

**McDonnell Douglas:** Docket No. FAA-2007-0074; Directorate Identifier 2007-NM-151-AD.

#### Comments Due Date

(a) We must receive comments by January 13, 2009.

#### Affected ADs

(b) None.

#### Applicability

(c) This AD applies to McDonnell Douglas Model MD-90-30 airplanes, certificated in any category; as identified in Boeing Alert Service Bulletin MD90-29A021, Revision 1, dated August 29, 2008.

#### Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer, as well as reports of shorted wires in the right wheel well and evidence of arcing on the power cables of the auxiliary hydraulic pump. We are issuing this AD to prevent shorted wires or electrical arcing at the auxiliary hydraulic pump, which could result in a fire in the wheel well. We are also issuing this AD to reduce the potential of an ignition source adjacent to the fuel tanks, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Modification

(f) Within 18 months after the effective date of this AD, modify the auxiliary hydraulic power system and do all applicable related investigative and corrective actions by accomplishing all applicable actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin MD90-29A021, Revision 1, dated August 29, 2008. Do all applicable related investigative and corrective actions before further flight.

#### Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Los Angeles Aircraft Certification Office, FAA, ATTN: Ken Sujishi, Aerospace Engineer, Cabin Safety/Mechanical and Environmental Systems Branch, ANM-150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5353; fax (562) 627-5210; has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

Issued in Renton, Washington, on December 12, 2008.

**Michael J. Kaszycki,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. E8-30258 Filed 12-18-08; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 922

[Docket No. 0810241396-81397-01]

RIN 0648-AX34

### Changes to the Florida Keys National Marine Sanctuary Regulations; Technical Corrections and Minor Substantive Changes

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Proposed rule; request for public comments.

**SUMMARY:** NOAA proposes to amend the regulations implementing the Florida Keys National Marine Sanctuary to make technical corrections and modifications to clarify intent to several areas in the regulations. As part of these modifications, NOAA proposes to amend the definition of coral to specifically include the common sea fan, *Gorgonia ventalina* and Venus sea fan, *Gorgonia flabellum*, which are both important sanctuary resources and are currently managed under the category "live rock;" specify that "touching" coral is an injury and therefore, a prohibited activity in the FKNMS; amend the safe distance between vessels and "divers down" flags to be 100 yards instead of 100 feet; clarify that the prohibitions listed for Sanctuary Preservation Areas and Ecological Reserves also apply in Research-only Areas; and Correct several citations that are currently out of date.

**DATES:** Comments on this proposed rule may be made until January 20, 2009.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>. Submit electronic comments via the Federal e-Rulemaking Portal.

- *Mail:* David A. Score, Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040.

- *Instructions:* All comments received are a part of the public record and will be generally posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NOAA will accept anonymous comments (enter N/A in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, Wordperfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** David A. Score, Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This **Federal Register** document is also accessible via the Internet at [http://www.access.gpo.gov/su-docs/aces/aces\\_1\\_40.html](http://www.access.gpo.gov/su-docs/aces/aces_1_40.html).

#### I. Background

In recognition of its important ecological role as a rich and unique marine environment with seagrass meadows, mangrove islands, and extensive living coral reefs, Congress designated the Florida Keys National Marine Sanctuary (FKNMS or Sanctuary) in 1990 (Pub. L. 101-605). Through this designation, Congress directed NOAA and the State of Florida to jointly develop a comprehensive program to reduce the risk of damage to these living marine resources, reduce the pollution in the waters of the Florida Keys, and to protect and restore the water quality, coral reefs, and other living marine resources of the Florida Keys. As such, NOAA and the State of Florida worked together to create the management plan for the FKNMS. The FKNMS regulations implementing the designation were published on June 12, 1997 (62 FR 32154) and became effective on July 1, 1997.

In the 18 years since designation, several regulatory issues have arisen that were not clearly addressed when the FKNMS regulations were adopted. In addition, there have been several changes to the Florida state laws during the same period and several technical errors identified in the current FKNMS regulations. NOAA is thus proposing to update the FKNMS regulations to make technical corrections, minor substantive clarifications, and codification of existing regulatory interpretation to address these issues and provide consistency with state law.

## II. Summary of the Proposed Revisions

### A. Changes to Section 922.162 and Section 922.163, Modification of Existing Regulations on Corals and Prohibited Activities

#### 1. Definition of Coral (§ 922.162(a))

The FKNMS regulations to protect corals and live rock include a list of activities that are prohibited, and include a definition of “coral” and “live rock” to which these protections extend. NOAA is concerned that the common sea fan, *Gorgonia ventalina*, and Venus sea fan, *Gorgoniaflabellum*, are not currently listed as coral species in the definition of coral. Although these species of *Gorgonia* are actually coral, to date, they have been managed under the category of live rock because live rock, defined as any living marine organism or an assemblage thereof attached to a hard substrate, including dead coral or rock, is not limited to identified species. NOAA proposes to make a provision to explicitly include *Gorgonia ventalina* and *Gorgoniaflabellum* in the list of protected corals in the FKNMS regulations and to make the list of corals non-exclusive in case additional coral species are identified in the future.

In addition, the subclass for black corals was incorrectly listed in the original regulations as *Hexacorallia*. The correct subclass designation is *Ceriantipatharia*. The definition of coral would be corrected to identify black corals as part of the subclass *Ceriantipatharia*.

#### 2. Touching Coral (§ 922.163(a)(2))

The act of touching coral or live rock is an injury to the resource and has been historically interpreted as such by the FKNMS staff, charter dive and snorkeling operations, and enforcement personnel. When corals are touched or handled, the organisms are injured, and could suffer mortality. However, touching is not specifically listed in the injury prohibition in the FKNMS regulations. NOAA proposes to clarify and codify the interpretation of injury to coral and live rock by adding “touching” to the list of prohibited activities in the FKNMS. NOAA believes that by clarifying that touching coral and live rock causes injury aids in sanctuary education and outreach efforts to inform the public that this activity is harmful to the coral, and will help public compliance with the prohibition.

### B. Other Proposed Modifications and Technical Corrections to Section 922.163

#### 1. Permit Live Rock Aquaculture (§ 922.163(a)(2)(i))

Section 922.163(a)(2)(i) currently cites 50 CFR part 638 for authority to permit certain types of live rock aquaculture under the Magnuson-Stevens Act (MSA). However, that part of the CFR no longer exists. The authority to permit certain types of live rock aquaculture under the MSA is now located at 50 CFR part 622. Therefore, we propose to make a correction to our regulatory citations to reflect this change.

#### 2. Dive Areas (§ 922.163(a)(5)(iii)(C))

NOAA regulations regarding dive area restrictions are inconsistent with regulations that both the State of Florida (Chapter 27 of the 2003 Florida Statutes: 327.331 Divers; definitions; divers-down flag required; obstruction to navigation of certain waters; penalty) and the U.S. Coast Guard (USCG: Rule 27e—Vessel Engaged in Diving Operations) use to specify the safe distance between vessels and “divers down” flags. The State of Florida and the USCG regulations both indicate that the safe distance between vessels and “divers down” flags is 100 yards. In contrast, the FKNMS regulations currently indicate that the safe distance between vessels and “divers down” flags is 100 feet. In order to be consistent with the regulations issued by the State of Florida and the USCG, we propose to change our regulations from “100 feet” in 922.163(a)(5)(iii)(C) to “100 yards.” Improved consistency allows for better public education and compliance. The change to regulations improves safety and reduces conflict between divers and vessel operations.

#### 3. Marine Life Rule (§ 922.163(a)(12))

NOAA proposes a few technical corrections related to Florida’s Marine Life Rule (MLR). NOAA proposes to edit the language at § 922.163(a)(12) to update Florida Marine Life Rule citation as 68B–42, F.A.C. NOAA also proposes to delete Appendix VIII to Subpart P of Part 922 to eliminate the excerpts of the MLR from the FKNMS regulations and simply reference the MLR citation in the regulation.

#### 4. Updating CFR References (§ 922.163)

Sections 922.163(c) and 922.168 are no longer applicable because persons conducting any pre-existing otherwise prohibited activities pursuant to a valid authorization in the Sanctuary area were given 90 days from the designation of

the Sanctuary (July 1, 1997) to notify the Director and request certification of the activity. Therefore, these provisions are no longer needed because the certification period expired over ten years ago. Therefore, NOAA proposes to delete these sections from the FKNMS regulations, and to renumber the remaining sections accordingly. Because section 922.168 is referenced in other sections of the FKNMS regulations, we also propose to delete the references to that section. Finally, NOAA proposes to amend the language to the newly redesignated section 922.163(c) to reflect the appropriate citation for authorization of current activities which is § 922.49.

### C. Special-Use (Research-Only) Areas (§ 922.164(e)(1))

Research-only areas are a type of Special-use Area defined in the FKNMS regulations at § 922.164(e)(1)(iii). Except for passage without interruption or for law enforcement purposes, access to research-only areas is restricted to scientific research or educational use specifically authorized by and conducted in accordance with the scope, purpose, terms and conditions of a sanctuary permit. In addition, even if access is allowed by permit, only the activities described in the permit may be conducted because all other activities within the research-only area are prohibited. However, the prohibition against conducting activities in research-only areas is not stated clearly in the FKNMS regulations and, therefore, NOAA proposes to amend § 922.164(d) and add a new paragraph (e)(5) to the section to specify that the prohibited activities listed for Sanctuary Preservation Areas (SPAs) and Ecological Reserves (ERs) as listed at § 922.164(d) also apply in Research-only Areas. This change would provide better notice to the public and to permittees who receive access to conduct activities in Research-only Areas, and would facilitate voluntary compliance as well as enforcement of sanctuary regulations.

## III. Classification

### A. National Environmental Policy Act

The technical corrections and minor substantive changes to the FKNMS regulations do not have significant environmental impacts and are categorically excluded for the need to prepare an environmental assessment pursuant to the National Environmental Policy Act (NAO 2 16–6 Section 6.03c.3(i)).

**B. Executive Order 12866: Regulatory Impact**

This proposed rule has been determined to be not significant within the meaning of Executive Order 12866.

**C. Executive Order 13132: Federalism Assessment**

NOAA has concluded this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 13132. The State of Florida was consulted during the promulgation of this rule.

**D. Paperwork Reduction Act**

This rule does not contain any new or revisions to the existing information collection requirement that was approved by OMB (OMB Control Number 0648-0141) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

**E. Regulatory Flexibility Act**

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The factual basis for this certification is as follows:

- Making the technical corrections to correct citations and obsolete sections of the regulations as proposed by this rule would not substantively change the effect or impact from the current regulations;

- Amending the definition of coral to specifically include the common sea fan and Venus sea fan also do not impact small entities because these species are already currently managed as sanctuary resources under the category "live rock;"

- Clarifying and codifying that "touching" coral is an injury and therefore, a prohibited activity in the FKNMS does not change the practices of small business operators, such as dive or snorkel charter boats, because they already interpret the regulation as such and currently inform tourists that touching coral or live rock while diving or snorkeling injures the organisms;

- Amending the safe distance between vessels and "divers down"

flags to be 100 yards instead of 100 feet provides consistency with regulations already in place by the U.S. Coast Guard and the State of Florida and will therefore not change the current operations of small business operators; and

- Specifying that the prohibitions listed for Sanctuary Preservation Areas and Ecological Reserves also apply in Research-only Areas also does not affect small businesses because entering Research-only Areas is already prohibited unless a permit is obtained from the Sanctuary. The amendment is intended to clarify and promote enforcement of specific activity violations.

**IV. Request for Comments**

NOAA requests comments on this proposed rule to make technical corrections and amendments to the FKNMS regulations.

Dated: December 11, 2008.

**John H. Dunnigan,**

*Assistant Administrator for Ocean Services and Coastal Zone Management.*

**List of Subjects in 15 CFR Part 922**

Administrative practice and procedure, Coastal zone, Fish, Fisheries, Historic preservation, Intergovernmental relations, Marine resources, Monuments and memorials, Natural resources, Wildlife, Wildlife refuges, Wildlife management areas, Sanctuary preservation areas, Ecological reserves, Areas to be avoided, State of Florida, U.S. Coast Guard.

For the reasons above, the National Oceanic and Atmospheric Administration proposes to amend title 15, part 922 of the Code of Federal Regulations as follows:

**PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS**

1. The authority citation for part 922 continues to read as follows:

**Authority:** 15 U.S.C. 1431 *et seq.*

2. Amend § 922.162(a) by revising the definition for "Coral" to read as follows:

**§ 922.162 Definitions.**

(a) \* \* \*

*Coral* means but is not limited to the corals of the Class Hydrozoa (stinging and hydrocorals); Class Anthozoa, Subclass Hexacorallia, Order Scleractinia (stony corals); Class Anthozoa, Subclass Ceriantipatharia, Order Antipatharia (black corals); and Class Anthozoa, Subclass Ocotocorallia, Order Gorgonacea, species *Gorgonia*

*ventalina* and *Gorgonia flabellum* (sea fans).

\* \* \* \* \*

3. In § 922.163 revise paragraphs (a)(2)(i), (a)(5)(iii)(C), and (a)(12), remove paragraph (c), redesignate paragraphs (d) through (h) as (c) through (g), and revise the newly redesignated paragraph (c) to read as follows:

**§ 922.163 Prohibited activities—Sanctuary-wide.**

(a) \* \* \*

(2) \* \* \*

(i) Moving, removing, taking, harvesting, damaging, disturbing, touching, 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 622.

\* \* \* \* \*

(5) \* \* \*

(iii) \* \* \*

(C) Within 100 yards of the red and white "divers down" flag (or the blue and white "alpha" flag in Federal waters);

\* \* \* \* \*

(12) Harvest or possession of marine life species. Harvesting, possessing, or landing any marine life species, or part thereof, within the Sanctuary, except in accordance with rules 68B-42 of the Florida Administrative Code, 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 section and in § 922.164, and any access and use restrictions imposed pursuant thereto, a person may conduct an activity specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of these regulations, provided that the applicant complies with § 922.49, the Director 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 deems reasonably necessary to protect Sanctuary resources and qualities. Amendments, renewals and extensions of authorizations in existence on the effective date of these regulations constitute authorizations issued after the effective date of these regulations.

\* \* \* \* \*

4. In § 922.164, revise paragraph (d)(1) and add paragraph (e)(5) to read as follows:

**§ 922.164 Additional activity regulations by Sanctuary area.**

\* \* \* \* \*

(d) Ecological Reserves, Sanctuary Preservation Areas, and Special Use (Research only) Areas. (1) The following activities are prohibited within the Ecological Reserves described in Appendix IV to this subpart, within the Sanctuary Preservation Areas described in Appendix V to this subpart, and within the Special Use (Research only Areas) described in Appendix VI to this subpart:

\* \* \* \* \*

(e) \* \* \* (5) In addition to paragraph (e)(3) of this section no person shall conduct activities listed in paragraph (d) of this section in "Research-only Areas."

\* \* \* \* \*

**§ 922.168 [Removed and reserved]**

5. Remove and reserve § 922.168.

**Appendix VIII to Subpart P of Part 922 [Removed]**

6. Remove Appendix VIII to Subpart P of Part 922—Marine Life Rule [As Excerpted from Chapter 46–42 of the Florida Administrative Code].

[FR Doc. E8–29832 Filed 12–18–08; 8:45 am]

BILLING CODE 3510–NK–M

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****18 CFR Part 40**

[Docket No. RM08–16–000; Notice of Proposed Rulemaking]

**Electric Reliability Organization Interpretations of Specific Requirements of Frequency Response and Bias and Voltage and Reactive Control Reliability Standards**

December 15, 2008.

**AGENCY:** Federal Energy Regulatory Commission.**ACTION:** Notice of proposed rulemaking; extension of time for filing comments.

**SUMMARY:** On November 20, 2008, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to accept North American Electric Reliability Corporation's (NERC) interpretation of certain specific requirements of one Commission-approved Reliability Standard, BAL–003–0, Frequency Response and Bias; and to remand NERC's proposed interpretation of VAR–001–1, Voltage and Reactive Control, for

reconsideration. (73 FR 71971). This document extends the time for filing comments in response to the Commission's NOPR.

**DATES:** *Effective Date:* The date for comments on the NOPR in this proceeding is extended to January 7, 2009.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Wartchow (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8744.

**SUPPLEMENTARY INFORMATION:****Notice of Extension of Time**

On November 20, 2008, the Commission issued a Notice of Proposed Rulemaking (NOPR) in the above-referenced proceeding. The document was published in the **Federal Register** on November 26, 2008.<sup>1</sup> The NOPR requested comments to be submitted 30 days following publication in the **Federal Register**, which date would fall on December 29, 2008.<sup>2</sup> To provide interested persons additional time to consider the technical issues raised in the NOPR, and in light of the press of other business, including the intervening holiday period, the Commission, acting *sua sponte*, hereby extends the time to prepare and file comments on the NOPR.

Upon consideration, notice is hereby given that an extension of time for filing comments in response to the NOPR is granted until and including January 7, 2009.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. E8–30235 Filed 12–18–08; 8:45 am]

BILLING CODE 6717–01–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 300**

[EPA–HQ–SFUND–1987–0002; FRL–8753–3]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List****AGENCY:** Environmental Protection Agency.

<sup>1</sup> *Electric Reliability Organization Interpretations of Specific Requirements of Frequency Response and Bias and Voltage and Reactive Control Reliability Standards*, NOPR, Docket No. RM08–16–000, 73 FR 71971 (Nov. 26, 2008), 125 FERC ¶ 61,204 (2008).

<sup>2</sup> Accounting for the effect of the Executive Order, Closing of Executive Departments and Agencies of the Federal Government on Friday, December 26, 2008 (Dec. 12, 2008).

**ACTION:** Notice of Intent for Partial Deletion of portions of the Griffiss Air Force Base Superfund Site from the National Priorities List.

**SUMMARY:** The United States Environmental Protection Agency (EPA) Region 2 Office announces its intent to delete specific properties of the former Griffiss Air Force Base (GAFB) site located in Rome, New York, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) as amended. The entire GAFB Site, approximately 3,552 acres, includes 32 areas of concern located on property currently or formerly owned by the United States Department of Defense. EPA and the State of New York, through the New York State Department of Environmental Conservation (NYSDEC), have determined that for the specified areas identified in this Notice of Intent for Partial Deletion (NOIPD), all appropriate response actions pursuant to CERCLA have been implemented and, aside from monitoring, operations, maintenance, and Five-Year Reviews, no further response actions, pursuant to CERCLA, are appropriate. Moreover, EPA and NYSDEC have determined that the specified properties at the GAFB Site (i.e., the soil and groundwater beneath) either pose no significant threat to public health or the environment or all appropriate response actions have been implemented, and therefore this NOIPD may proceed. The NOIPD is only for those properties specified herein and does not include other properties located at the GAFB Site.

**DATES:** Comments must be received by January 20, 2009.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1987–0002, by one of the following methods:

*Web site:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*E-mail:* [pocze.doug@epa.gov](mailto:pocze.doug@epa.gov).

*Fax:* To the attention of Douglas M. Pocze at (212) 637–3256.

*Mail:* To the attention of Douglas M. Pocze, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 18th Floor, New York, NY 10007–1866.