

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 101****Technical Amendments Concerning Amateur Rocket Activities**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** The FAA is making several editorial changes to the amateur rocket regulations. The intent of this action is to ensure the regulations are clear and accurate.

**DATES:** This amendment is effective July 31, 2009.

**FOR FURTHER INFORMATION CONTACT:** Charles P. Brinkman, Licensing and Safety Division (AST-200), Commercial Space Transportation, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591, telephone (202) 267-7715, e-mail *Phil.Brinkman@faa.gov*.

**SUPPLEMENTARY INFORMATION:****Background**

On Monday, July 6, 2009 (74 FR 31842), the FAA published a correction document to the final rule "Requirements for Amateur Rocket Activities". The final rule published December 4, 2008 (73 FR 73768). During the review process, we determined that additional minor amendments are needed in part 101 that could not be addressed in a correction document.

The 2008 final rule added §§ 101.25 and 101.26 relating to Class 2 and Class 3 Rockets, respectively. However, to avoid redundancy, the FAA is now moving the requirements of § 101.26 into § 101.25, and revising the section title to reflect the change. Combining the two sections provides the reader easy access to all information relating to both Class 2 and Class 3 Rockets operating limitations.

Additionally, the words "unmanned rockets" are changed to "amateur rockets" in the titles of part 101 and subpart C and in §§ 101.1(a)(3), 101.5, and 101.7 for accuracy and clarity.

**Technical Amendment**

This technical amendment merely moves an existing section to clarify regulations and revises the part, subpart, and section headings for clarity. There are no other changes to the existing regulatory text.

**Justification for Immediate Adoption**

Because this action moves an existing section to an existing subpart, the FAA finds that notice and public comment under 5 U.S.C. 553(d) is unnecessary. For the same reason, the FAA finds good cause exists under 5 U.S.C. 553(d) for making this rule effective upon publication.

**List of Subjects in 14 CFR Part 101**

Aircraft, Aviation safety.

**The Amendment**

■ In consideration of the foregoing, the FAA amends 14 CFR part 101 as follows:

**PART 101—MOORED BALLOONS, KITES, AMATEUR ROCKETS AND UNMANNED FREE BALLOONS**

■ 1. The authority citation for part 101 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113-40114, 45302, 44502, 44514, 44701-44702, 44721, 46308.

■ 2. Revise the heading of Part 101 to read as set forth above.

**§ 101.1 [Amended]**

■ 3. Amend § 101.1, paragraph (a)(3) by removing the words "unmanned rocket" and adding the words "amateur rocket" in their place.

**§ 101.5 [Amended]**

■ 4. Amend § 101.5 by removing the words "unmanned rocket" and adding the words "amateur rocket" in their place.

**§ 101.7 [Amended]**

■ 5. Amend § 101.7, paragraphs (a) and (b) by removing the words "unmanned rocket" and adding the words "amateur rocket" in their place in both places.

**Subpart C—Amateur Rockets**

■ 6. Revise the heading of subpart C to read as set forth above.

■ 7. Revise § 101.25 to read as follows:

**§ 101.25 Operating limitations for Class 2-High Power Rockets and Class 3-Advanced High Power Rockets.**

When operating *Class 2-High Power Rockets* or *Class 3-Advanced High Power Rockets*, you must comply with the General Operating Limitations of § 101.23. In addition, you must not operate *Class 2-High Power Rockets* or *Class 3-Advanced High Power Rockets*—

(a) At any altitude where clouds or obscuring phenomena of more than five-tenths coverage prevails;

(b) At any altitude where the horizontal visibility is less than five miles;

(c) Into any cloud;

(d) Between sunset and sunrise without prior authorization from the FAA;

(e) Within 8 kilometers (5 statute miles) of any airport boundary without prior authorization from the FAA;

(f) In controlled airspace without prior authorization from the FAA;

(g) Unless you observe the greater of the following separation distances from any person or property that is not associated with the operations:

(1) Not less than one-quarter the maximum expected altitude;

(2) 457 meters (1,500 ft.);

(h) Unless a person at least eighteen years old is present, is charged with ensuring the safety of the operation, and has final approval authority for initiating high-power rocket flight; and

(i) Unless reasonable precautions are provided to report and control a fire caused by rocket activities.

**§ 101.26 [Removed]**

■ 8. Remove § 101.26.

Issued in Washington, DC, on July 26, 2009.

**Pamela Hamilton-Powell,**

*Director, Office of Rulemaking.*

[FR Doc. E9-18278 Filed 7-30-09; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****15 CFR Part 922**

[Docket No. 0810241396-91118-02]

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:** Final rule.

**SUMMARY:** NOAA publishes this final rule for certain regulations for the Florida Keys National Marine Sanctuary. This final rule makes technical corrections and modifications to several areas in the regulations. As part of these modifications, NOAA amends 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”; specifies that “touching” coral is an injury and therefore, a prohibited activity in the FKNMS; amends the minimum distance between vessels and “divers down” flags to be 100 yards instead of 100 feet; clarifies that the prohibitions listed for Sanctuary Preservation Areas and Ecological Reserves also apply in Research-only Areas; and corrects several citations that were currently out of date.

**DATES:** The effective date of these regulations is August 31, 2009.

**ADDRESSES:** Sean Morton, Acting Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040. This **Federal Register** document is also accessible via the Internet at [http://sanctuaries.noaa.gov/management/fr\\_notices.html](http://sanctuaries.noaa.gov/management/fr_notices.html).

**FOR FURTHER INFORMATION CONTACT:** Sean Morton, Acting Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040.

**SUPPLEMENTARY INFORMATION:**

**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. With this final rule, NOAA

updates the FKNMS regulations to make technical corrections and minor substantive clarifications; and codifies existing regulatory interpretation to address these issues and provide consistency with state law.

**II. Summary of the Revisions**

*A. Changes to § 922.162 and § 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 now adds the common sea fan, *Gorgonia ventalina*, and Venus sea fan, *Gorgonia flabellum*, to the list of coral species in the definition of coral. These coral species were unintentionally omitted from the definition. NOAA also makes the list of corals non-exclusive in case additional coral species are identified in the future. NOAA also amends the definition of coral to correctly identify black corals as part of the subclass *Ceriantipatharia*. The subclass for black corals was incorrectly listed in the regulations as *Hexacorallia*.

2. Touching Coral (§ 922.163(a)(2))

Touching coral or live rock injures the resource and has been historically interpreted as such by NOAA, charter dive and snorkeling operations, and enforcement personnel. When corals are touched or handled, the organisms are injured and could suffer mortality. This final rule clarifies and codifies NOAA’s interpretation of injury to coral and live rock by adding “touching” coral to the list of prohibited activities. Clarifying that touching coral and live rock causes injury aids in sanctuary education and outreach efforts and helps 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) cited 50 CFR part 638 as the 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 located at 50 CFR part 622. Therefore, NOAA makes a correction to the regulations to reflect the updated citation.

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

NOAA regulations regarding dive area restrictions are inconsistent with State of Florida regulations that specify the safe distance between vessels and “divers down” flags (Section 327.331 Florida Statutes: Divers; definitions; divers-down flag required). According to the State of Florida regulations, the safe distance between vessels and “divers down” flags is 100 yards. In contrast, the FKNMS regulations indicated that the safe distance between vessels and “divers down” flags was 100 feet. In order to be consistent with the regulations issued by the State of Florida, NOAA changes the distance in the regulations at § 922.163 (a)(5)(iii)(C) from “100 feet” to “100 yards.” Greater consistency allows for improved 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 makes a technical correction to its regulations to amend references to Florida’s Marine Life Rule (MLR). NOAA is editing the language at § 922.163(a)(12) to reference section 68B–42 of the Florida Administrative Code. NOAA is also removing Appendix VIII to Subpart P of Part 922 to eliminate the excerpts of the MLR from the FKNMS regulations.

4. Updating CFR References (§ 922.163)

Sections 922.163(c) and 922.168 allowed NOAA to “grandfather” certain activities taking place in the Sanctuary when the regulations were issued in 1997. These sections are no longer applicable because the affected entities were allowed only 90 days from the designation of the Sanctuary (July 1, 1997) to notify the Director and request certification of any pre-existing and otherwise prohibited activities being conducted pursuant to a valid authorization in the Sanctuary. These provisions are no longer needed because the certification period expired on September 29, 1997. Because the regulations expired over ten years ago, NOAA deletes these sections from the FKNMS regulations, and renumbers the remaining sections accordingly. Because § 922.168 is referenced in other sections of the FKNMS regulations, NOAA makes conforming changes to those affected sections. Finally, NOAA amends the language to the newly redesignated § 922.163(c) to reflect § 922.49, which is the appropriate citation for authorization of current activities

*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. Entities granted access to the research-only area by the permit may conduct only those activities described in the permit; all other activities within the research-only area are prohibited. However, the prohibition against conducting activities other than those allowed under the permit in research-only areas was not stated clearly in the FKNMS regulations. Therefore, NOAA amends § 922.164(d) to 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 provides better notice to the public and to permittees who receive access to conduct activities in Research-only Areas, and facilitates voluntary compliance as well as enforcement of sanctuary regulations.

**III. Response to Comments**

On December 19, 2008, NOAA published a proposed rule that solicited comments on the changes made by this rule (73 FR 77557). NOAA received only one comment during the 30-day public comment period from December 2008–January 2009. The comment expressed overwhelming support for the proposed regulatory changes anticipating benefits of increased resource protection, user safety and public awareness. The commentor specifically supported requiring a minimum distance of 100 yards between vessels and diver down flags because of improved safety to scuba divers. The commentor also supported the prohibition on touching coral due to it providing more documentation for diver operators to enforce this protection with their customers. On March 5, 2009, NOAA published an amendment to the proposed rule to correct an inaccurate reference to U.S. Coast Guard regulations, which served as a supporting basis for one of the proposed modifications. Due to this error, NOAA extended the comment period until March 26, 2009 (74 FR 9574). No additional comments were received during the 21-day comment period.

**IV. Classification**

*A. National Environmental Policy Act*

The technical corrections and minor substantive changes do not have significant environmental impacts and are categorically excluded from the need to prepare an environmental assessment pursuant to the National Environmental Policy Act (NAO 216–6 Section 6.03c.3(i)).

*B. Executive Order 12866: Regulatory Impact*

This 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 rule does not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding the economic impact of this rule. As a result, a final regulatory flexibility analysis is not required and none was prepared.

Dated: July 21, 2009.

**William Corso,**

*Deputy 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, 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. Amend § 922.163:

- a. By revising paragraph (a)(2)(i);
- b. By revising paragraph (a)(5)(iii)(C);
- c. By revising paragraph (a)(12);
- d. By removing paragraph (c) and redesignating paragraphs (d) through (h) as (c) through (g), respectively;
- e. And by revising newly redesignated paragraph (c).

The revisions 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. Amend § 922.164 in paragraph (d) by revising the heading and paragraph (d)(1) introductory text; and in paragraph (e) by adding 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."

■ 5. Remove and reserve § 922.168.

**§ 922.168 [Removed and reserved]**

■ 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. E9-17825 Filed 7-30-09; 8:45 am]

BILLING CODE 3510-NK-P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 301**

[TD 9455]

RIN 1545-BC55

**Suspension of Running of Period of Limitations During a Proceeding To Enforce or Quash a Designated or Related Summons**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations regarding the use of designated summonses and related summonses and the effect on the period of limitations on assessment when a case is brought with respect to a designated or related summons. These final regulations reflect changes to section 6503 of the Internal Revenue Code of 1986 made by the Omnibus Budget Reconciliation Act of 1990 and the Small Business Job Protection Act of 1996. These final regulations affect corporate taxpayers that are examined under the coordinated industry case (CIC) program and are served with designated or related summonses. These final regulations also affect third parties that are served with designated or related summonses for information pertaining to the corporate examination. **DATES:** *Effective Date:* These regulations are effective on July 31, 2009.

*Applicability Date:* For the date of applicability, see § 301.6503(j)-1(e).

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Rawlins, (202) 622-3620 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains final regulations amending the Procedure and Administration regulations (26 CFR part 301) under section 6503. Section 11311 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508, 104 Stat. 1388) amended section 6503(k) to suspend the period of limitations on assessment when a case is brought with respect to a designated or related summons. Section 6503(k) was redesignated as section 6503(j) by section 1702(h)(17)(A) of the Small Business Job Protection Act of 1996 (Pub. L. 104-188, 110 Stat. 1874).

On April 28, 2008, the IRS published in the **Federal Register** a notice of proposed rulemaking (REG-208199-91; 73 FR 22879), interpreting section 6503(j) and withdrawing a prior notice

of proposed rulemaking, hereinafter referred to as the 2003 proposed regulations, published in the **Federal Register** on July 31, 2003 (68 FR 44905). Written comments from one commentator were received. No request for a public hearing was received, nor was one held. The proposed regulations are adopted as final regulations with one minor clarifying change.

As described more fully in the preamble to the proposed regulations, these regulations generally provide that the period of limitations on assessment provided for in section 6501 is suspended with respect to any return of tax by a corporation that is the subject of a designated or related summons if a court proceeding to enforce or quash is instituted with respect to that summons. These final regulations define a designated summons, a related summons, and the period of suspension. The final regulations also provide guidance regarding the component concepts of judicial enforcement period, court proceeding, the date when the proceeding is no longer pending, final resolution, compliance, and the date when compliance occurs. These regulations also provide special rules on the number of designated and related summonses that may be issued, the time within which court proceedings must be brought to suspend the period of limitations on assessment, the computation of the suspension period if multiple court proceedings are instituted, the effect on the suspension provisions under section 7609(e), and the application of section 7503 when the last day of an assessment period falls on a Saturday, Sunday, or legal holiday.

**Comments on the Proposed Regulations**

*§ 301.6503(j)-1(c)(5)(ii)—Date Compliance Occurs*

Proposed § 301.6503(j)-1(c)(5)(ii) provides, in pertinent part, that "[c]ompliance with a court order that grants enforcement, in whole or in part, of a designated or related summons, occurs on the date it is determined that the testimony given, or the books, papers, records, or other data produced, or both, by the summoned party fully satisfy the court order concerning the summons. The determination of whether there has been full compliance will be made within a reasonable time, given the volume and complexity of the records produced, after the later of the giving of all testimony or the production of all records requested by the summons or required by any order enforcing any part of the summons." The commentator suggested that this provision be changed