

(c) Category 4A—Footnote designator "2" rather than footnote "1" should appear after the words "Actual Cost" both routine and nonroutine inspections.

(d) Category 7—The second "of" in the heading should be corrected to read "or."

(3) Category 7A—The nonroutine inspection fee should read "\$850" rather than "\$830."

Dated at Washington, D.C., this 8th day of December 1982.

For the Nuclear Regulatory Commission,  
William J. Dircks,

*Executive Director for Operations.*

[FR Doc. 82-34316 Filed 12-16-82; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 929

[Docket No. 21116-229]

#### Key Largo National Marine Sanctuary

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

**ACTION:** Proposed rule.

**SUMMARY:** These regulations make minor revisions and clarifications to the present interim-final regulations defining which activities are allowed and which are prohibited within the Key Largo National Marine Sanctuary, the procedures by which persons may obtain permits for research or activities normally prohibited, and the penalties for committing prohibited acts without a permit. The regulations also revise the format of the existing regulations to make them more consistent with regulations in more recently designated national marine sanctuaries.

**DATE:** Comments will be accepted until January 1983. After the close of the comment period and review of comments received, final regulations will be published in the *Federal Register*.

**ADDRESS:** Send comments to: Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

**FOR FURTHER INFORMATION CONTACT:** Franklin D. Christhilf (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)(1) 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).

On December 18, 1975, the Key Largo National Marine Sanctuary (the Sanctuary) was designated, and on January 13, 1976, NOAA published interim-final regulations (41 FR 2379) pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act. Since NOAA never issued final rules, these regulations are being published as proposed rules to allow interested parties the opportunity to comment. These regulations respond to comments received on certain sections of the interim-final regulations and certain issues that have arisen since designation. Following the 60 day comment period, these proposed rules may be amended at the Assistant Administrator's discretion to reflect comments received. The Assistant Administrator shall then publish final regulations in the *Federal Register*.

#### Discussion of Issues

(a) *Boundaries:* One reviewer of the interim-final regulations called attention to an apparent error in the description of the boundaries of the Sanctuary. The apparent discrepancy results from an error on NOAA chart 11462 (formerly C&GS 1249) and has been corrected in the 14th Edition, August 1977, NOAA Chart 11462, to be consistent with the boundary description as published in the rules and regulations for the Sanctuary.

(b) *Removal or Damaging of Natural Features and Marine Life—Taking of Spiny Lobster:* Although NOAA has not received formal comments, it understands that many recreational divers believe that the existing interim regulation which prohibits taking spiny lobster by hand is unfair and discriminatory. There is concern among resource managers that lobster stocks in the Sanctuary are low and may not withstand additional harvest pressure. NOAA does not have enough scientific evidence to support either claim and therefore proposes to conduct a baseline

population study to gather information on stock abundance and natural fluctuation. Until adequate data are available, NOAA intends to rely upon regulations implemented pursuant to the Spiny Lobster Fishery Management Plan in the Gulf of Mexico and South Atlantic.

(c) *Use of Harmful Fishing Methods—Wire Fish Traps:* NOAA has been requested by the Superintendent of the adjacent John Pennekamp Coral Reef State Park and others to clarify that the taking of fish by means of wire traps is prohibited, a prohibition that is consistent with State park regulations and Federal regulations at the nearby Biscayne National Park. NOAA has rewritten § 929.7 to clarify that taking by this method is prohibited. It should be noted that the new language merely clarifies the prohibition under the existing regulations and does not add any new restriction.

(d) *Use of Harmful Fishing Methods—Nets:* NOAA also has been requested to clarify the prohibition on taking of fish by means of nets. NOAA has rewritten § 929.7 to clarify that taking of fish by bottom trawls, dredges, fish sleds, or other similar vessel-towed or anchored fishing gear or net that comes in contact with the seafloor is prohibited. A prohibition on the use of the hand-held nets to collect tropical fish is covered under § 929.7(1)(c). It should be noted that the new language merely clarifies what is a prohibition under the existing regulations and does not add new restrictions.

(e) *Utilization of Certain Living Resources for Scientific and Educational Purposes:* The principal comment on the interim-final regulations, submitted by six commentators, was that taking of tropical fish and certain invertebrates except "for the purpose of research related to the resources of the Sanctuary" was precluded, thus preventing taking for public display or educational purposes at public aquaria or universities. These commentators agreed that commercial taking of large numbers of these resources should be prohibited, but agreed that the wording of the regulations was too restrictive. NOAA appreciates these concerns and has rewritten § 929.10 to make the language consistent with regulations for other established sanctuaries where taking for scientific and educational purposes includes taking for legitimate public display and other related purposes and is allowed by permit.

(f) *Appeals of Administrative Actions:* Section 929.11 has been rewritten to provide that any interested party can

appeal a permit decision to the Administrator of NOAA, also to establish that a hearing is discretionary. The changes are in line with the permit appeals procedure established for the sanctuary program generally.

(g) *Format*: The regulations have been revised for purposes of clarity by using separate sections to define permitted and prohibited uses and by adding a purpose section (929.2).

#### Other Matters

Executive Order 12291 (E.O. 12291) defines a "major rule" as "any regulation that is likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in cost 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 in domestic or export markets." The economic activity supported by the area within the Sanctuary consists of a diversity of commercial and recreational activities.

The economic impacts on affected activities in the Sanctuary are minor and regulations do not restrict recreational activities. Fishing with traps, spearfishing, and "tropical fish" taking are already prohibited by regulation.

Because the majority of the activities are already regulated by other authorities, not regulated at all, or regulated by Sanctuary authority consistent with those proposed to take effect, the Acting Assistant Administrator has determined that this is not a "major rule" under Executive Order 12291. For the same reasons, the Acting Assistant Administrator has determined that the proposed rules will not have a significant economic impact on small entities in the Sanctuary under the Regulatory Flexibility Act. These regulations will impose no information collection requirements of the type covered by Pub. L. 96-511 on affected State governments. Publication does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

#### List of Subjects in 15 CFR Part 929

Administrative practice and procedure, Environmental protection, Marine resources, and Natural resources.

(Federal Domestic Assistance Catalog Number 11.419 Coastal Zone Management Program Administration)

Dated: November 1, 1982

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

Accordingly, it is proposed to revise Part 929 to read as follows:

### PART 929—KEY LARGO NATIONAL MARINE SANCTUARY PROPOSED REGULATIONS

Sec.

- 929.1 Authority
- 929.2 Purpose.
- 929.3 Boundaries.
- 929.4 Definitions.
- 929.4 Management and enforcement.
- 929.6 Allowed activities.
- 929.7 Activities prohibited or controlled.
- 929.8 Other authorities.
- 929.9 Penalties for commission of prohibited acts.
- 929.10 Permit procedures and criteria.
- 929.11 Appeals of administrative action.

Authority: Secs. 302f, 302g, 303, Pub. L. 92-532, 86 Stat. 1061, 1062 (16 U.S.C. 1431-1434).

#### § 929.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of Section 302(a) of the Marine Protection, Research and Sanctuaries Act of 1972 as amended (the Act). The following regulations are issued pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act.

#### § 929.2 Purpose.

The purpose of designating the Key Largo National Marine Sanctuary is to protect and preserve the coral reef ecosystem in its natural state and to regulate uses within the Sanctuary to insure the health and well-being of the coral and associated flora and fauna.

#### § 929.3 Boundaries.

The Sanctuary consists of a portion of the Atlantic Ocean beginning at approximately three miles east of Key Largo, Florida adjacent to the John Pennekamp Coral Reef State Park. The coordinates for the Sanctuary are: the point of beginning (POB) is at geographic coordinates 25° (degrees), 19.45' (minutes) north latitude, 80°, 12.0' west longitude, said point being the northeast boundary corner of John Pennekamp Coral Reef State Park. From said POB run thence southeasterly to geographic coordinates 25°, 16.2' north latitude 80°, 8.7' west longitude, said point also being on the 300 foot isobath, thence in a southwesterly direction to geographic coordinates 25°, 07.5' north latitude, 80°, 12.5' west longitude, thence again run in a southwesterly direction to geographic coordinates 24°, 58.3' north latitude 80°, 19.8' west longitude, thence leaving said 300 foot isobath run

northwesterly to geographic coordinates 25°, 2.2' north latitude 80°, 25.25' west longitude, said point being the southeast boundary corner of John Pennekamp Coral Reef State Park, thence in a northeasterly direction along said easterly boundary of said State Park to the POB.

#### § 929.4 Definitions.

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

(b) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration or his/her successor, or designee.

(c) "Persons" 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 the government.

(d) "The Sanctuary" means the Key Largo National Marine Sanctuary.

(e) "Tropical fish" means fish and invertebrates of minimal sport and food value, usually brightly colored, often used for aquaria purposes and which live in a close interrelationship with corals and coral reef substrates.

#### § 929.5 Management and enforcement.

The National Oceanic and Atmospheric Administration (NOAA) has primary responsibility for the management of the Sanctuary pursuant to the Act. The Florida Department of Natural Resources (FDNR), Division of Recreation and Parks, assists NOAA in the administration of the Sanctuary, and acts as the onsite manager, in conformance with a cooperative agreement between the State of Florida and NOAA. The U.S. Coast Guard and Division of Recreation and Parks (FDNR) shall conduct surveillance and enforcement of these regulations pursuant to 14 U.S.C. 89, 16 U.S.C. 1432(f)(4), 16 U.S.C. 7421(b), 16 U.S.C. 3375(a), or other appropriate legal authority.

#### § 929.6 Allowed activities.

All activities except those specifically prohibited by § 929.7 may be carried on within the Sanctuary subject to all prohibitions, restrictions, and conditions imposed by other authorities.

#### § 929.7 Activities prohibited or controlled.

(a) Unless permitted by the Assistant Administrator in accordance with § 929.10, or as may be necessary for the national defense, or to respond to an

emergency threatening life, property or the environment, the following activities are prohibited or controlled within the Sanctuary. All prohibitions and controls must be applied consistently with international law. Refer to § 929.9 for penalties for commission of prohibited acts.

(i) *Removal or damaging of natural features and marine life.* (A) No person shall destroy, injure, harmfully disturb, break, cut or similarly damage or remove any coral or other marine invertebrate, or any plant, soil, rock, or other material. Divers are prohibited from handling coral formations, standing on coral formations, or otherwise disturbing the corals.

(ii) Commercial taking of stone crab, crawfish, and spiny lobster by trap and recreational taking of spiny lobster by hand which is consistent with both the applicable regulations under the appropriate Fishery Management Plan and these regulations is allowed.

(iii) No person shall catch or collect any tropical fish.

(iv) There shall be a rebuttable presumption that any items listed in these paragraphs found in the possession of a person within the Sanctuary have been collected or removed from within the Sanctuary.

(v) *Dredging, filling, excavating and dumping activities.* No person shall dredge, excavate, fill or otherwise alter the seabed in any way nor construct any structure of any kind, whether permanent or temporary, with the exception of navigation aids.

(3) *Discharges.* No person shall deposit or discharge any materials or substance of any kind into the waters of the Sanctuary. The only exceptions are:

(i) Indigenous fish or fish parts and chumming materials;

(ii) Cooling waters from vessels; and

(iii) Effluent from marine sanitation devices approved by the United States Coast Guard.

(4) *Removal or damage of archaeological and historical resources.* No person shall remove, deface, damage, or tamper with archaeological or historical resources or the cargo of any submerged wrecks or other historical resources within the boundaries of the Sanctuary.

(5) *Tampering with markers.* No person shall mark, deface or damage in any way whatsoever, or displace, remove or tamper with any signs, notices or placards, whether temporary or permanent, or with any monuments, stakes, posts or other boundary markers installed by the Sanctuary Manager, or trap floats placed for the purpose of lobster fishing.

(6) *Use of harmful fishing methods.* No person shall carry or possess, except while passing through the Sanctuary or for law enforcement purposes, the following firearms or weapons: pole spears, air rifles, bows and arrows, slings, Hawaiian slings, rubber-powered arbalists, pneumatic and spring loaded guns, explosive powered guns or similar devices known as spearguns. No person shall use within the Sanctuary:

(i) Wire fish traps;

(ii) Bottom trawls, dredges, fish sleds, or similar vessel-towed or anchored bottom fishing gear or net; or

(iii) Poisons, electric charges, explosives or similar devices.

(7) *Operation of watercraft and anchoring.* All watercraft shall be operated in accordance with applicable Federal rules and regulations. The following additional regulations apply within the boundaries of the Sanctuary.

(i) Watercraft shall be operated to avoid striking or otherwise causing damage to the natural features of the Sanctuary.

(ii) No anchor shall be cast or dragged in such a way as to damage any coral reef formations. Anchors shall be dropped on sand flats off the reefs and placed to avoid dragging into the coral formations.

(iii) Watercraft must use mooring buoys, stations or anchoring arms when such facilities and areas have been designated and are available.

(iv) Within 100 yards of divers, sightseeing boats or fishermen, no watercraft shall be operated at greater than 4 knots or in any manner to create a wake, except by law enforcement officials while in the performance of their official duties.

(v) All watercraft from which diving operations are being conducted shall fly in a conspicuous manner, the red and white "divers down" flag. Divers shall stay within 100 yards of their diving flag.

(8) *Use of dangerous weapons.* Except for law enforcement purposes, no person shall use or discharge explosives or weapons of any description within the Sanctuary boundaries. Distress signaling devices, necessary and proper for safe vessel operation, and knives generally used by fishermen and swimmers are not considered weapons for purposes of this Subsection.

(b) The Sanctuary may be closed to public use in the event of emergency conditions endangering life or property. The Assistant Administrator or his/her representative may also close certain areas in order to: (i) Permit recovery of the living resources from overuse, or (ii) provide for scientific research relating to protection and management. However,

the total closed area shall not exceed a size necessary to accomplish these purposes. Public notice of closures will be through the local news media and posting of placards at the John Pennekamp Coral Reef State Park, if deemed necessary.

(c) The regulation of activities within the Sanctuary shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be conducted consistently with all regulations to the maximum extent possible.

(d) 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.

#### § 929.8 Other authorities.

No license, permit or other authorization issued pursuant to any other authority may validly authorize any activity prohibited by § 929.7 unless such activity meets the criteria stated in § 929.10 (c) and (d), and is specifically authorized by the Assistant Administrator.

#### § 929.9 Penalties for commission of prohibited acts.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than \$50,000 for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding *in rem* against any vessel used in violation of any such regulation. Procedures are set out in Subpart D of Chapter 15 CFR Part 922. Subpart D is applicable to any instance of a violation of these regulations.

#### § 929.10 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 the specific activity in the Sanctuary including any activity specifically prohibited under § 929.7, if such activity is: (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, Attn: Sanctuary Programs Office, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235. An application 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 being proposed 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 of recreation, education, or scientific information; and (4) the end value of the activity.

(d) Permits may be issued by the Assistant Administrator for activities otherwise prohibited under § 929.7. In addition to meeting the criteria in 929.10 (c), the applicant must also satisfactorily demonstrate to the Assistant Administrator: (1) That the activity shall be conducted with adequate safeguards for the environment, and (2) that the environment shall be returned to the condition which existed before the activity occurred. A permit issued according to the provisions for an otherwise prohibited activity shall be appropriately conditioned, and the activity monitored to ensure compliance.

(e) In considering an application submitted pursuant to this section, the Assistant Administrator may seek and consider the views of Fishery Management Councils and any other person or entity, within or outside of the Federal Government, and may hold a public hearing, as he/she deems appropriate.

(f) The Assistant Administrator may, at his/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 necessary, and shall attach to any permit granted for research related to the Sanctuary stipulations to the effect that: (1) The Assistant Administrator or a designated representative may observe any activity permitted by this section; and (2) any information obtained in the research site shall be made available to the public; and/or the submission of one or more reports of the status of progress of such activity may be required.

(g) A permit granted pursuant to this section is nontransferrable.

(h) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this Section, in whole or in part, temporarily or indefinitely if, in his/her view, the permit holder (the Holder) had acted in

violation of the terms of the permit or of the applicable regulations; or the Assistant Administrator may do so for other good cause shown. Any such action shall be communicated in writing to the Holder, and shall set forth the reason(s) for the action taken. The Holder in relation to whom such action has been taken may appeal the action as provided for in § 929.11.

#### § 929.11 Appeals of Administrative Action.

(a) The applicant for a permit, the Holder, or any other interested person (hereafter Appellant) may appeal the granting, denial, conditioning or suspension of any permit under § 929.10 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 may request the Appellant, and the permit applicant or Holder if other than the Appellant, to submit such additional information and in such form as will allow action upon the appeal. The Administrator shall decide the appeal using the criteria set out in § 929.10(c), any information relative to the application of file, any information provided by the Appellant, and such other consideration as is deemed appropriate. The Appellant shall notify the Appellant of the final decision and the reason(s) therefor, in writing normally within 30 days of the date of the receipt of adequate information required to make the decision.

(c) If a hearing is requested or, if the Appellant determines that 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 or permit holder, if different, and, 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 a decision in writing 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 the interested persons of his/her decision, and the reason(s) therefor in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's decision shall constitute final action for the Agency for the purposes of the Administrative Procedures Act.

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

[FR Doc. 82-34191 Filed 12-16-82; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 270

[Release No. IC-12888; S7-955]

#### Advance Notice and Request for Comment on Mutual Fund Governance

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Advance notice and requests for comments on mutual fund governance.

**SUMMARY:** The Commission is considering whether to propose rules or recommend legislation to enable all or certain types of registered open-end investment companies to be organized and operated without shareholder voting, or without either shareholder voting or boards of directors. The major goal of such action would be to reduce the expenses of fund operations without sacrificing investor protections. In addition to seeking guidance generally on the advisability of such action, the Commission is also requesting commentators to focus on certain specified questions. The comments received will be considered in connection with the development of any rulemaking proposals or legislative recommendations.

**DATE:** Comments must be received on or before March 10, 1983.

**ADDRESS:** Persons wishing to submit written comments on the matters discussed in the release should file five copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.