(6) The end value of the activity; and

(7) Such other factors as he or she deems appropriate depending on the type of activity proposed in the application.

(d) Applications for permits should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuary Superintendent, Florida Keys National Marine Sanctuary, P.O. Box 500368, Marathon, FL 33050. All applications must include:

(1) A detailed description of the proposed activity including a timetable for completion of the activity and the equipment, personnel and methodology to be employed;

(2) The qualifications and experience of all personnel;

(3) The potential effects of the activity, if any, on Sanctuary resources and qualities; and

(4) The benefit to be derived from the activity. Copies of all other required licenses, permits, approvals, or other authorizations must be attached to the application.

(e) Upon receipt of an application, the Director or designee may request such additional information from the applicant as he or she deems reasonably necessary to act on the application and may seek the views of any persons. The Director or designee may require a site visit as part of the permit evaluation. Unless otherwise specified, the information requested must be received by the Director or designee within 30 days of the postmark date of the request. Failure to provide such additional information on a timely basis may be deemed by the Director or designee to constitute abandonment or withdrawal of the permit application.

(f) A permit issued pursuant to this § 929.10 or § 929.11 is nontransferable.

(g) The Director or designee may amend, suspend, or revoke a permit for good cause. The Director or designee may deny a permit application, in whole or in part, if it is determined that the permittee or applicant has acted in violation of the terms or conditions of a previous permit, of the regulations in this part, of the NMSA or FKNMSA, or for other good cause. Any such action shall be communicated in writing to the permittee or applicant by certified mail and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are set forth in 15 CFR Part 904, subpart D.

(h) Any permit issued pursuant to this § 929.10, § 929.11, § 929.12, or Section 310 of the NMSA shall be subject to the following general conditions:

(1) All permitted activities shall be conducted in a manner that does not destroy, cause the loss of, or injure Sanctuary resources, except that a permit issued under this § 929.10 or § 929.11 may authorize negligible short-term adverse effects on Sanctuary resources and qualities.

(2) The permittee shall agree to hold the United States harmless against any and all claims arising out of the conduct of the permitted activities.

(3) The permit shall be issued for a period not exceeding five years. However, the permittee may request permit renewal or a different permit pursuant to the same procedure as provided by this § 929.10. Upon the permittee's request for renewal, the Director or designee shall: review all annual reports submitted by the permittee pursuant to paragraph (h)(4) of this section. In order to renew the permit, the Director or designee must find that the activity will continue to further the purposes for which the Sanctuary was designated in accordance with the criteria applicable to the initial issuance of the permit; ascertain the permittee has at no time violated the permit, or these regulations; and ascertain the permittee has not destroyed, caused the loss of, or injured Sanctuary resources while conducting the permitted activities, except for any negligible short-term adverse effects on Sanctuary resources and qualities authorized by the permit pursuant to paragraph (h)(1) of this section.

(4) The permit or a copy thereof shall be displayed on board all vessels or aircraft used in the conduct of the permitted activity.

(i) In addition to the general conditions listed in paragraphs (h)(1) through (4) of this section, any permit

issued pursuant to this § 929.10, § 929.11, § 929.12, or Section 310 of the NMSA may be subject to such specific terms and conditions, including conditions governing access to, or use of, Sanctuary resources, as the Director or designee deems reasonably necessary or appropriate and in furtherance of the purposes for which the Sanctuary is designated. Such conditions may include, without limitation, a condition that:

(1) Any data or information obtained under the permit shall be made available to the public;

(2) A NOAA official shall be allowed to observe any activity conducted under the permit;

(3) The permittee shall submit one or more reports on the status, progress, or results of any activity authorized by the permit;

(4) The permittee shall submit an annual report to the Director or designee not later than December 31 of each year on activities conducted pursuant to the permit. The report shall describe all activities conducted under the permit and all revenues derived from such activities during the term of the permit; and/or

(5) The permittee shall purchase and maintain general liability insurance against any and all claims arising out of the permitted activities. A copy of the insurance policy shall be submitted to the Director or designee.

(j) The applicant for or holder of a National Marine Sanctuary or a National Marine Sanctuary Historical Resources permit may appeal the denial, conditioning, amendment, suspension or revocation of the permit in accordance with the procedures set forth in § 929.16.

§ 929.11 National Marine Sanctuary Historical Resources Permits; exploration, research/recovery, research/recovery/transfer; application procedures and issuance criteria.

(a) The Director or designee, at his or her discretion, may issue a research/exploration, research/recovery, or research/recovery/transfer permit, in accordance with this § 929.11, and subject to such terms and conditions as he or she deems appropriate, to conduct an activity specified under this § 929.11 and prohibited by §§ 929.5 or 929.6. Activities conducted pursuant to a permit issued under this § 929.11 shall be consistent and conform with the [proposed] Procedures for Submerged Cultural Resources Agreement Among NOAA, The Advisory Council on Historic Preservation, and the State of Florida on Submerged Cultural Resources (hereinafter SCR Agreement).

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The SCR Agreement is reproduced as an appendix to the "Regulatory Action Plan" set forth in Volume 1 of the [draft] Florida Keys National Marine Sanctuary Management Plan, dated March 1995. Copies of the SCR Agreement may be inspected at, and obtained from, the Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1305 East-West Highway, 12th floor, Silver Spring, MD 20910 or from the Florida Keys National Marine Sanctuary Office, P.O. Box 500368, Marathon, FL 33050. The SCR Agreement is also available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.¹

(b) Applications for research/recovery and research/recovery/transfer permits shall follow the procedures listed in § 929.10 (d) through (g).

(c) Any permit issued pursuant to this § 929.11 shall be subject to the general conditions listed in § 929.10(h) (1) through (4), and any special conditions that may be imposed by the Director or designee in accordance with § 929.10(i). In addition, the following general conditions shall apply to all research/recovery and research/recovery/transfer permits:

(1) The permittee shall post a performance bond commensurate with the scope of work to cover costs associated with the recovery. The bond shall be released only after the project is completed according to the agreed-upon terms, the artifacts are conserved, and a final report is delivered and approved by Director or designee in accordance with the SCR Agreement; and

(2) The permittee, at his or her own expense, shall provide secure storage of the artifacts recovered pursuant to research/recovery or research/recovery/transfer permit, and the permittee shall obtain insurance for the artifacts equivalent to the fair market value as determined by a qualified objective assessor. Such assessor shall be identified or approved by the Director or designee.

(d) *Survey and Inventory Permits.* (1) The Director or designee may issue a survey and inventory permit to conduct non-intrusive survey activities that will not include excavation, removal, or

¹ The incorporation by reference will be submitted to the Office of the Federal Register for approval.

recovery of historical resources, nor result in destruction of, loss of, or injury to Sanctuary resources.

(2) Survey and inventory reports and daily logs must be prepared describing the activities conducted pursuant and results obtained from the activities authorized in the exploration permit. Copies of the report and daily logs and any other data derived from the survey shall be delivered in a timely manner pursuant to a deadline proscribed in the permit and will be stored in a repository to be named in the permit.

(e) *Research/Recovery Permits.* (1) Recovery of historical resources will only be permitted when developed in conjunction with research to preserve the historic information for public use. Intrusive research and/or recovery will be permitted based upon a balancing of factors and criteria to determine whether the goals of preservation, research, education, and public access are better served by permitting this type of activity as opposed to leaving the historic resource in place.

(2) For sites where no prior federally adjudicated claim exists, and for federally adjudicated admiralty claim sites within the Sanctuary, the following minimum requirements apply as general permit conditions and may be subject to separate approval, as specified by the Director or designee:

(i) The applicant must have secured Federal, State, and local permits from all agencies with jurisdiction over the proposed activities;

(ii) A professional archaeologist must be in charge of planning, conducting, and supervising field operations, analysis;

(iii) A conservation laboratory must be in place before field operations are begun, and a professional nautical conservator must be in charge of planning, conducting, and supervising the conservation of any artifacts and other materials recovered;

(iv) A curation agreement with a museum or facility for curation, display, and maintenance of the recovered historical resources must be in place before field operations have begun;

(v) The site's archaeological information must be fully documented, including measured drawings, site maps drawn to professional standards, and a photographic record;

(vi) Final reports must be prepared describing research design, methodology, laboratory analyses, findings, and other items. These reports shall be delivered in a timely manner pursuant to a deadline proscribed in the permit;

(vii) Copies of all reports, site maps, field notes, and other data and records

derived from the project will be stored in a repository to be named in the permit.

(f) *Research/Recovery/Transfer Permits.* (1) Agreements for the curation and display of recovered historical resources may provide for the release of public artifacts for private sale transfer if such sale transfer is consistent with preservation, research, education, or other purposes of the designation and management of the Sanctuary. Sale distribution of historical resources shall be executed pursuant to the SCR Agreement.

(2) All research/recovery/transfer permits shall be subject to the requirements in paragraph (e) of this section.

(3) All research/recovery/transfer permits shall be subject to the requirements for special use permits listed in § 929.12 (c) through (f).

§ 929.12 Special Use Permits.

(a)(1) The Director or designee may require a special use permit in order to conduct a concession-type, commercial activity within the Sanctuary if the Director or designee determines such authorization is reasonably necessary:

(i) To establish conditions of access to and use of any Sanctuary resource; or

(ii) To promote public use and understanding of any Sanctuary resource.

(2) No permit may be issued unless the activity is compatible with the purposes for which the Sanctuary was designated and can be conducted in a manner that does not destroy, cause the loss of, or injure any Sanctuary resource.

(b) Applications for such permits shall follow the procedures listed in § 929.10(d) through (g).

(c) Any special use permit issued pursuant to this § 929.12 shall be subject to the general conditions listed in § 929.10(h)(1) through (4), and any special conditions that may be imposed by the Director or designee in accordance with § 929.10(i).

(d) The Director or designee may assess and collect fees for the conduct of any activity authorized by a special use permit issued pursuant to this § 929.12. No special use permit shall be effective until all assessed fees are paid, unless otherwise provided by the Director or designee by a fee schedule set forth as a permit condition.

(e) In assessing a fee under paragraph (f) of this section, the Director or designee shall include:

(1) All costs incurred, or expected to be incurred, in reviewing and processing the permit application, including costs for:

(i) Number of personnel;
(ii) Personnel hours;
(iii) Equipment;
(iv) Biological assessments;
(v) Copying; and
(vi) Overhead directly related to reviewing and processing the permit application;

(2) All costs incurred, or expected to be incurred, by the Director or designee as a direct result of the conduct of the activity for which the special use permit was issued, including, but not limited to:

(i) The cost of monitoring the conduct both during and after the activity is completed in order to assess the impacts to Sanctuary resources;

(ii) The use of an official NOAA observer, including travel and expenses and personnel hours; and

(iii) Overhead costs directly related to the permitted activity; and

(3) An amount which represents the fair market value of the use of the Sanctuary resource and a reasonable return to the United States Government.

(f) Special-use permits may not be transferred, sold, or assigned except with the written approval of the Director or designee. The permittee shall provide the Director or designee with written notice of any such transfer, sale, or assignment no less than 30 days prior to its proposed consummation. Transfers, sales, or assignments consummated in violation of this requirement shall be considered a material breach of the special-use permit, and the permit shall be considered void as of the consummation of any such transfer, sale, or assignment.

(g) Nothing in this § 929.12 shall be considered to require a person to obtain a permit under this § 929.12 for the conduct of any fishing activities within the Sanctuary.

§ 929.13 Sanctuary registry; research notice.

Any person conducting research in the Sanctuary, including such research not involving activities prohibited by §§ 929.5 or 929.6, may voluntarily register with the appropriate Sanctuary field office. Such registration should include the type of research being conducted, location of research area, and name, addressee, and contact telephone numbers of the principal investigator or research expedition leader. Upon registration, the Sanctuary office will issue a research flag to be used while conducting research within the Sanctuary. The flag must be returned upon completion of all research activities. Copies of research results, abstracts, and reports may be submitted to the Sanctuary field office

to be retained for Sanctuary management purposes, public observation, and peer review.

§ 929.14 Certification of pre-existing leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by §§ 929.5 or § 929.6 if such activity is specifically authorized by a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that:

(1) The holder of such authorization or right notifies the Director or designee, in writing, within 90 days of the effective date of the regulations in this part, of the existence of such authorization or right and requests certification of such authorization or right;

(2) The holder complies with the other provisions of this § 929.14; and

(3) The holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director or designee, to achieve the purposes for which the Sanctuary was designated.

(b) The holder of a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, or of any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, authorizing an activity prohibited by § 929.5 or § 929.6 may conduct the activity without being in violation of specified provisions of § 929.5 or § 929.6, pending final agency action on his or her certification request, provided the holder is in compliance with this § 929.14.

(c) Any holder of a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or any holder of a valid right of subsistence use or access in existence on the effective date of Sanctuary designation, may request the Director or designee to issue a finding as to whether the activity for which the authorization has been issued, or the right given, is prohibited under § 929.5 or § 929.6.

(d) Requests for findings or certifications should be addressed to the

Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Silver Spring, Maryland 20910. A copy of the lease, permit, license, approval, or other authorization must accompany the request.

(e) The Director or designee may request additional information from the certification requester as he or she deems reasonably necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the Sanctuary was designated. The information requested must be received by the Director or designee within 45 days of the postmark date of the request. The Director or designee may seek the views of any persons on the certification request.

(f) The Director or designee may amend any certification made under this § 929.14 whenever additional information becomes available justifying such an amendment.

(g) The Director or designee shall communicate any decision on a certification request or any action taken with respect to any certification made under this § 929.14, in writing, to both the holder of the certified lease, permit, license, approval, other authorization, or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(h) Any time limit prescribed in or established under this § 929.14 may be extended by the Director or designee for good cause.

(i) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 929.16.

(j) Any amendment, renewal, or extension not in existence on the effective date of Sanctuary designation of a lease, permit, license, approval, other authorization, or right is subject to the provisions of § 929.15.

§ 929.15 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by §§ 929.5 or 929.6 if such activity is specifically authorized by any valid lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, provided that:

(1) The applicant notifies the Director or designee, in writing, of the application for such authorization (and of any application for an amendment, renewal, or extension of such authorization) within fifteen (15) days of the date of filing of the application or of the effective date of the regulations in this part, whichever is later;

(2) The applicant complies with the other provisions of this § 929.15;

(3) The Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization (or amendment, renewal, or extension); and

(4) The applicant complies with any terms and conditions the Director or designee deems reasonably necessary to protect Sanctuary resources and qualities.

(b) Any potential applicant for a lease, permit, license, approval, or other authorization from any Federal, State, or local authority (or for an amendment, renewal, or extension of such authorization) may request the Director or designee to issue a finding as to whether the activity for which an application is intended to be made is prohibited by §§ 929.5 or 929.6.

(c) Notification of filings of applications should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Silver Spring, Maryland 20910. A copy of the application must accompany the notification.

(d) The Director or designee may request additional information from the applicant as he or she deems reasonably necessary to determine whether to object to issuance of such lease, license, permit, approval, or other authorization (or to issuance of an amendment, extension, or renewal of such authorization), or what terms and conditions are reasonably necessary to protect Sanctuary resources and qualities. The information requested must be received by the Director or designee within 45 days of the postmark date of the request. The Director or designee may seek the views of any persons on the application.

(e) The Director or designee shall notify, in writing, the agency to which application has been made of his or her review of the application and possible objection to issuance. After review of the application and information received with respect thereto, the Director or designee shall notify both the agency and applicant, in writing,

whether he or she has an objection to issuance and what terms and conditions he or she deems reasonably necessary to protect Sanctuary resources and qualities. The Director or designee shall state the reason(s) for any objection or the reason(s) that any terms and conditions are deemed reasonably necessary to protect Sanctuary resources and qualities.

(f) The Director or designee may amend the terms and conditions deemed reasonably necessary to protect Sanctuary resources and qualities whenever additional information becomes available justifying such an amendment.

(g) Any time limit prescribed in or established under this § 929.15 may be extended by the Director or designee for good cause.

(h) The applicant may appeal any objection by, or terms or conditions imposed by, the Director or designee to the Assistant Administrator or designee in accordance with the provisions set forth in § 929.16.

§ 929.16 Appeals of administrative action.

(a) Except for permit actions taken for enforcement reasons (see 15 CFR part 904, subpart D, for applicable procedures), an applicant for, or a holder of, a § 929.10 Sanctuary permit, an applicant for, or a holder of, a § 929.11 Sanctuary Historical Resources Permit, an applicant for, or a holder of, a § 929.12 Special Use Permit, a § 929.14 certification requester, or a § 929.15 applicant (hereinafter appellant) may appeal to the Assistant Administrator or designee:

(1) The denial, conditioning, amendment, suspension, or revocation by the Director or designee of a National Marine Sanctuary, National Marine Sanctuary Historical Resources or Special Use Permit;

(2) The conditioning, amendment, suspension, or revocation of a certification under § 929.14; or

(3) The objection to issuance or the imposition of terms and conditions under § 929.15.

(b) An appeal under paragraph (a) of this section must be in writing, state the action(s) by the Director or designee appealed and the reason(s) for the appeal, and be received within 30 days of receipt of notice of the action by the Director or designee. Appeals should be addressed to the Assistant Administrator, Office of Ocean and Coastal Resource Management, ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric

Administration, 1305 East-West Highway, Silver Spring, MD 20910.

(c) While the appeal is pending, appellants may not conduct their activities without being subject to the prohibitions in §§ 929.5 and 929.6.

(d) The Assistant Administrator or designee may request the appellant to submit such information as the Assistant Administrator or designee deems reasonably necessary in order for him or her to decide the appeal. The information requested must be received by the Assistant Administrator or designee within 45 days of the postmark date of the request. The Assistant Administrator may seek the views of any other persons. The Assistant Administrator or designee may hold an informal hearing on the appeal. If the Assistant Administrator or designee determines that an informal hearing should be held, the Assistant Administrator or designee may designate an officer before whom the hearing shall be held. The hearing officer shall give notice in the **Federal Register** of the time, place, and subject matter of the hearing. The appellant and the Director or designee may appear personally or by counsel at the hearing and submit such material and present such arguments as deemed appropriate by the hearing officer. Within 60 days after the record before the hearing officer closes, the hearing officer shall recommend a decision in writing to the Assistant Administrator or designee.

(e) The Assistant Administrator or designee shall decide the appeal using the same regulatory criteria as for the initial decision and shall base the appeal decision on the record before the Director or designee and any information submitted regarding the appeal, and if a hearing has been held, on the record before the hearing officer and the hearing officer's recommended decision. The Assistant Administrator or designee shall notify the appellant of the final decision and the reason(s) therefor in writing. The Assistant Administrator or designee's decision shall constitute final agency action for purposes of the Administrative Procedure Act.

(f) Any time limit prescribed in or established under this section other than the 30 day limit for filing an appeal may be extended by the Assistant Administrator, designee, or hearing officer for good cause.

Appendix I to Part 929—Florida Keys National Marine Sanctuary Boundary Coordinates

(Appendix Based on North American Datum of 1983.)

The boundary of the Florida Keys National Marine Sanctuary—

(a) begins at the northeasternmost point of Biscayne National Park located at approximately 25 degrees 39 minutes north latitude, 80 degrees 5 minutes west longitude, then runs eastward to the 300-foot isobath located at approximately 25 degrees 39 minutes north latitude, 80 degrees 4 minutes west longitude;

(b) then runs southward and connects in succession the points at the following coordinates:

(i) 25 degrees 34 minutes north latitude, 80 degrees 4 minutes west longitude,

(ii) 25 degrees 28 minutes north latitude, 80 degrees 5 minutes west longitude, and

(iii) 25 degrees 21 minutes north latitude, 80 degrees 7 minutes west longitude;

(iv) 25 degrees 16 minutes north latitude, 80 degrees 8 minutes west longitude;

(c) then runs southwesterly approximating the 300-foot isobath and connects in succession the points at the following coordinates:

(i) 25 degrees 7 minutes north latitude, 80 degrees 13 minutes west longitude,

(ii) 24 degrees 57 minutes north latitude, 80 degrees 21 minutes west longitude,

(iii) 24 degrees 39 minutes north latitude, 80 degrees 52 minutes west longitude,

(iv) 24 degrees 30 minutes north latitude, 81 degrees 23 minutes west longitude,

(v) 24 degrees 25 minutes north latitude, 81 degrees 50 minutes west longitude,

(vi) 24 degrees 22 minutes north latitude, 82 degrees 48 minutes west longitude,

(vii) 24 degrees 37 minutes north latitude, 83 degrees 6 minutes west longitude,

(viii) 24 degrees 40 minutes north latitude, 83 degrees 6 minutes west longitude,

(ix) 24 degrees 46 minutes north latitude, 82 degrees 54 minutes west longitude,

(x) 24 degrees 44 minutes north latitude, 81 degrees 55 minutes west longitude,

(xi) 24 degrees 51 minutes north latitude, 81 degrees 26 minutes west longitude, and

(xii) 24 degrees 55 minutes north latitude, 80 degrees 56 minutes west longitude;

(d) then follows the boundary of Everglades National Park in a southerly then northeasterly direction through Florida Bay, Buttonwood Sound, Tarpon Basin, and Blackwater Sound;

(e) after Division Point, then departs from the boundary of Everglades National Park and follows the western shoreline of Manatee Bay, Barnes Sound, and Card Sound;

(f) then follows the southern boundary of Biscayne National Park to the southeasternmost point of Biscayne National Park; and

(g) then follows the eastern boundary of Biscayne National Park to the beginning point specified in paragraph (a) of this Appendix.

Appendix II to Part 929—Existing Management Areas

The four (4) areas are identified as follows: National Oceanic and Atmospheric Administration

Pre-existing National Marine Sanctuaries:

(1) Key Largo National Marine Sanctuary (see 15 CFR Part 929, as revised January 1, 1995).

(2) Looe Key National Marine Sanctuary (see 15 CFR Part 937, as revised January 1, 1995).

United States Fish and Wildlife Service

(3) Great White Heron National Wildlife Refuge

(4) Key West National Wildlife Refuge

Appendix III to Part 929—Wildlife Management Areas

The twenty-six (26) zones are described as follows:

Area	Measure
(1) Bay Keys	No motor zone (300 feet) around one island; Idle/no-wake speed in tidal creeks
(2) Boca Grande Key.	Close south one-half of the beach.
(3) Woman Key	Close east one-half of the beach and sand spit (southeast side).
(4) Cayo Agua Keys.	Idle/ no-wake speed zone in all tidal creeks.
(5) Cotton Key	No motor zone on tidal flat.
(6) Snake Creek	Do.
(7) Cottrell Key	No motor zone (300 feet) around entire island.
(8) Little Mullet Key	No access buffer zone (300 feet) around entire island.
(9) Big Mullet Key	No motor zone (300 feet) around entire island.
(10) Crocodile Lake	No access buffer zone (300 feet) along shoreline.
(11) East Harbor Key.	No access buffer zone (300 feet) around northernmost island.
(12) Lower Harbor Keys.	Idle/ no-wake speed zone in all tidal creeks.
(13) Horseshoe Key	No access buffer zone (300 feet) around main island.
(14) Marquesas Keys.	(i) No motor zones (300 feet) around 3 small islands on western side of chain; (ii) no access buffer zone (300 feet) around one island at western side of chain; (iii) idle/ no-wake speed zone through one tidal creek on southern side of chain.
(15) Tidal flat south of Marvin Key.	No access buffer zone.
(16) Mud Keys (i) ...	Idle/ no-wake speed zones in 2 main creeks; (ii) No access in 2 smaller creeks.
(17) Pelican Shoal	No landing and no access out to 50 feet from shore between April 1 and September 15.

Area	Measure
(18) Rodriguez Key	No motor zone on tidal flat.
(19) Dove Key	No motor zone on tidal flat; No access zone around the two small islands.
(20) Tavernier Key	No motor zone on tidal flat.
(21) Sawyer Keys	Close tidal creeks on south side.
(22) Snipe Keys (tidal creeks north of Outer narrows).	(i) Idle no-wake speed zone in main tidal creek; (ii) No motor zone elsewhere.
(23) Upper Harbor Key.	No access buffer zone (300 feet) around entire island.
(24) East Content Keys.	Idle/ no-wake speed zones in tidal creeks between southernmost islands.
(25) West Content Keys.	Idle/ no-wake speed zones in tidal creeks; no access buffer zone in one cove.
(26) Little Crane Key.	No access buffer zone (300 feet) around entire island.

Appendix IV to Part 929—Replenishment Reserves

The three (3) zones consist of those portions of the Sanctuary which are located within the following geographic boundary coordinates based on North American Datum of 1983:

Point	Latitude	Longitude
KEY LARGO		
1	25°17.7'N	80°16.9'W
2	25°15.2'N	80°11.2'W
3	25°11.6'N	80°13.3'W
4	25°14.3'N	80°19.0'W
SAMBOS		
1	24°33.70'N	81°40.80'W
2	24°28.70'N	81°41.90'W
3	24°28.50'N	81°43.70'W
4	24°33.50'N	81°43.10'W
DRY TORTUGAS		
1	24°45.70'N	82°45.00'W
2	24°22.20'N	82°45.00'W
3	24°22.00'N	82°48.00'W
4	24°25.30'N	82°52.00'W
5	24°34.00'N	82°52.00'W
6	24°34.00'N	82°54.00'W
7	24°37.00'N	82°48.00'W
8	24°40.00'N	82°46.00'W
9	24°42.00'N	82°46.00'W
10	24°43.90'N	82°48.00'W
11	24°43.50'N	82°52.00'W
12	24°45.90'N	82°52.00'W

Appendix V to Part 929—Sanctuary Preservation Areas

The nineteen (19) zones consist of those portions of the Sanctuary which are located within the following geographic boundary coordinates based on North American Datum of 1983:

Point	Latitude	Longitude
ALLIGATOR REEF		
1	24°51.2'N	80°37.1'W
2	24°50.8'N	80°36.8'W
3	24°50.4'N	80°37.3'W
CARYSFORT/SOUTH CARYSFORT REEF		
1	25°14.1'N	80°12.6'W
2	25°13.7'N	80°12.2'W
3	25°12.2'N	80°13.4'W
4	25°12.5'N	80°13.8'W
CHEECA ROCKS		
1	24°54.5'N	80°37.6'W
2	24°54.3'N	80°37.5'W
3	24°54.2'N	80°37.7'W
4	24°54.5'N	80°37.8'W
COFFINS PATCH		
1	24°41.1'N	80°57.5'W
2	24°40.6'N	80°58.4'W
3	24°41.5'N	80°57.7'W
4	24°41.1'N	80°58.6'W
CONCH REEF		
1	24°57.5'N	80°27.4'W
2	24°57.4'N	80°27.3'W
3	24°57.0'N	80°27.7'W
4	24°56.9'N	80°27.6'W
DAVIS REEF		
1	24°55.6'N	80°30.3'W
2	24°55.3'N	80°30.0'W
3	24°55.1'N	80°30.4'W
4	24°55.4'N	80°30.7'W
DRY ROCKS		
1	25°7.6'N	80°17.9'W
2	25°7.4'N	80°17.7'W
3	25°7.3'N	80°17.8'W
4	25°7.4'N	80°18.1'W
GRECIAN ROCKS		
1	25°6.9'N	80°18.2'W
2	25°6.6'N	80°17.9'W
3	25°6.1'N	80°18.5'W
4	25°6.2'N	80°18.6'W
5	25°6.8'N	80°18.6'W
EASTERN DRY ROCKS		
1	24°27.9'N	81°50.5'W
2	24°27.7'N	81°50.4'W
3	24°27.5'N	81°50.6'W
4	24°27.7'N	81°50.8'W
THE ELBOW		
1	25°9.1'N	80°15.4'W
2	25°8.9'N	80°15.1'W
3	25°8.1'N	80°15.7'W
4	25°8.8'N	80°15.7'W
FRENCH REEF		
1	25°2.2'N	80°20.6'W
2	25°1.8'N	80°21.0'W
3	25°2.3'N	80°21.2'W
HEN AND CHICKENS		
1	24°56.4'N	80°32.9'W
2	24°56.2'N	80°32.7'W
3	24°55.7'N	80°33.1'W
4	24°55.9'N	80°33.3'W
LOOE KEY		
1	24°33.2'N	81°24.2'W

Point	Latitude	Longitude
2	24°32.6'N	81°24.1'W
3	24°32.4'N	81°24.7'W
4	24°33.1'N	81°24.8'W
MOLASSES REEF		
1	25°0.9'N	80°22.4'W
2	25°0.7'N	80°22.0'W
3	25°0.2'N	80°22.8'W
4	25°0.7'N	80°22.8'W
NEWFOUND HARBOR KEY		
1	24°37.1'N	81°23.3'W
2	24°36.7'N	81°23.8'W
3	24°36.8'N	81°23.3'W
4	24°36.9'N	81°23.9'W
ROCK KEY		
1	24°27.5'N	81°51.3'W
2	24°27.3'N	81°51.2'W
3	24°27.2'N	81°51.5'W
4	24°27.5'N	81°51.6'W
SAND KEY		
1	24°27.6'N	81°53.1'W
2	24°27.0'N	81°53.1'W
3	24°27.0'N	81°52.3'W
4	24°27.6'N	81°52.3'W
SOMBRERO KEY		
1	24°37.8'N	81°6.7'W
2	24°37.3'N	81°6.1'W
3	24°37.1'N	81°6.8'W
WESTERN SAMBO		
1	24°29.1'N	81°42.6'W
2	24°28.8'N	81°42.4'W
3	24°28.6'N	81°43.2'W
4	24°28.9'N	81°43.4'W

Appendix VI to Part 929—Special Use Areas

The four (4) zones consist of those portions of the Sanctuary which are located within the following geographic boundary coordinates based on North American Datum of 1983:

Point	Latitude	Longitude
CONCH REEF (RESEARCH ONLY)		
1	24°57.4'N	80°27.3'W
2	24°57.0'N	80°27.0'W
3	24°56.7'N	80°27.4'W
4	24°57.0'N	80°27.7'W
LOOE KEY (RESEARCH ONLY)		
1	24°34.1'N	81°23.3'W
2	24°34.0'N	81°23.2'W
3	24°33.8'N	81°23.8'W
4	24°34.0'N	81°23.9'W
PELICAN SHOAL (RESEARCH ONLY)		
1	24°30.3'N	81°37.7'W
2	24°30.0'N	81°37.7'W
3	24°30.0'N	81°38.0'W
4	24°30.2'N	81°38.0'W
TENNESSEE REEF (RESEARCH ONLY)		
1	24°45.9'N	80°45.6'W
2	24°45.7'N	80°45.4'W
3	24°46.0'N	80°44.9'W
4	24°46.2'N	80°45.1'W

Appendix VII to Part 929—Coordinates for the Area to be Avoided

In the Vicinity of the Florida Keys
(Reference Charts: United States 11466, 27th Edition—September 1, 1990 and United States 11450, 4th Edition—August 11, 1990.)

Point	Latitude	Longitude
1	25°45.00'N	80°06.10'W.
2	25°38.70'N	80°02.70'W.
3	25°22.00'N	80°03.00'W.
4	25°00.20'N	80°13.40'W.
5	24°37.90'N	80°47.30'W.
6	24°29.20'N	81°17.30'W.
7	24°22.30'N	81°43.17'W.
8	24°28.00'N	81°43.17'W.
9	24°28.70'N	81°43.50'W.
10	24°29.80'N	81°43.17'W.
11	24°33.10'N	81°35.15'W.
12	24°33.60'N	81°26.00'W.
13	24°38.20'N	81°07.00'W.
14	24°43.20'N	80°53.20'W.
15	24°46.10'N	80°46.15'W.
16	24°51.10'N	80°37.10'W.
17	24°57.50'N	80°27.50'W.
18	25°09.90'N	80°16.20'W.
19	25°24.00'N	80°09.10'W.
20	25°31.50'N	80°07.00'W.
21	25°39.70'N	80°06.85'W.
22	25°45.00'N	80°06.10'W.

In the Vicinity of Key West Harbor
(Reference Chart: United States 11434, 21st Edition—August 11, 1990.)

Point	Latitude	Longitude
23	24°27.95'N	81°48.65'W.
24	24°23.00'N	81°53.50'W.
25	24°26.60'N	81°58.50'W.
26	24°27.75'N	81°55.70'W.
27	24°29.35'N	81°53.40'W.
28	24°29.35'N	81°50.00'W.
29	24°27.95'N	81°48.65'W.

Area Surrounding the Marquesas Keys
(Reference Chart: United States 11434, 21st Edition—August 11, 1990.)

Point	Latitude	Longitude
30	24°26.60'N	81°59.55'W.
31	24°23.00'N	82°03.50'W.
32	24°23.60'N	82°27.80'W.
33	24°34.50'N	82°37.50'W.
34	24°43.00'N	82°26.50'W.
35	24°38.31'N	81°54.06'W.
36	24°37.91'N	81°53.40'W.
37	24°36.15'N	81°51.78'W.
38	24°34.40'N	81°50.60'W.
39	24°33.44'N	81°49.73'W.
40	24°31.20'N	81°52.10'W.
41	24°28.70'N	81°56.80'W.
42	24°26.60'N	81°59.55'W.

Area Surrounding the Dry Tortugas Islands
(Reference Chart: United States 11434, 21st Edition—August 11, 1990.)

Point	Latitude	Longitude
43	24°32.00'N	82°53.50'W.
44	24°32.00'N	83°00.05'W.
45	24°39.70'N	83°00.05'W.
46	24°45.60'N	82°54.40'W.
47	24°45.60'N	82°47.20'W.
48	24°42.80'N	82°43.90'W.
49	24°39.50'N	82°43.90'W.
50	24°35.60'N	82°46.40'W.
51	24°32.00'N	82°53.50'W.

Appendix VIII to Part 929—Marine Life Rule

[As excerpted from Chapter 46–42 of the Florida Administrative Code]
46–42.001 Purpose and Intent; Designation of Restricted Species; Definition of “Marine Life Species.”
46–42.002 Definitions.
46–42.003 Prohibition of Harvest: Longspine Urchin, Bahama Starfish.
46–42.0035 Live Landing and Live Well Requirements.

46-42.0036 Harvest in Biscayne National Park.*

46-42.004 Size Limits.

46-42.005 Bag Limits.

46-42.006 Commercial Season, Harvest Limits.

46-42.007 Gear Specifications and Prohibited Gear.

46-42.008 Live Rock.**

46-42.001 Purpose and Intent; Designation of Restricted Species; Definition of "Marine Life Species".—

(1)(a) The purpose and intent of this chapter are to protect and conserve Florida's tropical marine life resources and assure the continuing health and abundance of these species. The further intent of this chapter is to assure that harvesters in this fishery use nonlethal methods of harvest and that the fish, invertebrates, and plants so harvested be maintained alive for the maximum possible conservation and economic benefits.

(b) It is the express intent of the Marine Fisheries Commission to phase out the landing of live rock harvested in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters. Such harvest is and will continue to be prohibited in Florida waters, except that landing of live rock propagated through aquaculture will be allowed pursuant to the provisions of this chapter.

(2) The following fish species, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 370.01(20), Florida Statutes:

(a) Moray eels—Any species of the Family Muraenidae.

(b) Snake eels—Any species of the Genera *Myrichthys* and *Myrophis* of the Family Ophichthidae.

(c) Toadfish—Any species of the Family Batrachoididae.

(d) Frogfish—Any species of the Family Antennariidae.

(e) Batfish—Any species of the Family Ogcocephalidae.

(f) Clingfish—Any species of the Family Gobiesocidae.

(g) Trumpetfish—Any species of the Family Aulostomidae.

(h) Cornetfish—Any species of the Family Fistulariidae.

(i) Pipefish/seahorses—Any species of the Family Syngnathidae.

(j) Hamlet/seabass—Any species of the Family Serranidae, except groupers of the genera *Epinephalus* and *Mycteroperca*, and seabass of the genus *Centropristis*.

(k) Basslets—Any species of the Family Gammistidae.

(l) Cardinalfish—Any species of the Family Apogonidae.

(m) High-hat, Jackknife-fish, Spotted drum, Cubbyu—Any species of the genus *Equetus* of the Family Sciaenidae.

(n) Reef Croakers—Any of the species *Odontocion dentex*.

(o) Sweepers—Any species of the Family Pempheridae.

(p) Butterflyfish—Any species of the Family Chaetodontidae.

(q) Angelfish—Any species of the Family Pomacanthidae.

(r) Damselfish—Any species of the Family Pomacentridae.

(s) Hawkfish—Any species of the Family Cirrhitidae.

(t) Wrasse/hogfish/razorfish—Any species of the Family Labridae, except hogfish, *Lachnolaimus maximus*.

(u) Parrotfish—Any species of the Family Scaridae.

(v) Jawfish—Any species of the Family Opistognathidae.

(w) Blennies—Any species of the Families Clinidae or Blenniidae.

(x) Sleepers—Any species of the Family Eleotrididae.

(y) Gobies—Any species of the Family Gobiidae.

(z) Tangs and surgeonfish—Any species of the Family Acanthuridae.

(aa) Filefish/triggerfish—Any species of the Family Balistes, except gray triggerfish, *Balistidae capricus*.

(bb) Trunkfish/cowfish—Any species of the Family Ostraciidae.

(cc) Pufferfish/burrfish/balloonfish—Any of the following species:

1. Balloonfish—*Diodon holocanthus*.
2. Sharpnose puffer—*Canthigaster rostrata*.
3. Striped burrfish—*Chilomycterus schoepfi*.

(3) The following invertebrate species, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to § 370.01(20), Florida Statutes:

(a) Sponges—Any species of the Class Demospongia, except sheepswool, yellow, grass, glove, finger, wire, reef, and velvet sponges, Order Dictyoceratida.

(b) Upside-down jellyfish—Any species of the Genus Cassiopeia.

(c) Siphonophores/hydroids—Any species of the Class Hydrozoa, except fire corals, Order Milleporina.

(d) Soft corals—Any species of the Subclass Octocorallia, except sea fans *Gorgonia flabellum* and *Gorgonia ventalina*.

(e) Sea anemones—Any species of the Orders Actinaria, Zoanthidea, Corallimorpharia, and Ceriantharia.

(f) Featherduster worms/calcareous tubeworms—Any species of the Families Sabellidae and Serpulidae.

(g) Star-shells—Any of the species *Astraea americana* or *Astraea phoebia*.

(h) Nudibranchs/sea slugs—Any species of the Subclass Opisthobranchia.

(i) Fileclams—Any species of the Genus Lima.

(j) Octopods—Any species of the Order Octopoda, except the common octopus, *Octopodus vulgaris*.

(k) Shrimp—Any of the following species:

1. Cleaner shrimp and peppermint shrimp—Any species of the Genera *Periclimenes* or *Lysmata*.
2. Coral shrimp—Any species of the Genus *Stenopus*.
3. Snapping shrimp—Any species of the Genus *Alpheus*.

(l) Crabs—Any of the following species:

1. Yellowline arrow crab—*Stenorhynchus seticornis*.

2. Furcate spider or decorator crab—*Stenocionops furcata*.

3. Thinstripe hermit crab—*Clibanarius vittatus*.

4. Polkadotted hermit crab—*Phimochirus operculatus*.

5. Spotted porcelain crab—*Porcellana sayana*.

6. Nimble spray or urchin crab—*Percnon gibbesi*.

7. False arrow crab—*Metoporphaphis calcarata*.

(m) Starfish—Any species of the Class Asteroidea, except the Bahama starfish, *Oreaster reticulatus*.

(n) Brittlestars—Any species of the Class Ophiuroidea.

(o) Sea urchins—Any species of the Class Echinoidea, except longspine urchin, *Diadema antillarum*, and sand dollars and sea biscuits, Order Clypeasteroidea.

(p) Sea cucumbers—Any species of the Class Holothuroidea.

(q) Sea lillies—Any species of the Class Crinoidea.

(4) The following species of plants, as they occur in waters of the state and in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, are hereby designated as restricted species pursuant to Section 370.01(20), Florida Statutes:

(a) Caulerpa—Any species of the Family Caulerpaceae.

(b) Halimeda/mermaid's fan/mermaid's shaving brush—Any species of the Family Halimedaceae.

(c) Coralline red algae—Any species of the Family Corallinaceae.

(5) For the purposes of Section 370.06(2)(d), Florida Statutes, the term "marine life species" is defined to mean those species designated as restricted species in subsections (2), (3), and (4) of this rule. Specific Authority 370.01(20), 370.027(2), 370.06(2)(d), F.S. Law Implemented 370.01(20), 370.025, 370.027, 370.06(2)(d), F.S. History—New 1-1-91, Amended 7-1-92.

46-42.002 Definitions.—As used in this rule chapter:

(1) "Barrier net," also known as a "fence net," means a seine used beneath the surface of the water by a diver to enclose and concentrate tropical fish and which may be made of either nylon or monofilament.

(2) "Drop net" means a small, usually circular, net with weights attached along the outer edge and a single float in the center, used by a diver to enclose and concentrate tropical fish.

(3) "Gorgonian," except for purposes of Rule 46-42.001, means any member of any species of the Subclass Octocorallia, except the species *Gorgonia flabellum* and *Gorgonia ventalina*.

(4) "Hand held net" means a landing or dip net as defined in Rule 46-4.002(4), except that a portion of the bag may be constructed of clear plastic material, rather than mesh.

(5) "Harvest" means the catching or taking of a marine organism by any means whatsoever, followed by a reduction of such organism to possession. Marine organisms that are caught but immediately returned to

* Part 42.0036 is not set forth because it does not apply to the Sanctuary.

** Part 42.008 is not set forth because it is regulated pursuant to § 929.5(2)(ii).

the water free, alive, and unharmed are not harvested. In addition, temporary possession of a marine animal for the purpose of measuring it to determine compliance with the minimum or maximum size requirements of this chapter shall not constitute harvesting such animal, provided that it is measured immediately after taking, and immediately returned to the water free, alive, and unharmed if undersize or oversize.

(6) "Harvest for commercial purposes" means the taking or harvesting of any tropical ornamental marine life species or tropical ornamental marine plant for purposes of sale or with intent to sell. The harvest of tropical ornamental marine life species or tropical ornamental marine plants in excess of the bag limit shall constitute prima facie evidence of intent to sell.

(7) "Land," when used in connection with the harvest of marine organisms, means the physical act of bringing the harvested organism ashore.

(8) "Live rock"—see definition in section 929.3

(9) "Slurp gun" means a self-contained, handheld device that captures tropical fish by rapidly drawing seawater containing such fish into a closed chamber.

(10) "Total length" means the length of a fish as measured from the tip of the snout to the tip of the tail.

(11) "Trawl" means a net in the form of an elongated bag with the mouth kept open by various means and fished by being towed or dragged on the bottom. "Roller frame trawl" means a trawl with all of the following features and specifications:

(a) A rectangular rigid frame to keep the mouth of the trawl open while being towed.

(b) The lower horizontal beam of the frame has rollers to allow the trawl to roll over the bottom and any obstructions while being towed.

(c) The trawl opening is shielded by a grid of vertical bars spaced no more than 3 inches apart.

(d) The trawl is towed by attaching a line or towing cable to a tongue located above or at the center of the upper horizontal beam of the frame.

(e) The trawl has no doors attached to keep the mouth of the trawl open.

(12) "Tropical fish" means any species included in subsection (2) of Rule 46-42.001, or any part thereof.

(13) "Tropical ornamental marine life species" means any species included in subsections (2) or (3) of Rule 46-42.001, or any part thereof.

(14) "Tropical ornamental marine plant" means any species included in subsection (4) of Rule 46-42.001.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History: New 1-1-91, Amended 7-1-92.

46-42.003 Prohibition of Harvest:

Longspine Urchin, Bahama Starfish.—

No person shall harvest, possess while in or on the waters of the state, or land any of the following species:

- (1) Longspine urchin, *Diadema antillarum*.
- (2) Bahama starfish, *Oreaster reticulatus*.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History: New 1-1-91, Amended 7-1-92.

46-42.0035 Live Landing and Live Well Requirements.—

(1) Each person harvesting any tropical ornamental marine life species or any tropical ornamental marine plant shall land such marine organism alive.

(2) Each person harvesting any tropical ornamental marine life species or any tropical ornamental marine plant shall have aboard the vessel being used for such harvest a continuously circulating live well or aeration or oxygenation system of adequate size and capacity to maintain such harvested marine organisms in a healthy condition.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History: New 7-1-92.

46-42.004 Size Limits.—

(1) Angelfishes.—

(a) No person harvesting for commercial purposes shall harvest, possess while in or on the waters of the state, or land any of the following species of angelfish, of total length less than that set forth below:

1. One-and-one-half (1 1/2) inches for:

- a. Gray angelfish (*Pomacanthus arcuatus*).
- b. French angelfish (*Pomacanthus paru*).

2. One-and-three-quarters (1 3/4) inches for:

- a. Blue angelfish (*Holacanthus bermudensis*).
- b. Queen angelfish (*Holacanthus ciliaris*).
3. Two (2) inches for rock beauty (*Holacanthus tricolor*).

(b) No person shall harvest, possess while in or on the waters of the state, or land any angelfish (Family Pomacanthidae), of total length greater than that specified below:

1. Ten (10) inches for angelfish, except rock beauty (*Holacanthus tricolor*).
2. Six (6) inches for rock beauty.

(c) Except as provided herein, no person shall purchase, sell, or exchange any angelfish smaller than the limits specified in paragraph (a) or larger than the limits specified in paragraph (b). This prohibition shall not apply to angelfish legally harvested outside of state waters or federal Exclusive Economic Zone (EEZ) waters adjacent to state waters, which angelfish are entering Florida in interstate or international commerce. The burden shall be upon any person possessing such angelfish for sale or exchange to establish the chain of possession from the initial transaction after harvest, by appropriate receipt(s), bill(s) of sale, or bill(s) of lading, and any customs receipts, and to show that such angelfish originated from a point outside the waters of the State of Florida or federal Exclusive Economic Zone (EEZ) waters adjacent to Florida waters and entered the state in interstate or international commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute prima facie evidence that such angelfish were harvested from Florida waters or adjacent EEZ waters for purposes of this paragraph.

(2) Butterflyfishes.—

(a) No person harvesting for commercial purposes shall harvest, possess while in or on the waters of the state, or land any

butterflyfish (Family Chaetodontidae) of total length less than one (1) inch.

(b) No person shall harvest, possess while in or on the waters of the state, or land any butterflyfish of total length greater than 4 inches.

(3) Gobies—No person shall harvest, possess while in or on the waters of the state, or land any goby (Family Gobiidae) of total length greater than 2 inches.

(4) Jawfishes—No person shall harvest, possess while in or on the waters of the state, or land any jawfish (Family Opistognathidae) of total length greater than 4 inches.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History: New 1-1-91, Amended 7-1-92.

46-42.005 Bag limit.—

(1) Except as provided in Rule 46-42.006 or subsections (3) or (4) of this rule, no person shall harvest, possess while in or on the waters of the state, or land more than 20 individuals per day of tropical ornamental marine life species, in any combination.

(2) Except as provided in Rule 46-42.006, no person shall harvest, possess while in or on the waters of the state, or land more than one (1) gallon per day of tropical ornamental marine plants, in any combination of species.

(3) Except as provided in Rule 46-42.006, no person shall harvest, possess while in or on the waters of the state, or land more than 5 angelfishes (Family Pomacanthidae) per day. Each angelfish shall be counted for purposes of the 20 individual bag limit specified in subsection (1) of this rule.

(4)(a) Unless the season is closed pursuant to paragraph (b), no person shall harvest, possess while in or on the waters of the state, or land more than 6 colonies per day of gorgonians. Each colony of gorgonian or part thereof shall be considered an individual of the species for purposes of subsection (1) of this rule and shall be counted for purposes of the 20 individual bag limit specified therein.

(b) If the harvest of gorgonians in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters is closed to all harvesters prior to the end of any calendar year, the season for harvest of gorgonians in state waters shall also close until the following January 1, upon notice given by the Executive Director of the Department of Natural Resources, in the manner provided in s. 120.52(16)(d), Florida Statutes.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History: New 1-1-91.

46-42.006 Commercial Season, Harvest Limits.—

(1) Except as provided in Rule 46-42.008(7), no person shall harvest, possess while in or on the waters of the state, or land quantities of tropical ornamental marine life species or tropical ornamental marine plants in excess of the bag limits established in Rule 46-42.005 unless such person possesses a valid saltwater products license with both a marine life fishery endorsement and a restricted species endorsement issued by the Department of Natural Resources.

(2) Persons harvesting tropical ornamental marine life species or tropical ornamental marine plants for commercial purposes shall have a season that begins on January 1 of

each year and continues through December 31 of the same year. These persons shall not harvest, possess while in or on the waters of the state, or land tropical ornamental marine life species in excess of the following limits:

- (a) A limit of 75 angelfish (Family Pomacanthidae) per person per day or 150 angelfish per vessel per day, whichever is less.
- (b) A limit of 75 butterflyfishes (Family Chaetodontidae) per vessel per day.
- (c) There shall be no limits on the harvest for commercial purposes of gorgonians unless and until the season for all harvest of gorgonians in federal Exclusive Economic Zone (EEZ) waters adjacent to state waters is closed. At such time, the season for harvest of gorgonians in state waters shall also close until the following January 1, upon notice given by the Executive Director of the Department of Natural Resources, in the manner provided in Section 120.52(16)(d), Florida Statutes.

(d) A limit of 200 giant Caribbean or "pink-tipped" anemones (*Condylactus gigantea*) per vessel per day.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History: New 1-1-91, Amended 7-1-92.

46-42.007 Gear Specifications and Prohibited Gear.

(1) The following types of gear shall be the only types allowed for the harvest of any tropical fish, whether from state waters or from federal Exclusive Economic Zone (EEZ) waters adjacent to state waters:

- (a) Hand held net.
- (b) Barrier net, with a mesh size not exceeding 3/4 inch stretched mesh.
- (c) Drop net, with a mesh size not exceeding 3/4 inch stretched mesh.
- (d) Slurp gun.
- (e) Quinaldine may be used for the harvest of tropical fish if the person using the chemical or possessing the chemical in or on the waters of the state meets each of the following conditions:

1. The person also possesses and maintains aboard any vessel used in the harvest of tropical fish with quinaldine a special activity license authorizing the use of quinaldine, issued by the Division of Marine Resources of the Department of Natural Resources pursuant to Section 370.08(8), Florida Statutes.

2. The quinaldine possessed or applied while in or on the waters of the state is in a diluted form of no more than 2% concentration in solution with seawater. Prior to dilution in seawater, quinaldine shall only be mixed with isopropyl alcohol or ethanol.

(f) A roller frame trawl operated by a person possessing a valid live bait shrimping license issued by the Department of Natural Resources pursuant to Section 370.15, Florida Statutes, if such tropical fish are taken as an incidental bycatch of shrimp lawfully harvested with such trawl.

(g) A trawl meeting the following specifications used to collect live specimens of the dwarf seahorse, *Hippocampus zosterae*, if towed by a vessel no greater than 15 feet in length at no greater than idle speed:

1. The trawl opening shall be no larger than 12 inches by 48 inches.

2. The trawl shall weigh no more than 5 pounds wet when weighed out of the water.

(2) This rule shall not be construed to prohibit the use of any bag or container used solely for storing collected specimens or the use of a single blunt rod in conjunction with any allowable gear, which rod meets each of the following specifications:

(a) The rod shall be made of nonferrous metal, fiberglass, or wood.

(b) The rod shall be no longer than 36 inches and have a diameter no greater than 3/4 inch at any point.

(3) No person shall harvest in or from state waters any tropical fish by or with the use of any gear other than those types specified in subsection (1); provided, however, that tropical fish harvested as an incidental bycatch of other species lawfully harvested for commercial purposes with other types of gear shall not be deemed to be harvested in violation of this rule, if the quantity of tropical fish so harvested does not exceed the bag limits established in Rule 46-42.005.

Specific Authority 370.027(2), F.S. Law Implemented 370.025, 370.027, F.S. History: New 1-1-91, Amended 7-1-92.

PART 937—[REMOVED AND RESERVED]

2. Part 937 is removed and reserved.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Chapter I

46 CFR Chapter I

[CGD 95-022]

Presidential Regulation Review

AGENCY: Coast Guard, DOT.

ACTION: Public meeting; request for comments.

SUMMARY: The Coast Guard will conduct a public meeting to provide the public an opportunity to comment on Coast Guard regulations and the regulatory process. Comments are sought on changes to Coast Guard regulations that would make them less burdensome or more flexible, including use of negotiated rulemaking to effect changes, and on improvements that could be made to the enforcement process, while still ensuring a high level of safety and environmental protection.

DATES: The meeting will be held April 20, 1995, from 9 a.m. to 3 p.m. Written material must be received not later than May 1, 1995.

ADDRESSES: The meeting will be held in room 2415, Coast Guard Headquarters, 2100 Second Street SW., Washington,

DC 20593-0001. Written comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

Comments will become part of this docket and will be available for inspection or copying at room 3406, Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce P. Novak, Regulations Coordinator, Oil Pollution Act (OPA 90) Staff, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-6819. This telephone is equipped to record messages on a 24-hour basis.

SUPPLEMENTARY INFORMATION: The President recently announced a Regulatory Reinvention initiative. Under this initiative agencies are directed to review their regulations; improve their enforcement efforts to focus on results, not punishment; meet with the people affected by their regulations; and substantially increase their efforts to promote consensual rulemaking.

In reviewing existing regulations the Coast Guard will be focussing on the following issues: (1) Identification of obsolete regulations; (2) suggestions for achieving the intended goal of regulations that would be more efficient and/or less intrusive; (3) identification of private sector alternatives to regulations such as market mechanisms, that can achieve the objectives of regulations; (4) could private business, setting its own standards and being subject to public accountability, do the job as well; and (5) could State or local government regulations be used in lieu of Coast Guard regulation?

The Coast Guard is interested in suggestions on areas where the goals of our regulatory and enforcement programs are not clear, and on recommendations for improvements that would focus on attaining defined safety and environmental protection results rather than mandating the use of specific methods or equipment.

The Coast Guard would also like to discuss techniques for developing consensus rules. Negotiated rulemaking is currently being offered as the primary way of achieving consensus rulemaking. The Coast Guard has used negotiated rulemaking and has explored its use for several rulemaking projects. While negotiated rulemaking has the ability to