

e denial. The right to answer orally does not include the right to a formal hearing with examination of witnesses.

(c) *Final decision.* If the employee responds to the notice of denial, the employing office must issue a final decision in writing that fully sets forth its findings and conclusions. The agency's decision is not subject to reconsideration by OPM.

(d) *Resignation in lieu of involuntary separation.* If an employee resigns after receiving the employing office's notification of intent to separate the employee involuntarily but before the scheduled separation date, his or her separation is considered involuntary for the purpose of this subpart.

§ 890.1113 The administrative charge.

(a) OPM has determined that the administrative charge as provided under 5 U.S.C. 8905a(d)(1)(A)(ii) is 2 percent of the enrollment charge described in § 890.503(a).

(b) It is OPM's responsibility to establish procedures for receiving the administrative payment into the Employees Health Benefits Fund and for making this amount available to the employing office or collection service, as appropriate.

FR Doc. 29563 Filed 12-20-89; 8:45 am]

BILLING CODE 6325-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 21

RINs 3150-AC61 and 3150-AD37

Amendatory Instructions: Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule published April 18, 1989 (54 FR 15372), which provides for issuance of early site permits, standard design certifications, and combined construction permits and operating licenses with conditions for nuclear power reactors. This document also corrects a final rule published on October 16, 1989 (54 FR 42287), which changes the commercial telephone number for the Region III Office. This action is necessary to correct incomplete or erroneous amendatory instructions.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, Telephone: 301-492-7758.

SUPPLEMENTARY INFORMATION:

1. In the Federal Register of April 18, 1989, in the second column of page 15398, amendatory instruction number 11 is corrected to read as follows:

§ 2.501 [Amended]

11. In the heading and paragraphs (a), (b)(1)(vii), and (b)(3), the references to Appendix M of part 50 are amended to refer to Appendix M of part 52.

2. In the Federal Register of October 16, 1989, in the second column of page 42288, amendatory instruction number 4 is corrected to read as follows:

§ 21.2 [Amended]

4. In footnote 1 to § 21.2, the commercial telephone number for the NRC Region III Office (Chicago) is changed from "(312) 790-5500" to "(708) 790-5500".

Dated at Bethesda, Maryland, this 15th day of December 1989.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Freedom of Information and Publications Services, Office of Administration.

[FR Doc. 89-29688 Filed 12-20-1989; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 942

[Docket No. 90239-9293]

RIN 0648-AB50

Cordell Bank National Marine Sanctuary Regulations

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

ACTION: Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration, by this notice, is revising its regulations governing the conduct of activities in the Cordell Bank National Marine Sanctuary (15 CFR part 942) to prohibit the exploration for, or the development or production of, oil, gas, or minerals in any area of the Sanctuary. The Sanctuary is an area of marine waters encompassing 397.05 square nautical miles surrounding Cordell Bank, which is located approximately 50 nautical

miles west-northwest of San Francisco, California. Since August 9, 1989, exploring for, or developing or producing, oil, gas, or minerals in any area of the Sanctuary has been prohibited by federal statute (section 2(a) of H.J. Res. 281; Pub. L. No. 101-74, 103 Stat. 554 (1989)). This regulatory amendment merely conforms the existing Sanctuary regulations to the statutory ban as required by that statute (section 2(b) of H.J. Res. 281).

EFFECTIVE DATE: This regulatory amendment is effective December 21, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph A. Uravitch, Chief, Marine and Estuarine Management Division, OCRM, NOS, NOAA, 1825 Connecticut Avenue NW., Washington, DC 20235, (202/673-5126).

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act, as amended (16 U.S.C. 1431 *et seq.*) ("Act") authorizes the Secretary of Commerce ("Secretary") to designate discrete areas of the marine environment possessing conservation, recreational, ecological, historical, research, educational, or esthetic qualities that give them special national significance as National Marine Sanctuaries. The primary purpose of a designation is to promote comprehensive and coordinated conservation and management of the area.

The authority of the Secretary to designate National Marine Sanctuaries has been delegated to the Under Secretary of Commerce for Oceans and Atmosphere by DOC Organization Order 10-15, § 3.01(z) (Jan. 11, 1988). On May 19, 1989, the Under Secretary signed the designation document for the Cordell Bank National Marine Sanctuary. The notice of designation and the final regulations implementing the designation and regulating the conduct of certain activities were published in the Federal Register on May 24, 1989 (54 FR 22417-22425). While Congress attempted to disapprove the part of the designation authorizing but not requiring the Secretary to regulate oil and gas activities in the Sanctuary by passing H.J. Res. 281, the joint resolution was not presented by Congress to the President for approval until after the 45 day period of continuous session allowed by the Act. Thus, although the joint resolution was approved by the President on August 9, 1989 (Pub. L. No. 101-74, 103 Stat. 554), section 1, the disapproval provision, has no effect (President's Statement on Signing a Joint Resolution Concerning the Cordell Bank

National Marine Sanctuary, 25 Weekly Comp. Pres. Doc. 1230 (Aug. 14, 1989)). Accordingly, the self-executing designation became final at the end of the 45-day period and the Sanctuary regulations became final. Section 2 of the joint resolution, however, which did take effect upon Presidential approval of the joint resolution, accomplished essentially the same objective of section 1. Section 2(a) prohibits the exploration for, or the development or production of, oil, gas, or minerals in any area of the Sanctuary and section 2(b) requires the Secretary to revise the Sanctuary regulations to conform within 120 days of enactment.

The regulatory amendment issued today revises section 942.6(a)(3) of the Sanctuary regulations to prohibit the exploration for, or the development or production of, oil, gas, or minerals in any area of the Sanctuary. This prohibition is identical to the one imposed statutorily by section 2(a) of H.J. Res. 281 effective August 9, 1989 and is required by section 2(b) of H.J. Res. 281.

The authority for regulating oil and gas activities within the Sanctuary is title III of the Act and paragraph (c) of section 1 of Article 4 of the Designation Document for the Cordell Bank National Marine Sanctuary, 54 FR 22417, 22420 (1989). Because the Designation Document did not authorize the regulation of mineral activities, the authority for regulating mineral activities is title III of the Act and section 2(a) of H.J. Res. 281, Pub. L. No. 101-74, 103 Stat. 554 (1989). The regulatory amendment issued today amends the authority section for 15 CFR part 942 accordingly.

Additional Information

Executive Order 12291

NOAA has concluded that this regulatory amendment is not a "major rule" within the meaning of section 1(b) of Executive Order 12291 because it will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions; or,
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Administrative Procedure Act

Section 2(a) of H.J. Res. 281 placed a ban on all activities related to the

exploration for, or the development or production of, oil, gas, or minerals within the Sanctuary effective August 9, 1989. Section 2(b) is a directive to the Secretary to amend the Sanctuary regulations to conform to the ban. As stated by the Committee on Merchant Marine and Fisheries of the United States House of Representatives,

[T]his subsection does not provide the Secretary any discretion with regard to a prohibition and is intended simply as a directive to promulgate conforming regulations. Since the Secretary is afforded no discretion in this matter, the Committee intends that the normal notice and comment rulemaking procedure [of section 553 of the Administrative Procedure Act] will be waived. In addition, no [Environmental Impact Statement] or environmental assessment is necessary. The Committee expects the Secretary to proceed directly with issuance of a final rule within 120 days of enactment. H.R. Rep. No. 110, 101st Cong., 1st Sess. 11 (1989).

Since section 2(b) of H.J. Res. 281 affords the Secretary no discretion regarding imposition of the ban, the Under Secretary of Commerce for Oceans and Atmosphere, pursuant to section 553(b)(3) of the Administrative Procedure Act (APA), for good cause found that it is unnecessary to provide notice of and opportunity for comment on this regulatory amendment. Since the ban imposed by this regulatory amendment has been imposed by statute since August 9, 1989, the Under Secretary, pursuant to section 553(d)(3) of the APA, found that good cause exists for making this regulatory amendment immediately effective.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this regulatory amendment because it was not required to be published as a proposed rule before issuance as a final rule by section 553 of the APA or by any other law. As a result, neither an initial nor final Regulatory Flexibility Analysis was prepared.

Paperwork Reduction Act

This amendment does not contain a collection of information requirement subject to the requirements of the Paperwork Reduction Act.

National Environmental Policy Act

Because the activities prohibited by this amendment are already prohibited by statute, the Department of Commerce has determined that this amendment will not significantly affect the quality of the human environment. (See discussion under Administrative Procedure Act, above). Therefore, no draft or final

Environmental Impact Statement was prepared for this amendment.

Executive Order 12612

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

Executive Order 12630

This rule does not have takings implications sufficient to require preparation of a Takings Implications Assessment under Executive Order 12630.

List of Subjects in 15 CFR Part 942

Environmental protection, marine resources, natural resources.

Dated: December 8, 1989.

Virginia K. Tippie,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth in the preamble, 15 CFR part 942 is amended by:

PART 942—CORDELL BANK NATIONAL MARINE SANCTUARY

1. Revising the authority section for 15 CFR part 942 to read as follows:

Authority: Sections 303, 304, 305, and 307 of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1433, 1434, 1435, and 1437; section 2 of Pub. L. No. 101-74, 103 Stat. 554; Designation Document for the Cordell Bank National Marine Sanctuary, Article 4, § 1(c).

2. Revising § 942.6(a)(3) to read:

§ 942.6 Prohibited activities.

(a) * * *

(3) Exploring for, or developing or producing, oil, gas, or minerals. Exploration for, or development or production of, oil, gas, or minerals in any area of the Sanctuary.

[FR Doc. 89-29004 Filed 12-20-89; 2:45 am]
GULFON CODE 2070-90-2

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1501

Method for Identifying Toys and Other Articles Intended for Use by Children Under 3 Years of Age Which Present Choking, Aspiration, or Ingestion Hazards Because of Small Parts; Interpretation

AGENCY: Consumer Product Safety Commission.