

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1446]

Proposed Amendment to the 1979-Crop Peanut Loan and Purchase Program

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Proposed Rule.

SUMMARY: Commodity Credit Corporation (CCC), has previously announced the national level of price support for 1979-crop quota and additional peanuts. CCC now proposes to make determinations and issue regulations for 1979-crop peanuts adjusting loan and purchase rates for quota and additional peanuts for differences in type, quality, location and other factors. This notice invites comments on these proposed determinations.

DATES: Written comments must be received on or before May 14, 1979 in order to be sure of consideration.

ADDRESS: Send comments to Acting Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, Room 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas A. VonGarlem, ASCS, (202) 447-7954.

SUPPLEMENTARY INFORMATION: The 1979-Crop Peanut Loan and Purchase Program is authorized by the Agricultural Act of 1949, as amended (hereinafter referred to as the "Act"), and the Commodity Credit Corporation Charter Act, as amended. The program is intended to stabilize market prices and to protect producers, handlers, processors and consumers. The 1979-Crop Peanut Loan and Purchase Program, published in the Federal Register on February 27, 1979 (44 FR 11056), established the national average support values for the 1979 crop at \$420

per ton for quota peanuts and \$300 per ton for additional peanuts. Section 403 of the Act provides that appropriate adjustments may be made in type, quality, location and other factors. The average of any such adjustments shall, so far as practicable, be equal to the level of support for peanuts for the applicable crop year.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60-day public comment period on any proposed significant regulations except where the agency determines that this is not possible or in the best interest of the producers. In order to facilitate marketing, it is essential that this amendment be made effective as soon as possible. All contracts for the marketing of additional peanuts must be completed and submitted to the county office for approval prior to June 15. It was not possible to make this proposal earlier because the required data on 1978-crop peanuts was not available. Accordingly, I have determined that compliance with the notice of proposed rulemaking and public procedure of 5 U.S.C. 553 and the requirements of Executive Order 12044 are impossible and contrary to the public interest. Accordingly, this notice is being issued without compliance with such procedures and requirements. Therefore, comments must be received by May 14, 1979, in order to be sure of consideration.

Proposed Rule

Accordingly, CCC proposes to make determinations and issue regulations for 1979-crop peanuts adjusting loan and purchase rates for quota and additional peanuts for differences in type, quality, location and other factors. It is proposed to amend 7 CFR Part 1446 by adding §§ 1446.37 through 1446.39 with regard to the calculation of average support values for quota and additional peanuts.

The proposed method of determining the 1979-crop differentials is basically the same as for the 1978 crop. Using this method, the sound mature kernel (SMK) value of Virginia type peanuts would be 2 percent above and Spanish one-half percent above the SMK value of runner type peanuts. The adjustments for quality, location and other factors will remain the same as for the 1978 crop.

Before making final determinations, consideration will be given to any relevant data, views, recommendations,

or alternative proposals which are submitted in writing to the Acting Director of the Price Support and Loan Division, ASCS-USDA. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 3741-South Building.

Note.—This regulation has been determined not significant under the USDA criteria implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average peanut price support rates announced on February 15, 1979. An approved Impact Analysis Statement is available from Thomas A. VonGarlem, (ASCS) 202-447-7954.

Signed at Washington, D.C., on April 9, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-11489 Filed 4-12-79; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 934]

Flower Garden Banks Marine Sanctuary

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: These regulations define permissible activities within the Flower Garden Banks Marine Sanctuary, the procedures by which persons may obtain permits for prohibited activities, and the penalties for committing prohibited acts without a permit.

DATE: Comments due on or before June 12, 1979.

ADDRESS: Send Comments to: Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

PERSON TO CONTACT FOR FURTHER INFORMATION: JoAnn Chandler, Acting Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven St. N.W., Washington, D.C. 20235. 202-634-4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the Continental Shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

The Office of Coastal Zone Management is proposing to designate as a marine sanctuary an area of the Gulf of Mexico known as the East and West Flower Garden Banks located approximately 110 nautical miles (nm) southeast of Galveston, Texas and 120 nm south of Cameron, Louisiana. The proposed sanctuary would include the waters overlaying the banks and extending to within 4 nm of the 100 m (328 ft.) isobaths of each bank, a total area of approximately 173.25 square nautical miles.

The Banks are biologically unique and important. They contain the northernmost living coral reefs on the U.S. Continental Shelf, the only truly tropical coral reefs in the northwestern Gulf of Mexico. The live banks contain some 18 coral species; the ecosystem supports more than 100 species of Caribbean reef fish and more than 200 species of invertebrates.

Since the nomination of the Banks as a Sanctuary, over a year ago, NOAA has been studying the Banks and the proposal to determine the desirability and feasibility of designation. After gathering and analyzing information and consulting with other Federal agencies, the Gulf Regional Fishery Management Council, State and local governments and interest groups, a White Paper was prepared and issued in June 1978 outlining a tentative proposal for public review. Based on the responses to this White Paper, NOAA prepared a draft environmental impact statement (DEIS) which is being published concurrently with these regulations. (A copy can be obtained by writing to the contact identified above.)

The rationale for designation and for the proposed regulatory system as well

as alternative approaches, both regulatory and non-regulatory are more fully set forth in the DEIS. OCZM will receive public comments on the proposal, hold public hearings in Galveston, Texas, and Lake Charles, Louisiana and prepare a final EIS and regulations which incorporate and respond to the comments received. Only after final consultation with Federal agencies, and with Presidential approval, can the secretary designate the sanctuary and promulgate the regulations.

NOAA policy and its proposed General Marine Sanctuary Regulations (44 FR 6930) provide that the regulatory system for a marine sanctuary will be established by two documents, a Designation document and the regulations issued pursuant to Section 302(f) of the Act.

The Designation will serve as a constitution for the sanctuary, establishing among other things the purposes of the sanctuary, the types of activities that may be subject to regulation within it and the extent to which other regulatory programs will continue to be effective.

As proposed, the Flower Gardens* Designation document would provide as follows:

Draft Designation Document

Designation of the Flower Garden Banks Marine Sanctuary—Preamble

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92-832, (the Act) the Flower Garden Banks are hereby designated a Marine Sanctuary for the purposes of preserving and protecting this unique and fragile ecological community.

Article 1. Effect of Designation

Within the area designated as the Flower Garden Banks Marine Sanctuary (the Sanctuary), described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of the Designation lists those activities which may require regulation but the listing of any activity does not by itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through regulation and additional activities may be regulated only by amending Article 4.

Article 2. Description of the Area

The Sanctuary consists of an area of the Gulf of Mexico of 173.25 square nautical miles (nm²) located approximately 110 nm southeast of Galveston, Texas, and 120 nm south of Cameron, Louisiana, overlaying the East and West Flower Garden Banks, the approximate midpoints of which are respectively, 27°55'07.44" N; 93°36'08.49" W. and 27°52'14.21" N; 93°48'54.79" W and extending to the waters within 4 nm of the 100 m. (328 ft.) isobaths surrounding the

Banks. The precise boundaries are defined by regulation.

Article 3. Characteristics of the Area That Give it Particular Value

The Flower Garden Banks contain the northwestern-most coral reef ecosystems in the Gulf of Mexico with hundreds of species of marine organisms, including at least 18 species of Caribbean corals and diverse tropical faunal and floral communities. The Banks provide exceptional recreational experiences and scientific research opportunities and generally have unique value as an ecological, recreational, and esthetic resource.

Article 4. Scope of Regulation

Section 1. *Activities Subject to Regulation.* In order to protect the distinctive values of the Flower Garden Banks, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of the coral and other marine features and the ecological, recreational, and esthetic value of the area:

- a. Removing, breaking or otherwise deliberately harming coral, bottom formations or marine invertebrates or plants, or taking tropical fish, except incidentally to other fishing operations.
- b. Operations of vessels other than fishing vessels, including anchoring and navigation, and anchoring by fishing vessels.
- c. Dredging or altering the sea bed.
- d. Construction.
- e. Discharging or depositing any substance or object
- f. Using poisons, electric charges, spearguns or explosives.
- g. Trawling or dragging bottom gear within the 100 m (328 ft.) isobaths.
- h. Oil and gas operations.

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 4 of this Article will be applied to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law or as otherwise authorized by international agreement.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the Banks, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this article would be proposed in accordance with the procedures specified in Article 6.

Article 5. Relation to Other Regulatory Programs

Section 1. *Fishing.* The regulation of fishing is not authorized under Article 4 except with respect to the removal or deliberate damage of distinctive features (paragraph (a)), the use of certain techniques (paragraph (f)), or trawling on the banks (paragraph (g)). In addition, fishing vessels may be regulated with respect to discharges (paragraph (e)) and anchoring (paragraph (b)). All regulatory programs pertaining to fishing, including particularly Fishery Management Plans promulgated under the Fishery Conservation

and Management Act of 1976, 16 U.S.C. 1801 *et seq.* shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless inconsistent with any regulation implementing Article 4.

Section 2. Defense Activities. The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for national defense in times of war or other national emergency. Such activities shall be conducted consistently with such regulation to the maximum extent practicable. All other activities of the Department of Defense are subject to Article 4.

Section 3. Other Programs. All applicable regulatory programs shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless inconsistent with any regulation implementing Article 4. The Sanctuary regulations shall set forth any necessary certification procedures.

Article 6. Alterations to this Designation

This Designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the Gulf of Mexico Regional Fishery Management Council, and approval by the President of the United States.

Only those activities listed in Article 4 are subject to regulation in the Sanctuary. Before any additional activities may be regulated, the Designation must be amended through the entire designation procedure including public hearing and approval by the President. However, no additional regulation is proposed for two listed activities, spearfishing and navigation, at this time because, despite the potential threat, the need for additional control is not established.

The primary purpose of the proposed regulations is to protect and to preserve the natural state of the banks' ecosystems, particularly the unique coral reefs capping the banks. Accordingly, all activities which would directly destroy or injure corals and other distinctive marine features are prohibited. Such activities include any type of handling, picking or collecting (sec. 934.6(a)(1)), anchoring within the 100 m isobaths except by certain vessels (sec. 934.6(a)(2)) and construction or other alterations of the seabed within the 100 m isobaths. (Sec. 934.6(a)(3)). To reduce the possibility of damage to the resources by pollution, all discharges are prohibited except for marine sanitation effluents, vessel cooling waters, fish cleaning wastes and chumming materials, and discharges incidental to certain hydrocarbon operations (sec. 934.6(a)(5)). All

prohibitions must be applied consistently with recognized principles of international law.

All hydrocarbon operations are prohibited within the particularly important hard bank areas to protect the various components of the reef ecosystem. This no activity zone includes primarily the area where such activities are already prohibited by BLM (within the 85 m isobaths as defined by the quarter-quarter-quarter system (see Appendix A)) but extends to the 100 m isobaths where they are further from the Banks' midpoints. In this area, drilling operations would destroy or injure coral either directly or by pollution.

In the remainder of the sanctuary, hydrocarbon operations under existing leases may continue subject to conditions imposed by other authorities and those conditions designed to minimize pollution listed in sec. 934.7(b) which include requirements that cuttings and adhering drilling muds be shunted to within 6 m of the bottom and that the effects of operations on the banks be monitored. The Environmental Protection Agency (EPA) and NOAA have agreed that these proposed regulations and the conditions of EPA's permits issued under section 402 of the Federal Water Pollution Control Act, 33 U.S.C. 1431, (known as NPDES permits) will correspond to the maximum extent practicable. The appropriate monitoring program will be established in cooperation with the EPA and the precise requirements for any operator established as conditions of its NPDES permits. The conditions of these NPDES permits will also establish the clean up capacity required of any operator. The arrangement between EPA and NOAA is set forth in the Principles of Agreement dated March 13, 1979, Appendix C.

No hydrocarbon exploration and exploitation under leases issued after the effective date of these regulations will be allowed within the Sanctuary for a period of five years to provide an adequate period for the monitoring program to evaluate the effects of operations on the banks.

With limited exceptions, fishing in the waters proposed for the Sanctuary will not have any detrimental effect on the resources of the Sanctuary and its regulation remains the responsibility of the Gulf of Mexico Regional Fishery Management Council and the National Marine Fishery Service pursuant to the Fishery Conservation and Management Act of 1967, 16 U.S.C. 1801 *et seq.* except as specifically set forth in the Designation. (See Article 5, Section 1 of the Designation.) No additional

regulation has been proposed by OCZM except for the prohibition of bottom trawling in the sensitive hard banks area; within the 100 m isobaths, (sec. 934.6(a)(4)), and the taking of coral or tropical fish (sec. 934.6(a)(1)). Fishing vessels are subject to discharge and anchoring regulations (sec. 934.6(a)(2) and (a)(5)).

Public Review and Comment

NOAA invites public review and comment on these proposed regulations. Written comments should be submitted to: JoAnn Chandler, Acting Director; Sanctuary Programs Office; Office of Coastal Zone Management; National Oceanic and Atmospheric Administration; 3300 Whitehaven Street, N.W., Washington, D.C. 20235, on or before June 12, 1979.

R. L. Carnahan,
Acting Assistant Administrator for Administration.
April 5, 1979.

Accordingly, Part 934 is proposed as follows:

PART 934—FLOWER GARDEN BANKS MARINE SANCTUARY REGULATIONS

- Sec.
- 934.1 Authority.
 - 934.2 Purpose.
 - 934.3 Boundaries.
 - 934.4 Definitions.
 - 934.5 Allowed activities.
 - 934.6 Prohibited activities.
 - 934.7 Hydrocarbon operations.
 - 934.8 Penalties for commission of prohibited acts.
 - 934.9 Permit procedures and criteria.
 - 934.10 Certification of other permits.
 - 934.11 Appeals of administrative action.

§ 934.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 302(a) of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434 (the Act). The following regulations are issued pursuant to the authorities of sections 302(f), 302(g) and 303 of the Act.

§ 934.2 Purpose.

The purpose of designating the East and West Flower Garden Banks as a marine Sanctuary is to protect and preserve the banks' ecosystems in their natural state and to regulate uses within the Sanctuary to insure the health and well-being of the coral and associated flora and fauna and the continued availability of the area as a recreational and research resource.

§ 934.3 Boundaries.

The Sanctuary consists of an area of the Gulf of Mexico located

approximately 110 nautical miles (nm) southeast of Galveston, Texas, and 120 nm south of Cameron, Louisiana overlaying and surrounding those banks known as the East and West Flower Garden Banks to a distance of 4 nm from the 100 m isobath of each Bank. The coordinates are in Appendix B.

§ 934.4 Definitions.

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.

(b) "Assistant Administrator" means the Assistant Administrator for Coastal Zone management, National Oceanic and Atmospheric Administration.

(c) "Bulk discharge" means a discharge of drill fluids and cuttings other than that of materials separated out by properly operating shale shaker, desander and desilter units; i.e. drill fluids and cuttings contained on the drill facility at the termination of drilling each well hole and drill fluids and cuttings evacuated from the drill fluid system during the course of drilling, for the purpose of reconstituting the operational drill fluid.

(d) "Person" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any state or local unit of government.

§ 934.5 Allowed activities.

All activities except those specifically prohibited by § 934.6 may be carried on in the Sanctuary subject to any prohibitions, restrictions or conditions imposed by any applicable regulations, permit, license, or other authorization.

§ 934.6 Prohibited activities.

(a) Except as may be immediately and urgently necessary for the protection of life or the environment, or as may be permitted by the Assistant Administrator in accordance with §§ 934.9 or 934.10, or as limited by subsection (b), the following activities are prohibited within the Sanctuary:

(1) *Removal of or damage to distinctive natural features—generally.* (i) No person shall break, cut or similarly damage or destroy any coral or bottom formation, any marine invertebrate or any marine plant. Divers are prohibited from handling coral or standing on coral formations.

(ii) No person shall collect or remove any coral or bottom formation, or marine plant. No person shall take, except incidentally to other fishing operations, any marine invertebrate (except for dead shells) nor any tropical

fish which is a fish of minimal sport and food value, usually brightly colored, often used for aquaria purposes and which lives in a direct interrelationship with the corals. There shall be a rebuttable presumption that any items listed in this paragraph found in the possession of a person within the Sanctuary have been collected or removed from within the Sanctuary.

(iii) No person shall use poisons, electric charges, explosives or similar methods to take any marine animal or plant.

(2) *Injurious Vessel Operations.* (i) No vessel except a recreational vessel shall anchor within the area of the Sanctuary defined by the 100 m (328 ft.) isobaths.

(ii) No person shall place any rope, chain, or anchor in such a way as to injure any coral or other bottom formation anywhere within the Sanctuary. All practicable efforts shall be taken to drop anchors on sand flats off the reefs and place them so as not to drift into the coral formations. When anchoring dive boats, the first diver down shall inspect the anchor to ensure that it is placed off the corals and will not shift in such a way as to damage corals. No further diving is permitted until the anchor is placed in accordance with these requirements.

(iii) All vessels from which diving operations are being conducted shall fly in a conspicuous manner the international code flag alpha "A" and no vessel under power shall approach closer than 300 ft. (92 m) to a boat displaying the diving flag except at a maximum speed of 3 knots.

(3) *Altering of or construction on the seabed.* No person shall dredge, drill, or otherwise alter the seabed in any way, nor construct any structure except for navigation aids, within the area of the Sanctuary defined by the 100m (328 ft.) isobaths.

(4) *Trawling within the 100m isobaths.* No person shall trawl or drag bottom gear within the area of the Sanctuary defined by the 100m (328 ft.) isobaths.

(5) *Discharging polluting substances.* No person shall deposit or discharge any materials or substances of any kind except:

- (i) Indigenous fish or parts
- (ii) Effluents from marine sanitation devices
- (iii) Non-polluted cooling waters from ocean vessels
- (iv) Effluents incidental to hydrocarbon exploration and exploitation activities as allowed by § 934.7.

(b) The prohibitions in this section are not based on any claim of territoriality and will be applied to foreign persons

and vessels only in accordance with recognized principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

§ 934.7 Hydrocarbon operations.

(a) Within the 85m isobaths, as defined by the quarter-quarter-quarter system in Appendix A, or within the 100m (328 ft.) isobaths where such area extends further from the midpoint of either bank (27°55'07.44"N; 93°36'08.49"W for the East Bank and 27°52'14.21"N; 93°48'54.79"W for the West Bank) exploration for or exploitation of hydrocarbons is prohibited.

(b) Outside the area defined by paragraph (a), hydrocarbon exploration and exploitation pursuant to any lease executed prior to the effective date of these regulations is allowed subject to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers and the Environmental Protection Agency, and subject further to the following:

(1) Cuttings and adherent drilling muds must be shunted to within 6m of the bottom.

(2) Bulk discharges of drilling muds are prohibited.

(3) The simultaneous discharge of the effluents from more than one well from a single rig or platform is prohibited.

(4) The effects drill cuttings and effluents upon Sanctuary resources shall be monitored at least once before drilling, frequently during drilling, and at least once after drilling in accordance with the specific requirements set forth in the permits issued by the Environmental Protection Agency pursuant to Section 402 of the Federal Water Pollution Control Act, 33 U.S.C. 1431 in agreement with NOAA.

(c) Hydrocarbon exploration and exploitation activities pursuant to leases executed on or after the effective date of these regulations are prohibited anywhere in the Sanctuary for a period of five years from such effective date.

§ 934.8 Penalties for commission of prohibited acts.

(a) Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 against any person subject to the jurisdiction of the United States for each violation of any regulation issued pursuant to the Act, and further authorized a proceeding in rem against any vessel used in violation of any such regulation. Procedures are

set out in Subpart D of Part 922 (15 CFR Part 922) of this chapter. Subpart D is applicable to any instance of a violation of these regulations.

§ 934.9 Permit procedures and criteria.

(a) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct any activity in the Sanctuary including any activity specifically prohibited under § 934.6 if such activity is either (1) research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator for Coastal Zone Management, Attn: Office of Sanctuary Programs, Division of Operations, and Enforcement, National Oceanic and Atmospheric Administration 3300 Whitehaven Street, N.W., Washington, D.C. 20235. An application shall provide sufficient information to enable the Assistant Administrator to make the determination called for in paragraph (c) below and shall include a description of all activities proposed, the equipment, methods, and personnel (particularly describing relevant experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) In considering whether to grant a permit the Assistant Administrator shall evaluate such matters as (1) the general professional and financial responsibility of the applicant; (2) the appropriateness of the methods envisioned to the purpose(s) of the activity; (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source or recreation, educational or scientific information; (4) the end value of the activity and (5) such other matters as deemed appropriate.

(d) In considering any application submitted pursuant to this Section, the Assistant Administrator may seek and consider the views of any person or entity, within or outside of the Federal Government, and may hold a public hearing, as deemed appropriate.

(e) The Assistant Administrator may, in his or her discretion, grant a permit which has been applied for pursuant to this Section in whole or in part, and subject to such condition(s) as deemed appropriate. The Assistant Administrator or a designated representative may observe any permitted activity and/or require the submission of one or more reports of the

status or progress of such activity. Any information obtained shall be made available to the public.

(f) The permit granted under paragraph (e) may not be transferred.

(g) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this Section, in whole or in part, temporarily or indefinitely, if the permit holder (the Holder) has acted in violation of the terms of the permit or of the applicable regulations. Any such action shall be in writing to the Holder, and shall set forth the reason(s) for the action taken. The Holder may appeal the action as provided for in § 934.11.

§ 934.10 Certification of other permits.

All permits, licenses and other authorizations issued pursuant to any other authority are hereby certified and shall remain valid if they do not authorize any activity prohibited by § 934.6. Any interested person may request that the Assistant Administrator offer an opinion on whether an activity is prohibited by these regulations.

§ 934.11 Appeals of administrative action.

(a) Any interested person (the Appellant) may appeal the granting, denial, or conditioning of any permit under § 934.9 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefor, and shall be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Administrator shall notify the permit applicant, if other than the Appellant and may request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Administrator shall decide the appeal in accordance with the criteria set out in § 934.9(c) as appropriate, based upon information relative to the application on file at OCZM and any additional information, the summary record kept of any hearing and the Hearing Officer's recommended decision, if any, as provided in paragraph (c) and such other considerations as deemed appropriate. The Administrator shall notify all interested persons of the decision, and the reason(s) therefor, in writing normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(c) If a hearing is requested and the Administrator determines one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing in the Federal Register. Such hearing shall normally be held no later than 30 days following publication of the notice in the Federal Register unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the Applicant (if different) and, at the discretion of the Hearing Officer, other interested persons, may appear personally or by counsel at the hearing and submit such material and present such arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify interested persons of the decision, and the reason(s) therefor in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's action shall constitute final action for the Agency for the purpose of the Administrative Procedures Act.

(e) Any time limit prescribed in this Section may be extended for a period not to exceed 30 days by the Administrator for good cause, either upon his or her own motion or upon written request from the Appellant or Applicant stating the reason(s) therefor.

Appendix A—Definition of the 85 M Isobaths at East and West Flower Garden Banks From the Bureau of Land Management Lease Stipulations

East Flower Garden Bank

High Island Area, East Addition, South Extension, Block A-360: SViSEVi
 High Island Area, East Addition, South Extension, Block A-374: SWViNWViNWVi; NWViSWViNWVi; SViSWViNWVi; SWViNEViSWVi; WViSWVi; WViSEViSWVi; SEViSEViSWVi
 High Island Area, East Addition, South Extension, Block A-375: EVi; SE%NE%NW%; NViSEViNWVi; SEViSEViNWVi; E%SVVi%
 High Island Area, East Addition, South Extension, Block A-388: NEViNEViNWVi; N%SEVi4NWVi4; SE%SEVi4NWVi4; NViNViSEVi; StNWViSEVi; SWVi4NEVi4SEVi4
 High Island Area, East Addition, South Extension, Block A-389: NViNWVi; SWVi4NWVi4; N%SEVi4NWVi4; SWVi4SEVi4NWVi4; NVi2NWVi4SWVi4

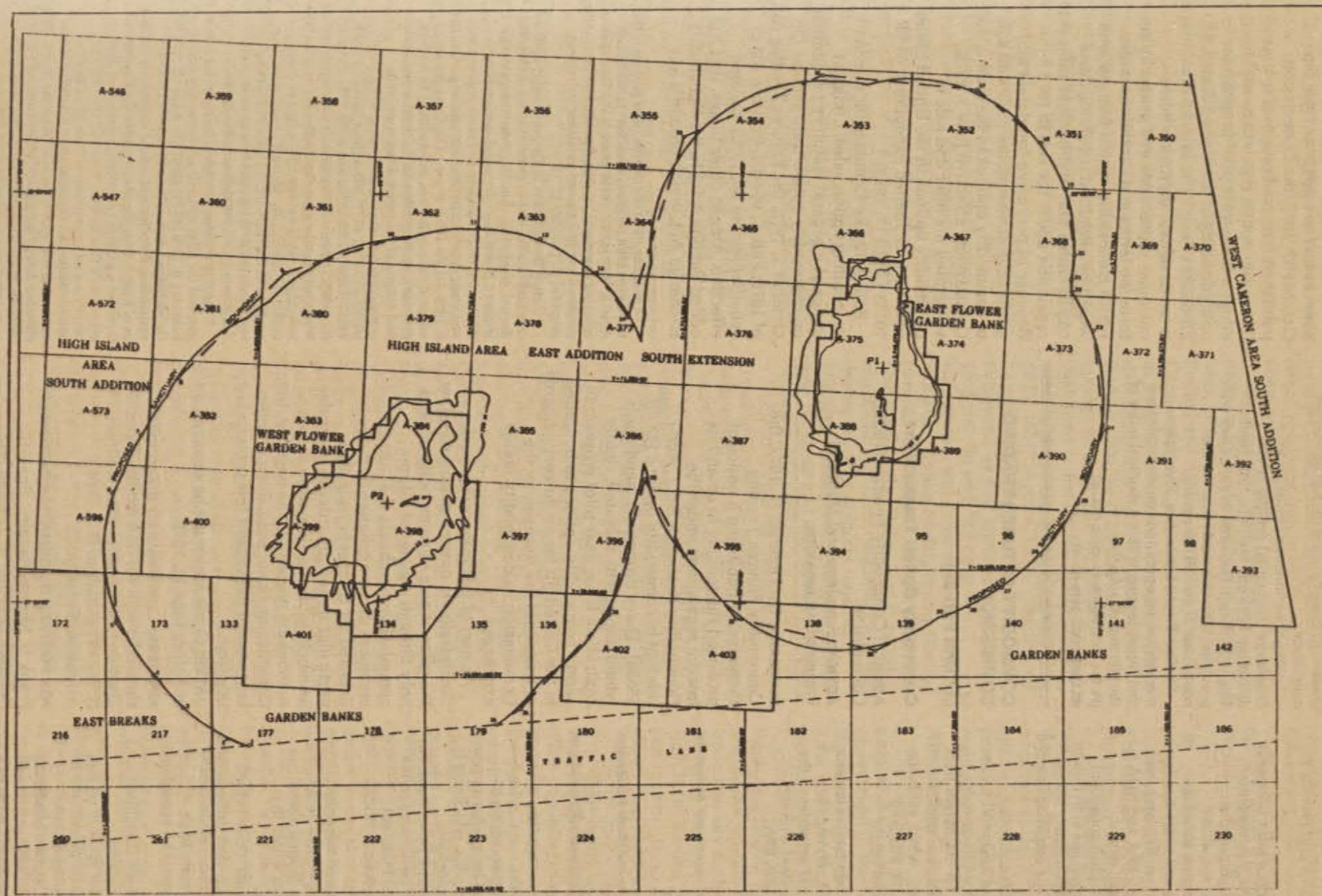
West Flower Garden Bank

- High Island Area, East Addition, South Extension, Block A-383: NEViSEViSEVi; SfeSEVfcSEy<
- High Island Area, East Addition, South Extension, Block A-384: NWViSWV^NEVi; SMtSy^NEt; SEt^NWt; N^NEt^SWt; NEy^4NWy^4SWy^4; SVi^NVf^SWt; SVi^SW^%; SEy^4
- High Island Area, East Addition, South Extension, Block A-397: W%W%NWW4; wy2NWy2Swy4; Nwy4Swy4Swy4
- High Island Area, East Addition, South Extension, Block A-398: All
- High Island Area, East Addition, South Extension, Block A-399: EVf; SEy^4NEy^4NWy^4; E%SEy^4NWy^4; Ey^2NEy^4Swy^4; NEy^4SEy^4Swy^4
- High Island Area, East Addition, South Extension, Block A-401: NVaN%NEVi; S%NEy^4NEy^4; NEy^4SEy^4NEy^4
- Garden Banks Area, Block 134: That portion of the block to the north of the line connecting Points 17 and 18, defined as follows: Point 17: X=1,378,080.00'; Y=10,096,183.04'; Point 18: X=1,367,079.41'; Y=10,096,183.04'; Universal Transverse Mercator Grid System
- Garden Banks Area, Block 135: That portion of the block to the northwest of the line connecting Points 16 and 17, defined as follows: Point 16: X=1,383,293.84'; Y=10,103,281.93'; Point 17: X=1,378,080.00'; Y=10,096,183.04'; Universal Transverse Mercator Grid System.

Appendix B—Boundary of the Flower Garden Banks Marine Sanctuary

The Boundary of the Flower Garden Banks Marine Sanctuary is 4 nautical miles from the 100 meter isobath around each Bank. The boundary can be approximated by lines connecting the following points. (See attached map for location of points.)

Latitude north	Longitude west
1. 27°46'30.5"	93°53'31.7"
2. 27°46'39.6"	93°54'07.9"
3. 27°47'25.1"	93°55'22.0"
4. 27°48'13.2"	93°56'11.6"
5. 27°49'30.3"	93°57'15.5"
6. 27°52'38.7"	93°57'21.9"
7. 27°54'04.1"	93°56'35.2"
8. 27°55'27.4"	93°55'35.6"
9. 27°58'03.0"	93°52'37.9"
10. 27°58'54.6"	93°49'36.7"
11. 27°59'11.1"	93°47'17.8"
12. 27°58'54.4"	93°45'35.3"
13. 27°58'04.8"	93°44'00.6"
14. 27°56'59.6"	93°43'08.0"
15. 28°01'24.8"	93°41'36.4"
16. 28°02'53.1"	93°37'46.3"
17. 28°02'31.6"	93°33'29.8"
18. 28°01'14.2"	93°31'44.2"
19. 28°00'06.4"	93°31'02.6"
20. 27°58'30.0"	93°30'47.1"
21. 27°57'54.6"	93°30'52.2"
22. 27°57'36.6"	93°30'51.4"
23. 27°56'39.7"	93°30'15.4"
24. 27°54'15.3"	93°29'57.2"
25. 27°52'27.8"	93°30'39.2"
26. 27°51'11.2"	93°31'42.0"
27. 27°50'28.5"	93°32'45.2"
28. 27°49'56.1"	93°33'41.1"
29. 27°49'42.3"	93°34'09.5"
30. 27°48'51.1"	93°36'14.5"
31. 27°49'37.2"	93°40'05.6"
32. 27°51'08.7"	93°41'31.1"
33. 27°53'01.1"	93°42'39.0"
34. 27°49'48.0"	93°43'36.8"
35. 27°47'24.4"	93°46'02.5"
36. 27°47'01.3"	93°46'41.4"



Proposed boundary of the Flower Garden Banks Marine Sanctuary showing the locations of points for approximating the boundary.

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Appendix C—NOAA/EPA Principles of Agreement

Coordination of Regulations and Permits for Flower Garden Banks

The following represents a joint statement of policy by the NOAA/EPA Interagency Committee for Program Coordination:

(1) In carrying out their respective responsibilities under Section 402 of the Clean Water Act (CWA) and under Section 302 of the Marine Protection, Research, and Sanctuaries Act (MPRSA), EPA and NOAA agree that, to the maximum extent practicable, they will establish consistent conditions governing oil and gas activities in the proposed Flower Garden Banks Marine Sanctuary (Sanctuary). The conditions agreed upon are attached.

(2) EPA shall issue guidance to the Regional Administrator of Region VI for the development of permit conditions under Section 402 of the CWA for discharges from oil and gas activities within the waters proposed as the Sanctuary, which guidance shall be consistent with the attached conditions to the maximum extent practicable.

(3) NOAA's proposed regulations under Section 302 of the MPRSA relating to discharges from oil and gas activities in the Sanctuary, shall be consistent with the conditions agreed upon with EPA.

Dated: March 14, 1979.

James P. Walsh,
Deputy Administrator, National Oceanic and Atmospheric Administration.

Dated: March 13, 1979.

Thomas C. Jortling,
Assistant Administrator for Water and Waste Management,
Environmental Protection Agency.

Flower Garden Marine Sanctuary Regulations and Permit Conditions

A. *Sanctuary Boundary.* 4 nautical miles from the 100 meter isobaths.

B. *No Activity Zone.* Either within 85-meter isobaths as defined by quarter-quarter system; or, 100-meter isobaths, whichever is farther from the Banks' midpoints.

C. *Conditions for Allowing Operations.* No oil or gas operations will be allowed in the sanctuary until a National Pollutant Discharge Elimination System (NPDES) permit has been issued.

1. *Shunting of cuttings and adhering drilling muds.* To within 6 meters of the seabed within sanctuary defined above.

2. *Monitoring.* All leases within the sanctuary defined above.

Monitoring Requirements. Once before, frequently during and once after drilling, with parameters, timing, and other requirements as specified in NPDES permit. Such specifications shall in general be agreed upon by NOAA and EPA.

4. *Bulk Discharge of Muds.* Prohibited within sanctuary defined above.

5. *Contingency Plans* (for spills of oil and hazardous materials, and for procedures to be followed if Regional Administrator imposes a "no-discharge" permit condition). Required as specified in NPDES permit and sanctuary regulations and agreed upon by NOAA and EPA.

6. *Other Discharges—Produced water, Deck drainage, Cooling waters, and Sanitary wastes.* In compliance with NPDES permit conditions.

7. *Non-Simultaneous Drilling and Discharge* (sequential drilling of and discharge from one well at a time from a single platform). Required in sanctuary with provision for reconsideration via the conditions of an NPDES permit.

D. *Five-Year Moratorium.* Five-year moratorium on operations on unsold leases and future leasing within 4 nautical miles of the 100 meter isobaths.

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BILLING CODE 3510-08-NM]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 32]

Commodity Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: On October 17, 1977, the Commodity Futures Trading Commission published a notice of proposed rulemaking to amend its interim regulations under the Commodity Exchange Act ("Act") relating to commodity options (42 FR 55538). These proposed amendments would implement a limited, rigidly controlled, three-year pilot program to permit commodity options to be traded in the United States on domestic boards of trade that are licensed by the Commission as commodity option exchanges.

As part of this pilot program, the Commission is now proposing to allow the offer or sale of commodity options only through registered futures commission merchants that are members of the exchange that is licensed for transactions in that particular option. In order to engender as much public participation in this rulemaking proceeding as possible, the Commission is not publishing specific language to implement this proposal at this time.

DATES: Comments must be received on or before June 12, 1979.

ADDRESS: Comments on the proposal should be sent to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Secretariat

FOR FURTHER INFORMATION CONTACT: Frank D. Moore, Esquire, Special Counsel, Division of Trading and Markets, Commodity Futures Trading

Commission, 2033 K Street, N.W., Washington, D.C. 20581. (202) 254-8955.

SUPPLEMENTARY INFORMATION: On October 17, 1977, the Commission published a revised proposal to amend its interim option regulations and to adopt a three-year pilot program for option trading in the United States. 42 FR 55538 *et seq.* The interim regulations were designed to provide basic customer protections and generally set forth the terms and conditions under which commodity option transactions would be permitted involving those commodities that first became subject to regulation under the Act in 1974.²

Because of pervasive fraudulent and unsound practices in the offer and sale of commodity options to the public, the Commission, effective June 1, 1978, suspended the offer and sale of commodity options in the United States, with certain, limited exceptions. 43 FR 16153 (April 17, 1978).³

Following the Commission's action suspending option sales, Congress imposed a general statutory prohibition on commodity option transactions. On October 1, 1978, the Futures Trading Act of 1978, Pub. L. 95-405, 92 Stat. 865 *et seq.* (September 30, 1978), became effective. Among other things, that Act added Section 4c(c) to the Commodity Exchange Act, which prohibits any

² Amendments to the interim rules proposing the three-year pilot program were first published on April 5, 1977 (42 FR 18246 *et seq.*). The Commission solicited comments, and held public hearings on the proposed regulations and published its revised proposal on October 17, 1977.

³ Option transactions in the previously regulated commodities have been prohibited since 1936. See Section 4c(a) of the Act. The interim regulations imposed registration, financial, segregation, disclosure, recordkeeping and other requirements and were proposed by the Commission on October 8, 1976. (41 FR 44560 *et seq.*) The Commission adopted the regulations, substantially in the form proposed, on November 22, 1976. Prior proposals and actions of the commission concerning commodity options are set forth at 40 FR 18187 (April 25, 1975); 40 FR 26504 (June 24, 1975); 40 FR 49360 (October 22, 1975); and 41 FR 7774 (February 20, 1976). The interim regulations were subsequently amended to make clear that, under the existing law, individuals could not lawfully solicit or accept orders for commodity options, or supervise those engaged in that activity, on behalf of persons not registered under the Act as futures commission merchants. 42 FR 61831 (December 6, 1977).

³ The Commission published its proposed rule to suspend the offer and sale of commodity options on February 6, 1978 (43 FR 4869). On April 12, 1978 the Commission adopted Rule 32.11 (17 CFR 32.11), suspending the offer and sale of commodity options as of June 1, 1978. On May 11, 1978 the Commission received a petition for interim rulemaking, filed pursuant to Commission Rule 13.2 (17 CFR 13.2), requesting an amendment to Rule 32.11 to allow options on physical commodities (so-called dealer options) to continue to be sold, after the June 1, 1978 effective date of the general suspension. 43 FR 21022 (May 16, 1978). This petition was granted by the adoption of an amendment to the interim regulations, Rule 32.12. 43 FR 23704 (June 1, 1978).