

(d)(1) If, as a result of any inspection conducted in accordance with paragraphs (a) or (b) of this AD, Level 3 corrosion is determined to exist in any airplane area, accomplish either paragraph (d)(1)(i) or (d)(1)(ii) within 7 days after such determination:

(i) Submit a report of that determination to the FAA and complete the corrosion task in the affected areas on all Model L-1011 series airplanes in the operator's fleet; or

(ii) Submit to the FAA for approval one of the following:

(A) A proposed schedule for performing the corrosion tasks in the affected areas on the remaining Model L-1011 series airplanes in the operator's fleet, which is adequate to ensure that any other Level 3 corrosion is detected in a timely manner, along with substantiating data for that schedule; or

(B) Data substantiating that the Level 3 corrosion found is an isolated occurrence.

Note 9: Notwithstanding the provisions of Section 1 of the Document, which would permit corrosion that otherwise meets the definition of Level 3 corrosion (i.e., which is determined to be a potentially urgent airworthiness concern requiring expeditious action) to be treated as Level 1 if the operator finds that it "can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet," this paragraph requires that data substantiating any such finding be submitted to the FAA for approval.

(2) The FAA may impose schedules other than those proposed, upon finding that such changes are necessary to ensure that any other Level 3 corrosion is detected in a timely manner.

(3) Within the time schedule approved under paragraph (d)(1) or (d)(2) of this AD, accomplish the corrosion tasks in the affected areas of the remaining Model L-1011 series airplanes in the operator's fleet.

(e) If, as a result of any inspection after the initial inspection conducted in accordance with paragraphs (a) or (b) of this AD, it is determined that corrosion findings exceed Level 1 in any area, within 60 days after such determination, implement a means, approved by the FAA, to reduce future findings of corrosion in that area to Level 2 or better.

(f) Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of corrosion tasks required by this AD must be established in accordance with paragraph (f)(1) or (f)(2) of this AD, as applicable:

(1) For airplanes previously maintained in accordance with this AD, the first corrosion task in each airplane area to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that task. After each corrosion task has been performed once, each subsequent task must be performed in accordance with the new operator's schedule.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first corrosion task for each airplane area to be performed by the new operator must be accomplished prior to

further flight or in accordance with a schedule approved by the FAA.

(g) Reports of Level 2 and Level 3 corrosion must be submitted at least quarterly to Lockheed Aeronautical Systems in accordance with section 5 of the Document.

Note 9: Reporting of Level 2 and Level 3 corrosion found as a result of any opportunity inspections is highly desirable.

(h) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through the cognizant Maintenance Inspector at the appropriate FAA Flight Standards Office, who may concur or comment and then send it to the Manager, Atlanta ACO.

Note 10: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(i) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(j) Reports of corrosion inspection results required by this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1996 (44 U.S.C. 3501 et seq.) and have been assigned OMB Control Number 2120-0056.

(k) The completion of the corrosion tasks shall be done in accordance with Lockheed Document Number LR 31899, "Corrosion Prevention and Control Program, TriStar L-1011," dated March 15, 1991; including "Errata Sheet, LR 31899, Corrosion Prevention and Control Program, TriStar L-1011," issued September 23, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Western Export Company, Attn: Commercial and Customer Support, Dept. 693, Zona 0755, 88 South Cobb Drive, Marietta, Georgia 30063. Copies may be inspected at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, 1668 Phoenix Parkway, Suite 210C, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on December 17, 1993.

Issued in Renton, Washington, on October 8, 1993.

David G. Hinsel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-28457 Filed 11-17-93; 6:43 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Parts 922, 924, 929, 935, 936, 937, 938, 941, 942, 943, and 944

National Marine Sanctuary Program

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

SUMMARY: These final regulations incorporate the revised statutory language of certain provisions of the National Marine Sanctuaries Program Amendments Act of 1992, (1992 Amendments), and certain provisions of the National Marine Sanctuaries Program Amendments and Authorization of 1988, (1988 Amendments). The 1992 and 1988 Amendments (the Amendments) encompass a wide range of procedural and policy revisions relating to the National Marine Sanctuaries Program. The promulgation of this final rule effects conformity of NOAA's marine sanctuary regulations with these statutory revisions.

EFFECTIVE DATE: These regulations are effective on November 18, 1993.

FOR FURTHER INFORMATION CONTACT: Captain Francesca Cave, Chief, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 3105 East-West Highway, suite 11520, Silver Spring, MD 20910, (301/713-3125).

SUPPLEMENTARY INFORMATION:

I. Authority

This final rulemaking is issued under the authority of title III of the Marine Protection, Research, and Sanctuaries Act (Act), 16 U.S.C. 1431 et seq.; as amended by title II of Public Law 102-587 (1992) and title II of Public Law 100-627 (1988). The Amendments reauthorize and amend title III of the Act.

II. Background

On November 7, 1988, President Reagan approved Public Law 100-627, Title II of Public Law 100-627 contains the 1988 Amendments.¹ The 1988

¹ A notice of proposed rulemaking was published in the Federal Register to implement the 1988 Amendments, 57 FR 37130 (July 14, 1992). That notice may be withdrawn and a substitute version of the regulations implementing the section of the

Amendments authorize appropriations through FY 1991 and amend the Act.

On November 4, 1992, President Bush approved Public Law 102-587; title II of Public Law 102-587 contains the 1992 Amendments. The National Marine Sanctuary Program is administered by the Sanctuaries and Reserves Division, NOS, NOAA, Department of Commerce.

The 1988 Amendments: (1) Modify the sanctuary designation procedures to reduce the length of the process to two and one-half years; (2) require the Secretary of Commerce (Secretary) to promote and coordinate the use of marine sanctuaries for marine research by NOAA and other Federal and state agencies; (3) authorize the Secretary to issue special use permits for conducting specific activities in sanctuaries and to assess fees for conducting activities under such permits; (4) allow the Secretary to enter into cooperative agreements with nonprofit organizations for the promotion of, and the solicitation of private donations for, interpretive, historical, educational and scientific activities, and to accept donations for use in designating and administering marine sanctuaries; (5) make any person who destroys, causes the loss of, or injures any sanctuary resource liable to the United States for response costs and damages, and make recovered funds available for restoration, replacement, or acquisition of equivalent resources and for sanctuary management purposes; and (6) expand enforcement authority.

The 1992 Amendments: (1) Strengthen and clarify the purposes and policies of the National Marine Sanctuary Program; (2) clarify certain definitions and other provisions; (3) streamline the sanctuary designation process; (4) require the Secretary to cooperate with not only the appropriate Regional Fishery Management Council, but also other appropriate fishery management authorities in drafting any sanctuary fishing regulations; (5) require interagency consultation on proposed activities that are likely to damage sanctuary resources; (6) require reviews of sanctuary management plans every five years; (7) require the Secretary to engage in international cooperation; (8) make explicit that it is unlawful to destroy, cause the loss of, or injure sanctuary resources; (9) increase the maximum civil penalty amount from \$50,000 to \$100,000; (10) make explicit

that a civil penalty constitutes a maritime lien; (11) make explicit that proceeds from forfeiture constitute a separate recovery; (12) make technical changes regarding use of amounts received as civil penalties, forfeitures and costs; (13) clarify that the area of application and enforceability of the Act includes the territorial sea and exclusive economic zone; (14) strengthen the roles of research and monitoring as components of sanctuary management; (15) provide greater flexibility to enter into cooperative and other ventures to carry out the purposes and policies of the Act; (16) allow the Secretary to acquire land or other property necessary and appropriate to carry out the purposes and policies of the Act; (17) make certain technical amendments to section 312 of the Act, which addresses liability for destruction, loss and injury to sanctuary resources; and (18) allow the Secretary to establish advisory councils to provide assistance regarding the designation and management of sanctuaries.

III. Purpose of This Rule

The purpose of this rule is to amend the National Marine Sanctuary Program and individual-sanctuary regulations to make them consistent with the Act, as amended.

IV. Specific Amendments to the Regulations

A. Findings, Purposes and Policies

The 1992 Amendments revise the existing findings at subsection 301(a)(2) by reiterating that certain areas of the marine environment possess conservation, recreational, ecological, historical, research, educational or esthetics qualities that give them special national significance, and adding "and in some cases, international" significance. The 1992 Amendments add "research" to subsection 301(a)(4) as an additional factor to be considered in identifying special areas of the marine environment. In addition, the 1992 Amendments add a new finding at subsection 301(a)(6) that "protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations."

The 1992 Amendments revise subsection 301(b)(2) to clarify that one of the purposes and policies of the Act is to provide authority for comprehensive and coordinated conservation and management of not only these special marine areas but also "activities affecting them". Subsection 301(b)(3) is revised to emphasize support, promotion and coordination of "long-term" monitoring and research as

a purpose and policy of the Act. The following purposes and policies are also added: To "develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas"; to "create models of, and incentives for, ways to conserve and manage these areas"; to "cooperate with global programs encouraging conservation of marine resources"; and to "maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate." These additions are incorporated into the Act at subsections 301(b)(6)-(b)(9).

This final rule amends § 922.1 to incorporate these additions and clarifications.

B. Definitions

The 1992 Amendments clarify that the definition of "marine environment" at section 302(3) includes the exclusive economic zone as defined in the Magnuson Fishery Conservation and Management Act. The 1988 Amendments defined "sanctuary resource" as "any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological historical, research, educational, or aesthetic value of the sanctuary" (section 302(8)). This final rule amends § 922.2 to incorporate these additions and clarifications.

C. Sanctuary Designation Standards

The 1992 Amendments revise subsection 301(a)(2)(B) by specifying that in order to designate a sanctuary, the Secretary need only find that existing State and Federal authorities "should be supplemented," not necessarily that they are inadequate. The Secretary is to consider "maintenance of critical habitat of endangered species," as a factor in determining whether an area meets the Sanctuary designation standards (subsection 303(b)(1)(A)). This rule amends paragraphs (a) and (b) of § 922.33 to incorporate these changes.

D. Designation Procedures

The 1992 Amendments require that the resource assessment report section of the environmental impact statement for a proposed sanctuary include information on "governmental" uses of the area and on any "past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed

1988 Amendments addressing liability for destruction, loss and injury to sanctuary resources (section 312 of the Act) will be proposed. The final rule promulgated today implements those sections of the 1988 Amendments that NOAA has determined may be implemented without notice and an opportunity for comment.

sanctuary." The Secretary is to consult with the Secretary of Defense, the Secretary of Energy and the Administrator of the Environmental Protection Agency in preparing the discharge/disposal section (subsection 303(b)(3)). This final rule revises paragraph (h) of § 922.31 to incorporate these requirements.

This final rule revises paragraph (e) of § 922.31 to eliminate the statement that the time period between Active Candidate selection and proposing to designate an area as a national marine sanctuary will normally not exceed three years. Paragraph (e) of § 922.31 continues to require that the draft management plan and the draft environmental impact statement be prepared as quickly as possible to allow for maximum public input, and adds the provision "and compliance with statutory timeliness for designation."

The 1992 Amendments eliminate the requirement of preparation of a prospectus for Congress for each proposed designation (subsection 304(a)), and instead require only submission of "documents, including an executive summary" providing the required information about the proposed designation (section 304(a)(1)(C)). The final rule amends § 922.32 to incorporate this streamlining.

The 1992 Amendments require that the Secretary cooperate with not only the appropriate Regional Fishery Management Council, but also other appropriate fishery management authorities in drafting regulations for fishing within the exclusive economic zone for a proposed sanctuary (subsection 304(a)(5)). The final rule amends paragraph (f) of § 922.31 to incorporate this requirement.

The 1988 Amendments revised subsection 304(b)(1) to require the Secretary to either issue a notice of designation with respect to a proposed site not later than 30 months after the date the notice declaring the site to be an active candidate is published in the Federal Register or publish in the Federal Register "findings regarding why such notice has not been published." The final rule revises paragraph (a) of § 922.34 to incorporate this requirement.

The 1992 Amendments further revised section 304(b) by eliminating the subsection providing for Congressional disapproval of a sanctuary designation through enactment of a joint resolution. Subsection 304(b)(3) is eliminated and subsection 304(b)(4) is redesignated as subsection 304(b)(3) to conform with this change. Subsection 304(b)(2) is also

revised to reflect this change. The final rule makes appropriate revisions to § 922.34 to reflect this deletion.

E. Pre-existing Activities

The 1992 Amendments revised subsection 304(c)(1) to simplify the legislative language with respect to the date on which a lease, permit, license or right of subsistence use or of access is pre-existing for purposes of the Act. The subsection now provides that nothing in the Act is to be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license or right of subsistence use or of access if the lease, permit, license or right "is in existence on the date of designation of any national marine sanctuary." The final rule revises § 922.11 to reflect this change.

A section 304(e) has been added by the 1992 Amendments requiring the Secretary to review sanctuary management plans and their implementation every five years. Although not previously a statutory requirement, the final rule implementing the 1984 amendments to the Act included such a requirement (15 CFR 922.40(d)). The 1992 Amendments make this requirement statutory and clarify that the Secretary "shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this title." The final rule revises paragraph (d) of § 922.40 to reflect this change.

F. Enforcement

The 1992 Amendments revised section 307, the enforcement section, by increasing the maximum civil penalty for violation of the Act or any regulation or permit issued under the Act from \$50,000 to \$100,000 (subsection 307(c)(1)). The final rule amends the enforcement provisions of each of the individual-sanctuary regulations to change the maximum amount of the civil penalty to the new amount. The changed sections are 924.4, 929.9, 935.8, 936.7, 937.7, 938.7, 941.10, 942.7, 943.8, and 944.7. Further, the references in those regulations to NOAA's consolidated civil procedure regulations (15 CFR part 904) have been updated as necessary.

The 1992 Amendments also make explicit that a civil penalty constitutes a maritime lien and that proceeds from forfeiture actions constitute a separate recovery, and make technical changes regarding use of amounts received as civil penalties, forfeiture and costs. The 1992 Amendments also clarify that the area of application and enforceability of the Act includes the territorial sea and the exclusive economic zone. No

revision to NOAA's regulations is necessary.

G. Research, Monitoring and Education

The 1988 Amendments added a section 309 to the Act dealing with the promotion and coordination of national marine sanctuaries for research purposes. The 1992 Amendments revise section 309 to emphasize monitoring and education, in addition to research, as priorities within national marine sanctuaries. This section also directs the Secretary to promote and coordinate the use of national marine sanctuaries for research, education and monitoring, e.g., consulting with "Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons," including coordination with the National Estuarine Research Reserve System (section 309(b)). A new § 922.42 is added by the final rule to set forth the provisions of section 309.

V. Miscellaneous Rulemaking Requirements

A. Executive Order 12866: Regulatory Impact

NOAA has concluded that these regulations are not significant within the meaning of section 3(f) of Executive Order 12866 because they will not result in:

- (1) An annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment or public health and safety;
- (2) A serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) A material alteration of the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of such recipients; or
- (4) A novel legal or policy issue arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

B. Regulatory Flexibility Act

A Regulatory Flexibility Analysis is not required for this rulemaking. The regulations set forth procedures for designating and managing national marine sanctuaries in accordance with the Amendments. The regulations will not have a significant impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act, and the General Counsel of the Department of Commerce has so certified to the Chief Counsel for Advocacy of the Small Business Administration. As a result, no

Regulatory Flexibility Analysis was prepared.

Paperwork Reduction Act of 1980

These Regulations will impose no collection of information requirements of the type covered by the Paperwork Reduction Act.

D. National Environmental Policy Act

NOAA has concluded that this regulatory action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

E. Administrative Procedure Act

This final rule amends the existing National Marine Sanctuary Program and individual-sanctuary regulations to make them consistent with the Act, as amended. The changes to the regulations are non-discretionary and except from minor editorial changes have been accomplished by incorporating the statutory language into the regulations. Because the 1988 and 1992 Amendments have already changed the law, no purpose would be served by publishing general notice of proposed rulemaking in the Federal Register and allowing public comment.

Accordingly, as provided by section 553(b) of title 5 of the United States Code, the agency for good cause finds that the notice and public comment procedure therein is unnecessary.

The changes in the law were self-implementing upon enactment. Therefore, NOAA for good cause finds no purpose served by delaying the effective date of these regulations as would otherwise be required by section 553(d) of title 5 of the United States Code. Accordingly, under 5 U.S.C. 553(d)(3) the agency is making them effective immediately.

F. Executive Order 12612

These regulations do not contain policies with sufficient Federalism implications to warrant preparation of a Federalism assessment under Executive Order 12612.

List of Subjects in

15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Recreation and recreation areas, Research.

15 CFR Parts 924, 929, 935, 936, 937, 938, 941, 942, 943, 944

Administrative practice and procedure, Coastal zone, Education,

Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

Dated: October 7, 1993.
W. Stanley Wilson,
Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, 15 CFR parts 922, 924, 929, 935, 936, 937, 938, 941, 942, 943 and 944 are amended as follows:

PART 922—NATIONAL MARINE SANCTUARY PROGRAM

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

Authority: 16 U.S.C. 1431 et seq.

2. Section 922.1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 922.1 Mission, goals, and special policies.

(a) In accordance with the standards set forth in title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (Act), the mission of the National Marine Sanctuary Program (Program) is to identify, designate and manage areas of the marine environment of special national, and in some cases international, significance due to their conservation, recreational, ecological, historical, research, educational, or esthetics qualities.

(1) Protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations.

(2) [Reserved]

(b) The goals of the Program are to carry out the mission to:

(1) Identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance;

(2) Provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) Support, promote, and coordinate scientific research on, and monitor of, the resources of these marine areas, especially long-term monitoring and research of these areas;

(4) Enhance public awareness, understanding, appreciation, and wise use of the marine environment;

(5) Facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(6) Develop and implement coordinated plans for the protection and

management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(7) Create models of, and incentives for, ways to conserve and manage these areas;

(8) Cooperate with global programs encouraging conservation of marine resources; and

(9) Maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.

* * * * *

3. Section 922.2 is amended by removing the paragraph designation preceding each definition, adding in alphabetical order new definitions for *Exclusive economic zone* and *Sanctuary resource* and revising the definition for *Marine environment* to read as follows:

§ 922.2 Definitions.

* * * * *

Exclusive economic zone means the exclusive economic zone as defined in the Magnuson Fishery Conservation and Management Act.

* * * * *

Marine environment means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law.

* * * * *

Sanctuary resource means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the sanctuary.

* * * * *

4. Section 922.11 is revised to read as follows:

§ 922.11 Access and valid rights.

Leases, permits, licenses, or rights of subsistence use or access in existence on the date of designation of any national marine sanctuary shall not be terminated by the Secretary. The Secretary may, however, regulate the exercise of such leases, permits, licenses, or rights consistent with the purposes for which the Sanctuary was designated.

5. Section 922.31 is amended by revising paragraphs (e), (f) introductory text, and (h) to read as follows:

§ 922.31 Development of designation materials.

(e) The draft management plan and DEIS shall be prepared as quickly as possible to allow for maximum public input and compliance with statutory timeliness for designation.

(f) The Secretary shall provide the appropriate Regional Fishery Management Council with the opportunity to prepare and recommend for consideration by the Secretary draft regulations for fishing within the proposed sanctuary if the proposed sanctuary includes waters within the exclusive economic zone.

The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within the proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.

(h) As part of the DEIS, the Secretary shall develop a resource assessment report documenting present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses. In consultation with the Secretary of the Interior, the Secretary shall draft a resource assessment section for the report concerning any commercial, governmental, or recreational resource uses in the area that are subject to the primary jurisdiction of the Department of the Interior. The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations.

6. Section 922.32 is amended by revising the section heading, the introductory text of paragraph (a), and paragraph (b) to read as follows:

§ 922.32 Congressional documents.

(a) As required by subsection 304(a)(1)(C) of the Act, on the same day that the Federal Register notice in paragraph (i) of § 922.31 is issued, the Secretary shall submit to the House Committee on Merchant Marine and Fisheries and the Senate Commerce, Science, and Transportation Committee

documents, including an executive summary, consisting of:

(b) In accordance with the provisions of section 304 of the Act, the Secretary shall not publish a notice to designate an area proposed as a national marine sanctuary until after forty-five (45) days of continuous session of Congress starting with the day the documents required by paragraph (a) of this section are submitted to Congress.

7. Section 922.33 is amended by revising paragraphs (a)(2)(ii) and (b)(1) to read as follows:

§ 922.33 Designation determination and findings.

(a) (2) (ii) Existing state and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(b) (1) The area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

8. Section 922.34 is revised to read as follows:

§ 922.34 Designation.

(a) In designating an area as a national marine sanctuary, the Secretary shall publish a notice of the designation in the Federal Register not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register pursuant to § 922.30(b), or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published. The notice of designation shall be published together with the text of the final implementing regulations. The Secretary shall also advise the public of the availability of the final management plan and the FEIS.

(b) The designation and regulations shall become final and take effect after the close of a review period of forty-five (45) days of continuous session of Congress, computed in accordance with subsection 304(b)(3) of the Act, beginning on the date of publication of

the Federal Register notice in paragraph (a) of this section unless in the case of a national marine sanctuary that is located partially or entirely within the seaward boundary of any state, the Governor(s) of the affected state(s) certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the state(s).

(c) If the Secretary determines that the actions in paragraph (b) of this section affect the sanctuary designation in a manner that sanctuary goals and objectives cannot be fulfilled, the Secretary may withdraw the entire designation. If the Secretary does not withdraw the designation, only those terms of the designation not certified under paragraph (b) of this section shall take effect.

9. Section 922.40 is amended by revising paragraphs (a) and (d) to read as follows:

§ 922.40 General.

(a) The Secretary shall implement the management plan, and applicable regulations, including carrying out surveillance and enforcement activities and conducting such research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of the Act.

(d) Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this chapter.

10. Section 922.42 is added to read as follows:

§ 922.42 Promotion and coordination of sanctuary use.

The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of national marine sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons to promote use of one or more sanctuaries for research, monitoring and education, including coordination with the

National Estuarine Research Reserve System

PART 924—MONITOR MARINE SANCTUARY

PART 929—KEY LARGO NATIONAL MARINE SANCTUARY FINAL REGULATIONS

PART 935—THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY REGULATIONS

PART 936—THE POINT REYES/FARALLON ISLANDS MARINE SANCTUARY REGULATIONS

PART 937—THE LOOE KEY NATIONAL MARINE SANCTUARY REGULATIONS

PART 938—THE GRAY'S REEF NATIONAL MARINE SANCTUARY REGULATIONS

PART 941—FAGATELE BAY NATIONAL MARINE SANCTUARY REGULATIONS

PART 942—CORDELL BANK NATIONAL MARINE SANCTUARY

PART 943—FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

PART 944—MONTEREY BAY NATIONAL MARINE SANCTUARY

11. Section 924.4, 929.9, 935.8, 936.7, 937.7, 938.7, 941.10, 942.7, 943.8 and 944.7 are revised to read as follows (Text of each section is identical):

§ _____ Penalties.

(a) Each violation of the act, any regulation, in this part, or any permit issued pursuant thereto, is subject to a civil penalty of not more than \$100,000. Each day of a continuing violation constitutes a separate violation.

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

[FR Doc. 93-27859 Filed 11-17-93; 8:45 am]
BILLING CODE 3510-09-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Regulatory Program; Show Cause Orders

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval, with an exception, of a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment revises the Indiana Surface Mining Rules governing show cause orders and adjudicative proceedings for the suspension and revocation of surface coal mining permits. The amendment is intended to revise the Indiana program to be consistent with corresponding Federal regulations.

EFFECTIVE DATE: November 18, 1993.

FOR FURTHER INFORMATION CONTACT:

Roger W. Calhoun, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204, Telephone (317) 226-6166.

SUPPLEMENTARY INFORMATION:

- I. Background on the Indiana Program
- II. Submission of the Amendment
- III. Director's Findings
- IV. Disposition of Comments
- V. Director's Decision
- VI. Procedural Determination

I. Background on the Indiana Program

The Secretary of the Interior conditionally approved the Indiana program effective July 29, 1982. Information on the background of the Indiana program, including the Secretary's findings, the disposition of public comments and a detailed explanation of the conditions of approval can be found in the July 26, 1982, Federal Register (47 FR 32107).

Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.15 and 914.16.

II. Submission of the Amendment

By letters dated August 15, 1989, and December 5, 1989 (Administrative

Record Numbers IND-0674 and 0723), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to the Indiana program at Indiana Administrative Code (IAC) 310 IAC 06 and 310 IAC 12-6-6.5. The amendment proposed changes to the Indiana program concerning suspension or revocation of permits and adjudicative proceedings. The program amendment was reviewed and approved, in part, by the Director on January 18, 1991 (56 FR 1915). In the same Federal Register notice, certain required program amendments were codified at 30 CFR 914.16 (d) and (e) which are intended to require Indiana to revise the Indiana program to be no less effective than the corresponding Federal regulations.

By letter dated February 24, 1993 (Administrative Record Number IND-1214), the IDNR submitted program amendment number 93-2 in response to the required program amendments. The proposed amendment includes revisions in 310 IAC 0.6-1-5, 310 IAC 0.6-1-13, 310 IAC 0.7-3-5, and 310 IAC 12-6-6.5.

OSM announced receipt of the proposed amendment in the March 26, 1993, Federal Register (58 FR 16381), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on April 26, 1993.

On July 23, 1993, OSM sent Indiana a letter listing its concerns raised during OSM's review of the proposed amendment (Administrative Record No. IND-1284). Indiana chose not to respond to this letter and informed OSM on September 28, 1993, that it should proceed with a final rulemaking.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Indiana program. Only substantive changes will be discussed in detail. Revisions not specifically discussed are found to be no less stringent than SMCRA and no less effective than the Federal regulations.

1. 310 IAC 0.6-1-5 Petitions for Review; Response

(a) 310 IAC 0.6-1-5, Hearing Procedures

In the January 18, 1991, Federal Register (56 FR 1918), the Director of OSM found that Indiana's proposed two-tiered hearing procedure was less effective than 30 CFR 843.13 which provides for only one hearing opportunity. The Director believed that