FAA–2010–0829; Directorate Identifier 2010–NE–23–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective January 3, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Pratt & Whitney Canada Corp. (P&WC) PW305A and PW305B turboprop engines with certain impellers, part numbers (P/Ns) 30B2185, 30B2486, 30B2858–01, or 30B4565–01 installed. These engines are installed on, but not limited to, Hawker-Beech Corporation BAe.125 series 1000A, 1000B, and Hawker 1000 airplanes and Learjet Inc. Learjet 60 airplanes.

Reason

(d) This AD results from:

As a result of a change in the low-cycle fatigue lifing methodology for the IMI 834 material, the recommended service life of certain PW305A and PW305B Impellers has been reduced, as published in the Airworthiness Limitations (AWL) section of Engine Maintenance Manual (EMM).

The in-service life of impellers P/N 30B2185, 30B2486 and 30B2858–01 has been reduced from 12,000 to 7,000 cycles; and of P/N 30B4565–01 from 8,500 to 7,000 cycles.

We are issuing this AD to prevent failure of the impeller, which could result in an uncontained event and possible damage to the airplane.

Actions and Compliance

(e) Unless already done, do the following actions.

(f) Within 30 days from the effective date of this AD, update AWL section of your PW305 EMM P/N 30B1402, to incorporate Pratt & Whitney Canada Corp. Temporary Revision (TR) AL–8, dated January 20, 2010, for compliance with the revised in-service limits for the affected Impellers, installed on PW305A and PW305B engine.

FAA AD Differences

(g) None.

Other FAA AD Provisions

(h) The following provisions also apply to this AD:

Alternative Methods of Compliance (AMOCs)

(i) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(j) Refer to MCAI Transport Canada Airworthiness Directive CF–2010–09, dated March 17, 2010, for related information.

(k) Contact James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; e-mail: *james.lawrence@faa.gov;* phone: (781) 238–7176; fax: (781) 238–7199, for more information about this AD.

Material Incorporated by Reference

(l) You must use Pratt & Whitney Canada Corp. Temporary Revision No. AL–8, dated January 20, 2010, to P&WC EMM P/N 30B1402 to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada J4G 1A1; telephone (800) 268–8000; fax (450) 647–2888; or go to: *http://www.pwc.ca.*

(3) You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on November 10, 2010.

Peter A. White,

Assistant Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2010–29599 Filed 11–24–10; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 090122044–0403–02]

RIN 0648–AX58

Marine Sanitation Device Discharge Regulations for the Florida Keys National Marine Sanctuary

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

ACTION: Final rule.

SUMMARY: NOAA is amending the regulations for the Florida Keys National Marine Sanctuary (FKNMS or sanctuary) by eliminating the exemption that allows discharges from within the boundary of the sanctuary of biodegradable effluent incidental to vessel use and generated by marine sanitation devices (MSDs) approved under the Clean Water Act (CWA), and by requiring that MSDs be secured to prevent discharges of treated and untreated sewage. This action builds upon the Environmental Protection Agency's creation of a No Discharge Zone (NDZ) for the state waters of the FKNMS, and will help protect the Florida Keys ecosystem from potentially harmful vessel sewage discharges. An environmental assessment has been prepared for this action pursuant to the National Environmental Policy Act. The environmental assessment includes a Finding of No Significant Impact (FONSI) regarding the impacts of this rulemaking.

DATES: These regulations are effective on December 27, 2010.

ADDRESSES: A copy of the environmental assessment, which includes the FONSI, described in this rule is available upon request to Sean Morton, Sanctuary Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, Florida 33040. It is also available for viewing and download at *http://floridakeys.noaa.gov/.*

FOR FURTHER INFORMATION CONTACT: Sean Morton, Sanctuary Superintendent, Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, Florida 33040. Phone: 305–809–4700.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at *http://www.gpoaccess.gov/fr/index.html.*

I. Statutory and Regulatory Background

The National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1431 *et seq.*) authorizes the Secretary of Commerce to designate and protect as national marine sanctuaries areas of the marine environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities. Management of national marine sanctuaries has been delegated by the Secretary of Commerce to NOAA's Office of National Marine Sanctuaries. The primary objective of the NMSA is to protect marine resources, such as coral reefs, sunken historical vessels, or unique habitats.

The FKNMS was designated by Congress in 1990 through the Florida Keys National Marine Sanctuary Protection Act (FKNMSPA, Pub. L. 101–605) and extends approximately 220 nautical miles southwest from the southern tip of the Florida peninsula. The sanctuary's marine ecosystem supports over 6,000 species of plants, fishes and invertebrates, including the Nation's only living coral reef that lies adjacent to the continent. The area includes one of the largest seagrass

communities in this hemisphere. The primary goal of the sanctuary is to protect the marine resources of the Florida Keys.

Other goals of the sanctuary include facilitating human uses that are consistent with the primary objective of resource protection, as well as educating the public about the Florida Keys marine environment. Attracted by this subtropical diversity, tourists spend more than thirteen million visitor days in the Florida Keys each year. In addition, the region's natural and man-made resources provide recreation and livelihoods for approximately 80,000 residents. The region also has some of the most significant maritime heritage and historical resources of any coastal community in the nation.

NOAA issued final regulations and a final management plan in 1997 for the FKNMS (62 FR 32161; June 12, 1997). Those regulations were designed to protect the fragile and nationally significant marine resources of the Florida Keys ecosystem. In doing so, these regulations established a series of fully protected marine zones, managed certain human activities, and established a permitting system for allowing some activities that would otherwise be prohibited. Sanctuary-wide prohibitions include restrictions on discharges into the sanctuary, disturbing the seafloor of the sanctuary, and taking certain marine species.

FKNMS regulations currently include a prohibition on discharging or depositing materials or other matter within the boundary of the sanctuary (15 CFR 922.163(a)(4)). Exceptions include discharging or depositing: (1) Fish, fish parts, chumming materials, or bait during traditional fishing operations in the sanctuary; (2) vessel cooling water or engine exhaust; (3) water generated by routine vessel operations (*e.g.,* deck wash and graywater), excluding oily wastes from bilge pumping; and (4) biodegradable effluent from approved MSDs incidental to vessel use. In certain protected zones, including Ecological Reserves, Sanctuary Preservation Areas and Research-only Areas, only discharges of engine exhaust and cooling water are allowed. The State of Florida, local municipalities (*e.g.,* City of Key West, City of Marathon), U.S. Environmental Protection Agency (EPA), National Park Service and U.S. Coast Guard also regulate MSDs and vessel discharges within the Florida Keys region. In addition, several private, state, local and Federal entities provide or support numerous pump-out stations throughout the Florida Keys to assist vessel operators in complying with these regulations.

Section 312 of the CWA (33 U.S.C. 1322 *et seq.*) gives the EPA and the states the authority to designate NDZs in state waters. An NDZ is an area of a waterbody or an entire waterbody into which the discharge of treated and untreated sewage from all vessels is completely prohibited. NDZs provide an additional management tool to address water quality issues associated with sewage contamination.

II. Historical Context

Several past actions have been taken at both the Federal and state levels to address longstanding water quality concerns in the Florida Keys. Under state law, all counties and municipalities throughout the State of Florida are required to develop and adopt a comprehensive plan that addresses "principles, guidelines, and standards for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area" (Florida Statutes Section 163.3177). In response, the Monroe County Comprehensive Plan includes several objectives geared toward improving and protecting water quality from vessel discharges. In 1999, the Board of County Commissioners of Monroe County adopted a resolution requesting that the Governor of the State of Florida petition the EPA to declare all state waters within the boundaries of the FKNMS to be a NDZ for all vessels. Monroe County believed that this action would be a major step in protecting water quality around the Florida Keys and especially those areas where there is a high concentration of vessels. The Governor of the State of Florida supported Monroe County's decision and in December 2000 submitted the county's request to EPA Region 4, asking EPA to designate all state waters within the boundary of the FKNMS as a NDZ under the authority of section 312(f)(4)(a) of the CWA.

In 2001, the EPA issued a proposed rule to designate the state waters of the FKNMS an NDZ pursuant to section 312(f)(4)(a) of the CWA (66 FR 38967; July 26, 2001). A 90-day public comment period followed (ending October 26, 2001), during which time EPA received 1,050 comments. There was overwhelming support for establishing the NDZ. The EPA's final rule (effective June 19, 2002) prohibits all sewage discharges from vessels in state waters of the FKNMS (67 FR 35735; May 21, 2002).

Both the resolution passed by the Board of County Commissioners of Monroe County and a resolution passed by the FKNMS Water Quality Protection Program Steering Committee on October 27, 1999, requested that NOAA establish regulations for no discharge from MSDs for the entire sanctuary. This was necessary because the EPA's action under the CWA was limited to state waters of the FKNMS. The EPA's final rule also recognized NOAA's intention to expand the prohibition on sewage discharges from vessels into the Federal waters of the sanctuary.

In December 2007, NOAA issued a revised management plan for the FKNMS that included a water quality action plan and regulatory action plan. The revised management plan is the culmination of an extensive public process. The strategies in the water quality action plan address sources of pollution, priority corrective actions and compliance schedules. The strategies seek to maintain and improve the balance between the indigenous population of corals, shellfish, fish and wildlife, and the recreation in and on the water. In particular, water quality Strategy L.1 identified the need to eliminate the discharge of wastewater, whether treated or not, from all vessels into sanctuary waters. The regulatory action plan identified the establishment of sanctuary-wide prohibitions on sewage discharge as a management priority.

On November 16, 2009, NOAA published a proposed rule (74 FR 58923) for this action and requested comments. NOAA's responses to the comments received during the subsequent public comment period are in **Section V** of the preamble in this final rule.

III. Summary of Rulemaking

This rulemaking eliminates the exemption that allows discharges of biodegradable effluent incidental to vessel use and generated by MSDs approved under the CWA. It also adds a new requirement that MSDs be secured in a manner that prevents discharges or deposits of treated and untreated sewage while within the boundaries of the FKNMS. Although the FKNMS regulations, as revised by this action, do not specify precisely how vessel operators should secure their MSDs, they state that all methods listed in Coast Guard regulations are among those that are acceptable for this purpose.

The Coast Guard regulations (at 33 CFR 159.7(b)) list the following as acceptable methods of securing Type I or Type II MSDs:

- Closing the seacock and removing the handle;

• Padlocking the seacock in the closed position;
• Using a non-releasable wire-tie to hold the seacock in the closed position; or
• Locking the door to the space enclosing the toilets with a padlock or door handle key lock.

Coast Guard regulations (at 33 CFR 159.7(c)) list the following as acceptable methods of securing Type III MSDs:
• Closing each valve leading to an overboard discharge and removing the handle;
• Padlocking each valve leading to an overboard discharge in the closed position; or
• Using a non-releasable wire-tie to hold each valve leading to an overboard discharge in the closed position.

IV. Justification

A major challenge to scientists and managers working in the Florida Keys and elsewhere is being able to differentiate the natural variability of ecosystems from human-caused disturbances. Signs of ecosystem stress in the Florida Keys include loss of coral cover and diversity, particularly at offshore bank reefs; increasing nitrogen and phosphorus concentrations in the near shore waters; decreased water clarity; and changes in the natural benthic community composition. Comprehensive monitoring of coral reef resources was initiated in 1996 because of the observed but poorly quantified loss of coral cover throughout the Florida Keys, and has documented a 37% reduction in stony coral coverage between 1996 and 2000. Habitat and water quality degradation in canals and other semi-confined waters within the Florida Keys has been measured and is related to human population density.

There are many variables to consider in assessing the impacts of MSD discharges from vessels transiting Florida Keys waters, including the volume of discharge, level of treatment, number of vessels, depth and distance from shore or other sources of pollution, current patterns, and habitat type at the discharge point. The dilution of wastewater from a single vessel transiting the Florida Keys may not cause serious ecological problems and may not be detectable within a short distance from the point of discharge. However, the cumulative impact from many transiting vessels could be significant, particularly where discharges take place in close proximity to coral reef or seagrass habitats (*see* environmental assessment for citations).

Recent data show a continued upward trend in the number of registered vessels in southern Florida, which would suggest an increased potential of transient visits to the Florida Keys and discharges in the FKNMS. Furthermore, there is an area of Federal water south of Key West (called "the hour glass") that effectively concentrates the potential discharge activity of vessel operators. This area and all other areas of the FKNMS are directly upstream of biological resources that are negatively impacted by increased nutrients. In considering the ever-increasing boating population and its discharge potential in south Florida, continuing to allow MSD discharges in the Federal waters of the sanctuary is not compatible with long-term marine ecosystem protection strategies. Also, as a practical matter, allowing vessels to discharge sewage in Federal waters within the FKNMS while prohibiting discharges in state waters could lead to confusion among vessel operators and enforcement problems. Thus, to better protect sanctuary resources, eliminate possible confusion among vessel operators, and facilitate enforcement efforts, FKNMS is eliminating all discharges of treated and untreated sewage from all vessels in the entire sanctuary.

V. Response to Comments

The comments received on the proposed rule that was published on November 16, 2009 (74 FR 58923) are summarized below, together with responses from NOAA. There were 18 distinct submissions from individuals or organizations, an additional 1,396 submissions generated by form letters, and one submission from a Federal agency. The changes to the rule that resulted from the comments received are summarized in the next section of this preamble **(VI. Summary of Changes From the Proposed Rule)**.

Public Submissions

1. *Comment:* The proposed rule should be implemented for several reasons, including: to mitigate one of multiple stressors on coral reefs; pollution is harmful and not solved by dilution; and MSDs do not remove all viruses and excess nutrients that can be harmful. NOAA should expeditiously adopt and actively enforce the proposed rule.

Response: NOAA agrees there are multiple stressors on the ecosystems in the Florida Keys, one of which could be mitigated by prohibiting the discharge of treated and untreated sewage into FKNMS waters. Though Type I and Type II MSDs can reduce the viral and nutrient content of sewage, NOAA believes pumping out at approved facilities, rather than discharging into the sanctuary, is less harmful to the habitats and species in the FKNMS.

2. *Comment:* Expanding the existing NDZ from state to Federal waters is appropriate and is consistent with the Florida Coastal Management Program.

Response: NDZs only apply in state waters per the Clean Water Act. However, NOAA believes having similar MSD discharge regulations apply throughout all FKNMS waters (*i.e.*, both state and Federal) will improve enforceability of such regulations. Further, this should reduce confusion among FKNMS visitors/users, build on the strong partnership between NOAA and the State of Florida in managing the FKNMS and, overall, enhance the protections afforded to FKNMS resources.

3. *Comment:* NOAA should support the installation of land- and vessel-based pump-out facilities, and continue to educate the public about the availability and importance of using these facilities.

Response: NOAA agrees installation of land- and vessel-based pump-out facilities and education are important components of increasing compliance with the proposed rule. To this end, NOAA will work with the appropriate state and Federal entities to support installation of adequate pump-out facilities. In addition, NOAA will provide information to the public about these facilities. These measures should help encourage vessel operators to reduce pollution to the FKNMS from vessels' sewage discharges.

4. *Comment:* The proposed rule should be implemented, but NOAA should also consider banning harmful vessel graywater discharges, especially from large cruise and cargo vessels.

Response: NOAA agrees graywater discharges may be harmful to the ecosystem, particularly in large volumes in sensitive habitats. However, this rulemaking implements a recommendation from the 2007 Florida Keys National Marine Sanctuary Revised Management Plan that was specific to discharges of sewage from vessels. Additional water quality regulation may be considered in future FKNMS management plan reviews.

5. *Comment:* The proposed rule should be implemented, but enforceability of tracking discharges from and locking of MSDs raises concerns. NOAA should include an enforcement component in the final rule that considers such issues as regular patrols in the FKNMS, proactive boarding/inspection of vessels, standards for acceptable types of MSD locks, and consequences of noncompliance.

Response: NOAA agrees adequate enforcement will be necessary to help make the rule more effective, especially given the size of the FKNMS and the number of vessels that use the FKNMS. Therefore, NOAA has included language related to enforcement in the preamble to the final rule to facilitate understanding of the requirements of this rule, enhance enforceability, and encourage compliance. Specifically, NOAA has included acceptable methods, as described in 33 CFR 159.7(b) and (c), for securing MSDs in a manner that prevents discharges or deposits of treated and untreated sewage into FKNMS waters. In addition, language has been included in the environmental assessment associated with this rule (*see* **ADDRESSES** section for instructions on obtaining a copy) to specify that personnel from the Florida Fish and Wildlife Conservation Commission, the NOAA Office for Law Enforcement, and the U.S. Coast Guard are authorized to enforce this rule. Noncompliance would be subject to civil penalties pursuant to section 307 of the National Marine Sanctuaries Act (16 U.S.C. 1437).

6. *Comment:* The proposed rule should be implemented, especially because it is consistent with the efforts (*i.e.,* money being spent) by Monroe County to treat wastewater from land-based sources. In addition, no discharges should be allowed from any sources.

Response: NOAA agrees that this action will complement other efforts by Monroe County and the State of Florida to reduce harmful discharges into the FKNMS and surrounding waters. This rulemaking builds consistency and enhances partnerships to improve water quality. Further, this rulemaking implements a recommendation from the 2007 Florida Keys National Marine Sanctuary Revised Management Plan that was specific to discharges of sewage from vessels. Though the prohibition of discharges from sources other than MSDs is beyond the intent of this rule, additional water quality regulation may be considered in future FKNMS management plan reviews.

7. *Comment:* The proposed rule should not be implemented because it is ill advised, counter-productive and impractical to enforce. Instead, NOAA should actively encourage the installation and use of approved Type I MSDs, since they properly treat waste to make discharges harmless.

Response: NOAA does not agree installation of Type I MSDs should be encouraged over prohibiting discharges from MSDs in FKNMS waters, since they do not adequately remove the viruses and excess nutrients that could harm FKNMS resources. Allowing any discharges of sewage, treated and untreated, is not as protective of FKNMS water quality as completely prohibiting them. Further, this rule is consistent with the existing discharge prohibitions in Florida's state waters, and therefore enhances compliance and increases enforceability in both state and Federal waters.

8. *Comment:* NOAA should have consistent, system-wide (rather than site-specific) procedures for designating NDZs in national marine sanctuaries. NOAA should adopt those procedures already established by the CWA by which states obtain permission from the EPA to designate state waters as NDZs.

Response: The EPA's procedures for establishing NDZs are not appropriate for every national marine sanctuary in the National Marine Sanctuary System (system), since NDZs only apply in state waters per the CWA, and some sanctuaries are located entirely in Federal waters. This rule encompasses all waters of the FKNMS, which includes state and Federal waters. Each site in the system was designated with different goals and objectives and, thus, their needs for vessel discharge regulations vary as well. NOAA will continue to evaluate the need for restrictions on vessel discharges on a sanctuary-by-sanctuary basis.

9. *Comment:* NOAA has not demonstrated whether it considered if adequate pump-out facilities are available to vessel operators nor where funding will come from and be directed for increased access to pump-out facilities. NOAA cannot rely on the demonstration made by the State of Florida to the EPA unless the state had also considered the impact of an NDZ in the Federal waters of the FKNMS. NOAA should work with state and local agencies, EPA, and the U.S. Fish and Wildlife Service (FWS) to ensure that there are adequate pump-out facilities available.

Response: NOAA included information in the draft environmental assessment associated with this rule on the pump-out facilities in the Florida Keys and provided additional details about their locations and operational status in this rule's final environmental assessment (*see* **ADDRESSES** section for instructions on obtaining a copy). NOAA believes that vessel operators will be able to adequately discharge MSDs at existing pump-out facilities in the Florida Keys, based on their current quantity and locations, or outside FKNMS boundaries as appropriate. Florida was awarded $2.5 million in grant funding from the Clean Vessel Act Grant Program in 2008 (with $838,976 in matching funding provided by the state), and this money is being used through 2010 to fund up to 121 pump-out projects in the coastal regions of Florida, which should increase access to pump-out facilities for vessel operators. To date, nine of these additional pump-out projects are in Monroe County. These efforts and the NOAA MSD discharge regulation help implement Strategy L.1, Elimination of Wastewater Discharge from Vessels, Activities 2–5, in the 2007 Florida Keys National Marine Sanctuary Revised Management Plan.

Federal Submissions—U.S. Coast Guard

10. *Comment:* The term "unlocked" is unclear and not otherwise defined, so NOAA should cross-reference Coast Guard regulations on MSDs in the rule to promote consistency and clarify regulatory compliance.

Response: NOAA has edited the rule language that was proposed for 15 CFR 922.163(a)(5)(vi) to replace "unlocked or that allows discharge or deposit of sewage" with "not secured in a manner that prevents discharges or deposits of treated and untreated sewage." NOAA agrees that acceptable methods for securing MSDs to prevent discharges or deposits of treated and untreated sewage include, but are not limited to, the methods listed in the Coast Guard's regulations (at 33 CFR 159.7(b) and (c)). Though NOAA has included the reference to Coast Guard's regulations in this rule as a guide, vessel operators could use other methods if those methods fulfill NOAA's goal of ensuring that sewage from MSDs is not discharged into the sanctuary.

11. *Comment:* Vessels with Type I and II MSD technologies that require considerable effort to start and stop (certain biological or anaerobic type systems) might also be equipped with a Type III MSD, which can hold treated sewage while operating in an area where discharge is prohibited.

Response: Comment noted.

12. *Comment:* Federal, State and local law enforcement officers should retain an exemption allowing them to discharge biodegradable effluent incidental to vessel use and generated by MSDs into FKNMS waters, as eliminating the exemption would have a negative impact on law enforcement activities. Since activities in the FKNMS related to migrant interdiction operations, counter-drug smuggling operations, and search and rescue operations may be long and drawn out, requiring the law enforcement vessel to operate near the incident, leaving the

scene of the incident to discharge an MSD is not always an option.

Response: NOAA agrees Federal, State and local law enforcement officers acting in their official capacities may not have an option to leave the scene of an incident to discharge an MSD. NOAA has amended the regulatory language in 15 CFR 922.163(e) to ensure that the requirements and prohibitions of this rule do not apply to Federal, State and local officers while performing enforcement duties and/or responding to emergencies that threaten life, property, or the environment in their official capacity.

VI. Summary of Changes From the Proposed Rule

Due to the comments received and the need for some technical fixes, NOAA has made a few key changes to this final rule as compared to the proposed rule as follows:

- Provided in the preamble some examples from Coast Guard regulations of acceptable methods for securing MSDs in a manner that prevents discharges and deposits of treated and untreated sewage;
- Made a conforming amendment to 15 CFR 922.163(a)(4)(ii);
- Clarified the language in new paragraph 15 CFR 922.163(a)(5)(vi) and added a reference to Coast Guard regulations; and
- Added into 15 CFR 922.163(e) an exemption from this rulemaking for law enforcement officers performing their duties.

VII. Classifications

A. National Environmental Policy Act

NOAA has prepared an environmental assessment, which includes a Finding of No Significant Impact (FONSI), regarding the impacts of this rulemaking. The assessment found that this action would eliminate at least one contributing factor to declining water quality within the FKNMS. Improved water quality is necessary for the maintenance and enhancement of the sanctuary's biological resources, as well as of the recreational and commercial opportunities they provide. If the no action alternative had been adopted, it would have continued the discharge of treated sewage from MSDs into the Federal waters of the FKNMS, which would have continued to contribute to the decline of water quality. Poor water quality threatens not only the unique biological resources of the FKNMS, but also the viability of the local economy, which depends on the ability of these resources to attract visitors. Copies of the environmental assessment, which includes the FONSI, are available at the address and website listed in the **ADDRESSES** section of this rule.

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 that 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 collection-of-information requirements or revisions to the existing collection-of-information requirement that was approved by the Office of Management and Budget (OMB) (OMB Control Number 0648–0141) under the Paperwork Reduction Act of 1980 (PRA), 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 during the proposed rule stage that this action would 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 this certification. As a result, a regulatory flexibility analysis was not required, and none was prepared.

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, Federal Water Pollution Control Act (Clean Water Act).

Dated: November 17, 2010.

Juliana P. Blackwell,

Acting Deputy Assistant Administrator, National Ocean Service, National Oceanic and Atmospheric Administration.

■ Accordingly, for the reasons discussed in the preamble, 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: 16 U.S.C. 1431 *et seq.*

■ 2. Amend § 922.163 as follows:
■ a. By removing paragraph (a)(4)(i)(B);
■ b. By redesignating paragraphs (a)(4)(i)(C) and (a)(4)(i)(D) as (a)(4)(i)(B) and (a)(4)(i)(C), respectively;
■ c. By revising (a)(4)(ii); and
■ d. By adding a new paragraph (a)(5)(vi);
■ e. By revising paragraph (e) to read as follows:

The revisions and addition read as follows:

§ 922.163 Prohibited activities—Sanctuary wide.

(a) * * *

(4) * * *

(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:

(A) Those listed in paragraph (a)(4)(i)(A) through (a)(4)(i)(C) of this section;

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

(C) Those authorized under Monroe County land use permits; or

(D) Those authorized under State permits.

(5) * * *

(vi) Having a marine sanitation device that is not secured in a manner that prevents discharges or deposits of treated and untreated sewage. Acceptable methods include, but are not limited to, all methods that have been approved by the U.S. Coast Guard (at 33 CFR 159.7(b) and (c)).

* * * * *

(e) The following prohibitions do not apply to Federal, State and local officers while performing enforcement duties in their official capacities or responding to emergencies that threaten life, property, or the environment:

(1) Those contained in paragraph (a)(4) of this section only as it pertains to discharges of sewage incidental to vessel use and generated by a marine sanitation device approved in accordance with section 312 of the Federal Water Pollution Control Act (FWPCA), as amended, 33 U.S.C. 1322 *et seq.;* and

(2) Those contained in paragraph (a)(5) of this section.

* * * * *

[FR Doc. 2010–29416 Filed 11–24–10; 8:45 am]

BILLING CODE 3510–NK–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR PARTS 230, 240 and 260

[Release Nos. 33–9158; 34–63348; 39–2472; File No. S7–02–09]

RIN 3235–AK26

Extension of Temporary Exemptions for Eligible Credit Default Swaps To Facilitate Operation of Central Counterparties To Clear and Settle Credit Default Swaps

AGENCY: Securities and Exchange Commission.

ACTION: Final temporary rules; extension.

SUMMARY: We are extending the expiration dates in our temporary rules that provide exemptions under the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939 for certain credit default swaps in order to continue facilitating the operation of one or more central counterparties for those credit default swaps until the implementation of the clearing provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Under the amendments, the expiration dates of the temporary rules are extended to July 16, 2011.

DATES: *Effective Date:* This rule is effective November 26, 2010, and the expiration dates for the temporary rules and amendments published January 22, 2009 (74 FR 3967) and extended in a release published on September 17, 2009 (74 FR 47719) are extended from November 30, 2010 to July 16, 2011.

FOR FURTHER INFORMATION CONTACT: Amy M. Starr, Senior Special Counsel, or Michael J. Reedich, Special Counsel, Office of Chief Counsel, Division of Corporation Finance, at (202) 551–3500, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–3628.

SUPPLEMENTARY INFORMATION: We are adopting amendments to the following rules: temporary Rule 239T and Rule 146 under the Securities Act of 1933 ("Securities Act"),[1] temporary Rule 12a–10T and Rule 12h–1(h)T under the Securities Exchange Act of 1934 ("Exchange Act"),[2] and temporary Rule 4d-11T under the Trust Indenture Act of 1939 ("TIA").[3]

I. Background

In January 2009, we adopted interim final temporary Rule 239T and a temporary amendment to Rule 146 under the Securities Act, interim final temporary Rules 12a–10T and 12h–1(h)T under the Exchange Act, and interim final temporary Rule 4d–11T under the TIA (collectively, the "Temporary Rules"), and in September 2009, we extended the expiration date of these rules from September 25, 2009 to November 30, 2010. We adopted these rules in connection with temporary exemptive orders[4] we issued to clearing agencies acting as central counterparties ("CCP"), which exempted the CCPs from the requirement to register as clearing agencies under Section 17A of the Exchange Act[5] solely to perform the functions of a clearing agency for certain credit default swap ("CDS") transactions.[6] The exemptive orders also exempted certain eligible contract participants[7] and others from certain Exchange Act requirements with respect to certain CDS.[8] Also at that time, we temporarily exempted any exchange that effects transactions in certain CDS from the requirements under Sections 5 and 6 of the Exchange Act[9] to register as a national securities exchange, and any broker or dealer that effects transactions on an exchange in certain CDS from the requirements of Section 5 of the Exchange Act.

We adopted the Temporary Rules and the CCP exemptive orders because we believed and continue to believe that the existence of CCPs for CDS would be important in helping to reduce counterparty risks inherent in the CDS market. Today, CDS agreements generally are negotiated and entered into bilaterally, but eligible trades may be submitted to the CCP for novation, which results in the CCP becoming the buyer to the original seller and the seller to the original buyer.[10] The operation of a well-regulated CCP can significantly reduce counterparty risks by preventing the failure of a single-market participant from having a disproportionate effect on the overall market, since bilateral counterparty risk is eliminated as the creditworthiness of the original counterparties is replaced by the creditworthiness of the CCP.

At the time of the adoption of the Temporary Rules and the CCP exemptive orders, the OTC market for CDS was a source of concern to us and other financial regulators due to the systemic risk posed by CDS, the possible inability of parties to meet their obligations as counterparties under the CDS, and the potential resulting adverse effects on other markets and the financial system.[11] In response, in January 2009, we took action to help foster the prompt development of CCPs for CDS, including granting conditional exemptions from certain provisions of the Federal securities laws.

In September 2009, we extended the expiration date of the Temporary Rules to November 30, 2010 because, among other reasons, a number of legislative initiatives relating to the regulation of derivatives, including CDS, had been introduced by members of Congress and recommended by the United States Department of the Treasury ("Treasury"), and Congress had not yet

[1] 15 U.S.C. 77a *et seq.*

[2] 15 U.S.C. 78a *et seq.*

[3] 15 U.S.C. 77aaa *et seq.*

[4] *See generally* Securities Exchange Act Release Nos. 60372 (Jul. 23, 2009), 74 FR 37748 (Jul. 29, 2009) and 61973 (Apr. 23, 2010), 75 FR 22656 (Apr. 29, 2010) (temporary exemptions in connection with CDS clearing by ICE Clear Europe Limited); Securities Exchange Act Release Nos. 60373 (Jul. 23, 2009), 74 FR 37740 (Jul. 29, 2009) and 61975 (Apr. 23, 2010), 75 FR 22641 (Apr. 29, 2010) (temporary exemptions in connection with CDS clearing by Eurex Clearing AG); Securities Exchange Act Release Nos. 59578 (Mar. 13, 2009), 74 FR 11781 (Mar. 19, 2009), 61164 (Dec. 14, 2009), 74 FR 67258 (Dec. 18, 2009), and 61803 (Mar. 30, 2010), 75 FR 17181 (Apr. 5, 2010) (temporary exemptions in connection with CDS clearing by Chicago Mercantile Exchange Inc.); Securities Exchange Act Release Nos. 59527 (Mar. 6, 2009), 74 FR 10791 (Mar. 12, 2009), 61119 (Dec. 4, 2009), 74 FR 65554 (Dec. 10, 2009), and 61662 (Mar. 5, 2010), 75 FR 11589 (Mar. 11, 2010) (temporary exemptions in connection with CDS clearing by ICE Trust U.S. LLC); Securities Exchange Act Release No. 59164 (Dec. 24, 2008), 74 FR 139 (Jan. 2, 2009) (temporary exemptions in connection with CDS clearing by LIFFE A&M and LCH.Clearnet Ltd.) and other Commission actions discussed in several of these orders.

[5] 15 U.S.C. 78q–1.

[6] *See* Exchange Act Release No. 59246 (Jan. 14, 2009).

[7] *See* 7 U.S.C. 1a(12).

[8] *See generally* the actions noted in footnote 4, *supra.*

[9] 15 U.S.C. 78e and 78f.

[10] "Novation" is a "process through which the original obligation between a buyer and seller is discharged through the substitution of the CCP as seller to buyer and buyer to seller, creating two new contracts." Committee on Payment and Settlement Systems, Technical Committee of the International Organization of Securities Commissioners, *Recommendations for Central Counterparties* (November 2004) at 66.

[11] In addition to the potential systemic risks that CDS pose to financial stability, we were concerned about other potential risks in this market, including operational risks, risks relating to manipulation and fraud, and regulatory arbitrage risks.