

Huron, MI—St. Clair County Intl, VOR/ME-A, Amdt. 2
 Hobinsville, NJ—Trenton-Robbinsville, VOR Rwy 29, Amdt. 8
 Farmington, NM—Farmington Muni, VOR/DME Rwy 7, Amdt. 1
 Farmington, NM—Farmington Muni, VOR Rwy 25, Amdt. 3
 Devils Lake, ND—Devils Lake Muni, VOR Rwy 13, Amdt. 5
 Devils Lake, ND—Devils Lake Muni, VOR Rwy 31, Amdt. 2
 Borger, TX—Hutchinson County, VOR Rwy 17, Amdt. 4
 Borger, TX—Hutchinson County, VOR/DME Rwy 35, Original
 Melfa, VA—Accomack County, VOR/DME Rwy 2, Amdt. 2

*** Effective September 18, 1980

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, VOR Rwy 1, Amdt. 6
 Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, VOR Rwy 19, Amdt. 5

*** Effective September 12, 1980

Oakland, CA—Metropolitan Oakland Intl, VOR/DME Rwy 27L, Amdt. 10

§ 97.25 [Amended]

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

*** Effective November 13, 1980

Luis Obispo, CA—San Luis Obispo County, LOC Rwy 11, Amdt. 1
 Lake Charles, LA—Lake Charles Muni, LOC BC Rwy 33, Amdt. 11
 Lubbock, TX—Lubbock Intl, LOC BC Rwy 35L, Amdt. 9
 Lufkin, TX—Angelina County, LOC Rwy 7, Original
 Wichita Falls, TX—Sheppard AFB/Wichita Falls Muni, LOC BC Rwy 15R, Amdt. 9

*** Effective October 30, 1980

Watertown, SD—Watertown Muni, LOC/DME BC Rwy 17, Amdt. 3

§ 97.27 [Amended]

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

*** Effective November 27, 1980

Sheldon, IA—Sheldon Muni, NDB Rwy 33, Amdt. 3
 El Dorado, KS—El Dorado Muni, NDB Rwy 4, Original

*** Effective November 13, 1980

Lafayette, LA—Lafayette Regional, NDB Rwy 10, Original
 Lake Charles, LA—Lake Charles Muni, NDB Rwy 15, Amdt. 14
 Port Huron, MI—St. Clair County Intl, NDB Rwy 4, Amdt. 7
 St. Paul, MN—Lake Elmo, NDB-A, Amdt. 1
 Sedalia, MO—Sedalia Memorial, NDB Rwy 3, Amdt. 5
 Sedalia, MO—Sedalia Memorial, NDB Rwy 36, Amdt. 6
 Fremont, NE—Fremont Muni, NDB Rwy 13, Amdt. 3

Okmulgee, OK—Okmulgee Muni, NDB Rwy 17, Amdt. 1
 Ciddings, TX—Ciddings-Lee County, NDB Rwy 17, Original
 Lufkin, TX—Angelina County, NDB Rwy 7, Original
 Melfa, VA—Accomack County, NDB Rwy 2, Amdt. 3

*** Effective October 30, 1980

Mount Pocono, PA—Mount Pocono, NDB-A, Amdt. 6, cancelled
 Watertown, SD—Watertown Muni, NDB Rwy 35, Amdt. 3
 Pennington Gap, VA—Lee County, NDB-A, Original

*** Effective September 23, 1980

Greenville, AL—Greenville Muni, NDB Rwy 32, Amdt. 3

*** Effective September 18, 1980

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, NDB-A, Amdt. 6

*** Effective September 12, 1980

Oakland, CA—Metropolitan Oakland Intl, NDB Rwy 27R, Amdt. 1

§ 97.29 [Amended]

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

*** Effective November 13, 1980

Yuma, AZ—Yuma MCAS/Yuma Intl, ILS Rwy 21R, Amdt. 3
 Lake Charles, LA—Lake Charles Muni, ILS Rwy 15, Amdt. 14
 Baltimore, MD—Baltimore-Washington Intl, ILS Rwy 10, Amdt. 9
 Baltimore, MD—Baltimore-Washington Intl, ILS Rwy 15R, Amdt. 10
 Baltimore, MD—Baltimore-Washington Intl, ILS Rwy 28, Amdt. 4
 Baltimore, MD—Baltimore-Washington Intl, ILS Rwy 33L, Amdt. 2
 Okmulgee, OK—Okmulgee Muni, ILS Rwy 17, Amdt. 1
 Lubbock, TX—Lubbock Intl, ILS Rwy 17R, Amdt. 14

*** Effective October 30, 1980

Watertown, SD—Watertown Muni, ILS Rwy 35, Amdt. 5

*** Effective September 12, 1980

Oakland, CA—Metropolitan Oakland Intl, ILS Rwy 27R, Amdt. 29

§ 97.31 [Amended]

5. By amending § 97.31 RADAR SIAPs identified as follows:

*** Effective November 13, 1980

Baltimore, MD—Baltimore-Washington Intl, RADAR 1, Amdt. 8

§ 97.33 [Amended]

6. By amending § 97.33 RNAV SIAPs identified as follows:

*** Effective November 13, 1980

Yuma, AZ—Yuma MCAS/Yuma Intl, RNAV Rwy 21R, Amdt. 3

Baltimore, MD—Baltimore-Washington Intl, RNAV Rwy 22, Amdt. 4
 Port Huron, MI—St. Clair County Intl, RNAV Rwy 4, Amdt. 4
 Port Huron, MI—St. Clair County Intl, RNAV Rwy 22, Amdt. 4
 Marshall, TX—Harrison County, RNAV Rwy 33, Original

(Secs. 307, 313(a), 801, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on September 26, 1980.

John S. Kern,

Acting Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 80-30727 Filed 10-1-80; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 935

The Channel Islands National Marine Sanctuary

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

ACTION: Final rule.

SUMMARY: The Office of Coastal Zone Management within NOAA is issuing the Designation and final regulations for the Channel Islands National Marine Sanctuary off the coast of California (the Sanctuary). The Sanctuary was designated on September 22, 1980, after receiving Presidential approval on September 21, 1980. The Designation Document acts as a constitution for the Sanctuary establishing its boundaries, purposes and the activities subject to regulations. The regulations establish in accordance with the terms of the Designation the limitations and prohibitions on the activities regulated within the Sanctuary, the procedures by which persons may obtain permits for prohibited activities, and the penalties for committing prohibited activities.

DATE: The Designation and these implementing regulations are expected to become effective upon the expiration of a period of 60 calendar days of continuous session of Congress after their transmittal to Congress, concurrent with publication. This 60-day period is interrupted if Congress takes certain adjournments and the continuity of session is broken by an adjournment sine die. During the first 60 days after publication the Governor of California may certify that any terms of the Designation are unacceptable as they apply to State waters in which case the Designation and regulations shall be modified and may be withdrawn entirely. Therefore, the effective date can be determined by calling or writing the contact identified below. Also notification will be published in the *Federal Register* when the designation becomes effective.

FOR FURTHER INFORMATION CONTACT: Dallas Miner, Director, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven Street, N.W. Washington, D.C. 20235, (202) 634-4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection Research and Sanctuaries Act of 1972, as amended, 16 USC 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 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 September 21, 1980, the Assistant Administrator received the President's approval to designate as a marine sanctuary an area of the waters off the coast of California, adjacent to the northern Channel Islands and Santa Barbara Island (the Islands), seaward to a distance of 8 nautical miles (nm). The area was so designated on September 22, 1980. However, since the Sanctuary includes waters within the seaward boundary of California, the Governor of California has 60 days in which to certify that any of the terms of the Designation are unacceptable to the

State in which case the terms certified will not become effective within State waters. In this event the regulations must be modified accordingly or the entire Designation may be withdrawn if it no longer meets the objectives of the Act, the regulations and the original Designation (see 15 CFR 922.26(e)). In addition the Act, as amended by Public Law 96-332, provides that the Designation becomes effective unless Congress disapproves it or any of its terms by a concurrent resolution adopted by both Houses "before the end of the first period of sixty calendar days of continuous session" after transmittal of the Designation to Congress (Section 302(b)(1) and 302(h)). This provision raises constitutional questions as noted by the President in his statement of August 29, 1980, signing Public Law 96-332 but will be treated as a "report-and-wait" provision in accordance with that statement. Consequently, the Designation and the regulations will not become effective until after the 60-day period described in Section 302(h). This period does not include those days on which either House is adjourned for more than 3 days to a day certain and is broken by an adjournment sine die. In view of Congress' schedule for the next few months, it is unlikely that this Designation and regulations will become effective before March 1981. Notification of the effective date will be published in the *Federal Register* at this time.

The Waters included in the Sanctuary, located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Countercurrent, support an exceptionally rich and varied biota, including one of the world's most diverse concentrations of marine mammals, several endangered species, and numerous seabirds. Although the area also sustains a variety of human uses, it is one of very few areas on the Southern California coast that has remained relatively unaltered. However, use of the Santa Barbara Channel is increasing and additional pressure is being placed on the resources from a number of activities. Accordingly, the primary purpose of managing the area and of these implementing regulations is to protect and to preserve the marine birds and mammals, their habitats and other natural resources from those activities which pose significant threats. Such activities include: discharges except for fish cleaning wastes and chumming materials, certain discharges incidental to vessel use of the area such as effluents from marine sanitation devices, engine exhaust and cooling

waters, biodegradable galley wastes, and deck wash down, and discharges incidental to allowed hydrocarbon operations [Sec. 935.7(a)(1)]; construction on or alteration of the seabed except for navigational aids or in connection with allowed hydrocarbon operations [Sec. 935.7(a)(2)]; the unnecessary operation of certain commercial vessel or aircraft in the vicinity of important habitats with 1 nm of the islands and at lower than 1000 feet in the case of aircraft [Sec. 935.7(a)(3) and (4)]. All prohibitions must be applied consistently with recognized principles of international law.

To reduce the possibility of damage to the resources by pollution, hydrocarbon exploration and exploitation under leases issued after the effective date of these regulations will be prohibited [Sec. 935.8(c)]. Hydrocarbon operations under existing leases may continue subject to all conditions imposed by other authorities, including in particular the U.S. Geological Survey in its operating orders, the Environmental Protection Agency (EPA) through permits issued under section 402 of the Clean Water Act, 33 U.S.C. 1432, (known as NPDES permits), and the California Coastal Commission through its consistency determinations [Sec. 935.6(a)].

In addition, operators must maintain adequate oil spill contingency equipment on site [Sec. 935.6(b)].

The regulation of fishing and kelp harvesting in the Sanctuary waters will remain the responsibility of the California Department of Fish and Game, the Pacific Regional Fishery Management Council, and the National Marine Fisheries Service pursuant to the Fishery Conservation and Management Act of 1976, 16 USC 1801 *et seq.* (see Article 5, Section 1 of the Designation Document) although fishing vessels are subject to the same discharge regulations as other vessels [Sec. 935.7(a)(1)].

On December 5, 1979, NOAA published proposed regulations for the Sanctuary in the *Federal Register* (44 FR 69970) and at the same time issued a Draft Environmental Impact Statement (DEIS) which described in detail the proposed regulatory regime and alternatives to it. After consideration of the comments, an FEIS was issued on June 6, 1980 which described a somewhat revised regulatory regime. Some additional comments were received on the FEIS but the regulations discussed in the FEIS and those published here are substantially identical. The significant comments on the proposed regulations and the regulatory elements of the impact

statement and NOAA's responses to them follow:

(1) A number of reviewers, including the California Coastal Commission, the Board of Supervisors of Santa Barbara County, and numerous public interest groups, felt that the entire Santa Barbara Channel from Point Arguello to Point Mugu and the waters extending 12 nm around the northern Channel Islands and Santa Barbara Island should be designated as a marine sanctuary and therefore subject to the proposed regulations. They argued that:

(a) The natural resources described in the DEIS are found throughout the Channel; indeed, some are most prevalent beyond the boundary proposed.

(b) Because of the circular nature of the water currents in the Channel, activities occurring in the Channel beyond the 8 nm boundary are likely to affect the waters near the Islands.

(c) Coordinated management of the resources and activities of the proposed sanctuary is realistically possible only on a Channel-wide basis.

Some commenters further argued that the marine sanctuary should institute a moratorium on leasing for oil and gas development throughout the entire area since an oil spill anywhere in the Channel could adversely impact the nearshore Island waters and the other resources of value located throughout the Channel.

Response

Important biological and ecological resources do occur in the Channel beyond the proposed marine sanctuary and the larger marine area is ecologically interrelated and valuable. However, some of these resources are substantially dispersed, and areas beyond the proposed boundary are not generally characterized by intense concentrations of marine mammals and seabirds. In comparison, the use of the nearshore Island waters by seabirds and marine mammals appears to be qualitatively different than their use of other waters of the Channel.

At the same time, development and use levels are higher beyond 8 nm from the Islands. Most of the current and past hydrocarbon development in the Channel is near the mainland. Tankers and freighters travel through the Channel in large numbers. Coastal development, both residential and industrial, results in the discharge of wastes into the Channel and dredging and construction. Other economically important projects, such as the construction of a liquid natural gas terminal at Point Conception, would be encompassed in a larger boundary.

While it is true that some incidents elsewhere in the Channel—a major oil spill, for example—could harm the natural resources of the sanctuary area, the risk of damage from such a spill must be weighed against the costs of the exclusion of oil and gas operations. The economic consequences of prohibiting future oil and gas development in the suggested larger area are substantial. The Santa Barbara Channel is an area of proven offshore oil reserves; the oil and gas industry ranks it as the third most promising area for oil and gas exploration off the U.S. coast. While no economically recoverable reserves have been discovered within 8 nm of the Islands to date, oil production in other portions of the Channel has been occurring since 1896. The oil spill contingency requirements, operating orders, lease stipulations and other restrictions imposed by the Department of the Interior and the California Coastal Commission provide some protection against oil pollution. While these precautions cannot completely forestall the possibility of an oil spill, the distance between most hydrocarbon activities in the Channel and the nearshore Island waters, which the proposed sanctuary buffer guarantees, will provide time for cleanup activities before the oil can reach shore, and will also allow time for the spilled oil to weather and thus lose its most toxic parts before it reaches the nearshore Island waters.

(2) A second group of commenters took a position opposite from those who wanted to expand the sanctuary, maintaining that no sanctuary should be designated, since existing regulatory authorities already provide enough protection for the natural resources. They felt a marine sanctuary would only add an unnecessary and expensive layer of Federal bureaucracy.

Response

The many Federal and State agencies which exercise authority in the Channel do provide a considerable degree of regulatory protection. However, the extraordinary diversity of natural resources concentrated in the waters around the northern Channel Islands and Santa Barbara Island deserve additional attention beyond that provided by the present institutional structure.

The marine sanctuary program, unlike other programs which have jurisdiction in the area of the proposed sanctuary, includes a mechanism to focus on this particular geographically defined marine area and to provide comprehensive management and planning to preserve the resources of the site. Other statutes

either focus on management of much smaller areas, single resources, or have resource protection only as an ancillary goal. Marine sanctuary planning and management also includes provision for research and monitoring of the condition of the resources to assure long-term protection and maximum safe use and enjoyment; other statutes do not provide in most cases the same geographically focused, comprehensive research and monitoring effort. An educational element of the program heightens public awareness of the value of the resources and thereby reduces the potential for harm; again, this aspect of the marine sanctuary program is unavailable under the present system.

Although certain uses of the area do not now seriously threaten resource quality, they could have more significant impact if and when activities increase. The current multitude of regulatory authorities, many of which have different objectives and jurisdictions, may not be able to respond to future activities on the basis of ecosystem issues. Furthermore, some agencies suffer from limited enforcement resources. Because these waters contain so many beneficial uses, the special planning and study possible in a marine sanctuary is necessary to ensure that they are used and preserved in the future as effectively as possible.

(3) The Department of the Interior and the Marine Mammal Commission, questioned excluding fishing as an activity subject to regulation. Representatives of the oil industry felt that it was discriminatory to exclude fishing from possible additional sanctuary regulation while regulating oil and gas activities.

Response

NOAA supports the view that duplicative regulations should be avoided wherever possible. After evaluation, NOAA concluded that the existing authorities specifically mandated to manage fishing, e.g. the California Department of Fish and Game within state waters and the Pacific Fisheries Management Council outside of state waters, should continue management. The interests of these agencies are parallel to the interests of NOAA in managing the Sanctuary, preserving the stocks and their habitats. Therefore, there is no reason to anticipate that the decisions of either agency will differ systematically from those NOAA might make and there is no necessity for NOAA assuming a regulatory role.

Clearly oil and gas activities pose a different type of threat than do fishing activities. Even if the specific operations

(e.g., erecting the necessary structures, depositing drill muds and cuttings) do cause significant damage, there remains the possibility of a major spill resulting in serious damage and the potential for long-term adverse impacts from chronic pollution by hydrocarbons and drill muds and other disturbance of sensitive habitat. The decisions with respect to oil and gas relate primarily to the degree of risk one is willing to assume. Here it seems reasonable that, over the long-term, as the agency entrusted with the preservation of the Sanctuary, NOAA is likely to accept less risk than many other agencies involved with authority over these activities and thus should assert jurisdiction.

(4) Recreational boating associations and others commented that the regulation on vessel traffic was worded in a confusing manner and could be interpreted as prohibiting recreational and research vessels within 1 nm of the Islands. In addition, the Coast Guard pointed out that the prohibition of certain discharges in section 935.7(a)(1) could have the unintended affect of precluding recreational boating. Unless the language is clarified so that recreational boating is clearly allowed, many felt the sanctuary should not be designated.

Response

The proposed regulation on vessel traffic was somewhat confusing. NOAA never intended to prohibit recreational vessel traffic in the Sanctuary. The prohibition on certain commercial vessel traffic within one nautical mile of the Islands was aimed at tankers, freighters, barges, and OCS supply vessels. Section 935.7(a)(3) was reworded to clarify this intent. The prohibition on discharges also has been rewritten to ensure that recreational boating will not be precluded but that harmful practices will be restricted.

(5) The marine sanctuary should require vessels transiting the Santa Barbara channel to adhere to the Vessel Traffic Separation Scheme (VTSS) established by the U.S. Coast Guard.

Response

Most commercial vessel traffic already adheres to the Coast Guard's designated VTSS in the Channel. In addition, the Coast Guard is conducting a Port Access Route (PAR) study for the California coast, and the Santa Barbara Channel is under careful consideration as part of that study. Under the 1978 amendments to the Ports and Waterways Safety Act, the Coast Guard has the authority to make shipping lanes mandatory and will exercise that power

for the entire Santa Barbara Channel if the PAR study indicates that that is the best course of action. NOAA has commented on the Coast Guard's PAR study, and the Coast Guard must take the Channel-Islands marine sanctuary into consideration in its decision, as well as the other complicated issues of use, location, and safety of navigation. Since the study is incomplete, it is premature and inadvisable for NOAA to take any action concerning the VTSS.

(6) Several commentors, including the State of California, said that the Sanctuary should prohibit the placement of structures, principally platforms for oil and gas production, in or near the Vessel Traffic Separation Scheme.

Response

The Sanctuary regulations prohibit hydrocarbon activities pursuant to any lease executed after the effective date of the regulations. As to any structure which might be erected pursuant to an existing lease, the Coast Guard is currently conducting a major review of this issue as part of its southern California PAR study. Should the Coast Guard conclude that a prohibition is warranted, it has the authority under the Ports and Waterways Safety Act amendments of 1978 to implement it. The California Coastal Commission presently considers the placement of structures in or within 500 m of a VTSS to be inconsistent with California Coastal Zone Management Program and, based on Coast Guard recommendations, permits granted by the Army Corps of Engineers to date prohibit them inside the sea lanes or within a quarter mile of the sea lane boundaries.

Given the current review of the situation by the Coast Guard, NOAA has determined not to propose Sanctuary regulations at this time. The alternative regulatory approach would be case-by-case review by the Sanctuary of each decision to locate a structure in a VTSS. Given the existence of at least two levels of case-by-case review where environmental concerns are taken into account, institution of another review during the interim appeared inappropriate.

(7) The State of California and one kelp harvester expressed concern that the proposed regulation might limit or restrict kelp harvesting. Two environmental groups thought that NOAA should consider regulating this activity.

Response

In proposing the Sanctuary, NOAA did not consider kelp harvesting to be one of the activities that was necessary

or desirable to regulate. The activity occurs entirely within California waters and is carefully regulated by the State Department of Fish and Game, which has found no evidence of harm from the harvesting of this renewable resource. NOAA's intent has been clarified in Article 5, Section 1 of the Designation and Section 935.7(a)(3) of the regulations.

(8) The Coast Guard and some recreational boaters and commercial fishermen were concerned that Section 935.7(a)(2)(C) prohibiting altering "the seabed in any way" might be interpreted to preclude anchoring and bottom trawling. Exxon commented that anchoring should be "proposed as a regulated activity to protect coral."

Response

No regulation of anchoring is proposed. Because the coral at issue, *Allopora californica*, grows in scattered formations rather than in reefs, it is less likely to be damaged by anchoring than the coral in existing or proposed sanctuaries such as Key Largo and the Flower Gardens Banks. Should NOAA's monitoring programs indicate that there are concentrations of coral that require protection from anchoring, appropriate regulations can be proposed. Section 937.7(a)(2) has been rewritten to clarify that it does not prohibit anchoring and bottom trawling.

(9) The Coast Guard opposed "any action which might set the stage for future attempts by any other agency to regulate movement of shipping" and therefore advocated precluding such a possibility in the Designation Document except that NOAA could enact a narrow prohibition for commercial vessels within 1 nautical mile of the Islands, provided they were not within a VTSS or PAR designated by the Coast Guard.

Response

NOAA has rewritten the documents concerning the proposed sanctuary to eliminate any conflict with any VTSS or PAR designated by the Coast Guard, as long as the VTSS or PAR lies beyond one nm from the Islands. The Designation Document now specifically exempts navigation within a designated VTSS or PAR from any Sanctuary regulation (see Article 4, Section 1). No additional regulation of vessel traffic outside of the 1 nm is proposed at this time. Although no specific need for additional regulation is foreseen, NOAA feels it should retain the option should the need arise.

(10) The Coast Guard, some recreational boaters, and commercial fishing interests were concerned that the

prohibitions on discharges as written might limit boating in the area in ways unanticipated by NOAA.

Response

to include specific exemptions for fish parts, cooling water, marine sanitation devices, engine exhaust, deck wash down, and other effluents incidental to routine vessel use.

(11) One commentator believed that the economic effects of prohibiting oil and gas operations under future leases would be sufficiently severe that NOAA should undertake a regulatory analysis to comply with the President's Executive Order No. 12044.

Response

At the time the notice of proposed rulemaking and draft environmental impact statement were published, it was evident that the economic impacts of the

require a regulatory analysis.

Furthermore, both the costs and benefits of these regulations are somewhat speculative and not easily quantifiable so that the value of a regulatory analysis is marginal at best. Nevertheless, in response to the comment, NOAA contracted for an independent analysis which confirmed that the economic impacts were below all the thresholds for a regulatory analysis and were generally negligible.

The Sanctuary regulations are not expected to have an effect greater than \$30 million on the economy as a whole during any one year. Without a Sanctuary, peak oil and gas production would be reached in 1992 when the total effect of the prohibition would amount to \$29.98 million. The effects on industry and the relevant geographic region are expected to be \$1.5 and \$4.7 million respectively during the peak production year. Essentially no impact is expected on consumers, costs or prices, productivity, employment, supplies of goods and services or competition. These estimates are based on a generous estimate of the hydrocarbon reserves available within the Sanctuary—double the only available U.S. Geological Survey (USGS) estimate for a portion of the Sanctuary.

(12) Oil and gas industry representatives disagreed with NOAA's estimate of hydrocarbon resource potential in the proposed Sanctuary and urged that the regulation be abandoned due to the adverse social and economic impacts of restricting oil and gas production in this area.

Response

Although the extent of hydrocarbon resources in the area remains subject to dispute, several facts indicate that

the Islands will not result in foregoing a significant amount of oil and gas. Estimates of foregone resources relate only to the area from 3 to 8 nm within the Sanctuary because State legislation precludes leasing and operations within the territorial sea, unless Federal operations on adjacent leases threaten to drain basins under State lands. For the unleased area of the Federal Outer Continental Shelf within the Sanctuary, only one official estimate of resources is available. The USGS has projected that 24 tracts located on the mainland side of the Islands offer potential to recover only 5.7 million barrels of oil and 8.9 billion cubic feet of gas. These tracts represent a portion of the Sanctuary but other indications tend to confirm the extremely limited resources. First, nineteen tracts in the Sanctuary leased in sales up to 1975 have expired without any development or production activity by the oil and gas industry, even though exploratory drilling had occurred on at least seven of these tracts. Second, industry indicated extremely limited interest in the tracts located within the Sanctuary when these areas, excluding the 24 tracts discussed above, were included in the Call for Nominations for Lease Sale No. 68. Industry expressed no or low interest in 73 percent of the tracts or portions thereof within the Sanctuary which were included in the Call. Third, the existing pattern of hydrocarbon development indicates that the high resource potential areas occur close to the mainland, predominantly in State waters.

Industry commentators stated that finds within the Sanctuary area could range from 40 to 100 million barrels. However, this estimate extrapolates from inconclusive data based on activities on a small number of existing leases in and near the Sanctuary and dismisses both the official USGS estimate and the other indications of limited resources described above. In the light of the conflicting estimates and the ability to modify the regulations in the future, if evidence from exploratory drilling on existing tracts in the Sanctuary and tracts adjacent to the Sanctuary supports such action, the regulation is reasonable and is unlikely to preclude access to significant oil and gas resources.

(13) The California Coastal Commission requested that Section 935.12 (Amendments) of the Proposed

Final Regulations, as presented in the FEIS, be deleted.

Response

This Section had two objectives. First

Federal Consistency Provisions of the Coastal Zone Management Act to any significant changes in Sanctuary regulations affecting Federal waters within the Sanctuary. Second, the proposed provisions gave the State flexibility in considering proposed development activities in State waters within the proposed Sanctuary. Since the State comments indicated that the proposed amendments were not necessary to achieve its purposes in protecting State waters and since the first portion of the proposed provision merely restated existing law, proposed Section 935.12 has been deleted.

The Designation Document

The Act and NOAA's general Marine Sanctuary regulations (15 CFR Part 922, 44 FR 44831, July 31, 1979) 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)(2) of the Act. The Designation Document 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 approved by the President on September 21, 1980, the Channel Islands National Marine Sanctuary Designation Document provides as follows:

Final Designation Document

Designation of the Channel Islands National Marine Sanctuary

Preamble

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92-532, (the Act) the waters surrounding the northern Channel Islands and Santa Barbara Island 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 Channel Islands National 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 this Designation lists those activities which

may require regulation but the listing of any activity does not by itself prohibit 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 waters off the coast of California, of approximately 1252.5 square nautical miles (nm) adjacent to the northern Channel Islands and Santa Barbara Island seaward to a distance of 6 nm. The precise boundaries are defined by regulation.

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

The Sanctuary is located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Countercurrent. Consequently, the Sanctuary contains an exceptionally rich and diverse biota, including 30 species of marine mammals and several endangered species of marine mammals and sea birds. The Sanctuary will provide recreational experiences and scientific research opportunities and generally will have special 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 Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of its marine features and the ecological, recreational, and esthetic value of the area:

- a. Hydrocarbon operations
- b. Discharging or depositing any substance
- c. Dredging or alteration of, or construction on, the seabed
- d. Navigation of vessels except fishing vessels or vessels travelling within a Vessel Traffic Separation Scheme or Port Access Route designated by the Coast Guard outside of 1 nm from any island
- e. Disturbing marine mammals or birds by overflights below 1000 feet
- f. Removing or otherwise deliberately harming cultural or historical resources

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 1 of this article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law including treaties and

international agreements to which the United States is signatory.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the area, 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. However, fishing vessels may be regulated with respect to discharges in accordance with Article 4, Section 1, paragraph (b) and aircraft conducting kelp bed surveys below 1000 feet can be regulated in accordance with Article 4, Section 1, paragraph (e). All regulatory programs pertaining to fishing, including particularly regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Fishery Conservation and Management Act of 1976, 16 USC 1801 *et seq.*, shall remain in effect. All permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. Fishing as used in this article and in Article 4 includes kelp harvesting.

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 or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practicable.

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 authorizing any activity prohibited by any regulation implementing Article 4. The Sanctuary regulations shall be for 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 Pacific Regional Fishery Management Council, and approval by the President of the United States.

[End of Designation Document]

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 hearings and approval by the President.

Dated: September 26, 1980.

Michael Glazer,
Assistant Administrator for Coastal Zone Management.

Accordingly, Part 935, Title 15, Code of Federal Regulations is added as follows:

PART 935—THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY REGULATIONS

Sec.	
935.1	Authority.
935.2	Purpose.
935.3	Boundaries.
935.4	Definitions.
935.5	Allowed activities.
935.6	Hydrocarbon operations.
935.7	Prohibited activities.
935.8	Penalties for commission of prohibited acts.
935.9	Permit procedures and criteria.
935.10	Certification of other permits.
935.11	Appeals of administrative action.

Authority: 16 U.S.C. 1431-1434.

§ 935.1 Authority.

The Sanctuary has been designated pursuant to the authority of Section 302(a) of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 USC 1431-1434 (the Act). The following regulations are issued pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act.

§ 935.2 Purpose.

The purpose of designating the Sanctuary is to protect and preserve the extraordinary ecosystem including marine birds and mammals and other natural resources of the waters surrounding the northern Channel Islands and Santa Barbara Island and ensure the continued availability of the area as a research and recreational resource. This area supports a particularly rich and diverse marine biota, partially because it is located in a transition zone between northern and southern waters and partially because it is one of very few areas off the Southern California coast that has been relatively unaltered by human use.

§ 935.3 Boundaries.

The Sanctuary consists of an area of the waters off the coast of California of approximately 1252.5 square nautical

les adjacent to the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock, extending seaward a distance of 6 nautical miles (nm). The coordinates are shown in Appendix 1A.

§ 935.4 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) "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.

(d) "Island" means San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock.

(e) "Vessel" means watercraft of any description capable of being used as a means of transportation on the waters of the Sanctuary.

§ 935.5. Allowed activities.

All activities except those specifically prohibited by Sections 935.6 and 935.7 may be carried on in the Sanctuary subject to all prohibitions, restrictions and conditions imposed by any other authority. Recreational use of the area is encouraged.

§ 935.6. Hydrocarbon operations.

(a) Hydrocarbon exploration, development and production pursuant to any lease executed prior to the effective date of these regulations and the laying of any pipeline is allowed subject to paragraph 935.6(b) and to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations.

(b) No person may engage in any hydrocarbon operation unless the following oil spill contingency equipment is available at the site of such operation:

(1) 1500 feet of open ocean containment boom and a boat capable of deploying the boom;

(2) One oil skimming device capable of open ocean use; and

(3) Fifteen bales of oil sorbent material.

(c) Hydrocarbon exploration, development and production activities pursuant to leases executed on or after the effective date of these regulations are prohibited.

§ 935.7. Prohibited activities.

(a) Except as may be necessary for the national defense, in accordance with Article 5, Section 2 of the Designation, or as may be necessary to respond to an emergency threatening life, property, or the environment, the following activities are prohibited within the Sanctuary unless permitted by the Assistant Administrator in accordance with Section 935.9. All prohibitions shall be applied consistently with international law.

(1) *Discharge of substances.* No person shall deposit or discharge any materials or substances of any kind except:

(i) Fish or parts and chumming materials (bait);

(ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the sanctuary generated by:

(A) marine sanitation devices;

(B) routine vessel maintenance, e.g. deck wash down;

(C) engine exhaust; or

(D) meals on board vessels;

(iii) Effluents incidental to hydrocarbon exploration and exploitation activities as allowed by Section 935.6.

(2) *Alteration of, or construction on, the seabed.* Except in connection with the laying of any pipeline as allowed by Section 935.6, within 2 nautical miles of any Island, no person shall:

(i) Construct any structure other than a navigation aid, or

(ii) Drill through the seabed, or

(iii) Dredge or otherwise alter the seabed in any way, other than

(A) to anchor vessels, or

(B) to bottom trawl from a commercial fishing vessel.

(3) *Commercial vessels operations.* Except to transport persons or supplies to or from an Island, no person shall operate within one nautical mile of an Island any vessel engaged in the trade of carrying cargo, including but not limited to tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations. In no event shall this section be construed to limit access for fishing (including kelp harvesting), recreational, or research vessels.

(4) *Disturbing marine mammals and birds.* No person shall disturb seabirds or marine mammals by flying motorized aircraft at less than 1000 feet over the water within one nautical mile of any Island except:

(i) for enforcement purposes;

(ii) to engage in keep bed surveys; or

(iii) to transport persons or supplies to or from an Island.

(5) *Removing or damaging historical or cultural resources.* No person shall remove or damage any historical or cultural resource.

Activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to these prohibitions. The exemption of additional activities having significant impact shall be determined in consultation between the Assistant Administrator and the Department of Defense.

(c) 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.

§ 935.8 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 authorizes a proceeding in rem against any vessel used in violation of any such regulation. Procedures are set out in Subpart B of Part 922 (15 CFR Part 922) of this chapter. Subpart D is applicable to any instance of a violation of these regulations.

§ 935.9 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 prohibited under Section 935.7 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:

Assistant Administrator for Coastal
Zone Management
Attn: Sanctuary Programs Office,
Division of Operations and
Enforcement

ational 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) 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 of recreation, or as a source of educational or scientific information; (4) the end value of the activity and (5) such other matters as may be 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, at 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 available to the public.

(f) 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 set forth 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 Section 935.11.

935.10. Certification of other permits.

(a) 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

Sections 935.6 or 935.7. Any interested person may request that the Assistant Administrator offer an opinion on whether an activity is prohibited by these regulations.

§ 935.11 Appeals of administrative action.

(a) Any interested person (the Appellant) may appeal the granting, denial, or conditioning of any permit under Section 935.9, to the Administrator of NOAA. In order to be considered by the Administrator, such appeal shall be in writing, shall state the action(s) appeal and the reason(s) therefore, 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 will notify the permit applicant, if other than the Appellant, and will request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Administrator will decide the appeal in accordance with the criteria set out in Section 935.9(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 will 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 or if the Administrator 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 (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 will 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 purposes 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 1.A.—Coordinates of the Channel Islands Marine Sanctuary

	Latitude N	Longitude W
01.....	33°56'28.959"	119°16'23.800"
02.....	33°58'03.919"	119°14'58.964"
03.....	34°01'33.848"	119°14'07.740"
04.....	34°04'24.203"	119°15'21.308"
05.....	34°06'06.653"	119°17'27.802"
06.....	34°06'54.809"	119°19'48.048"
07.....	34°06'57.988"	119°23'34.905"
08.....	34°06'51.627"	119°24'04.198"
09.....	34°07'01.640"	119°25'40.818"
10.....	34°06'59.904"	119°26'50.969"
11.....	34°08'02.002"	119°28'47.601"
12.....	34°08'17.693"	119°29'27.698"
13.....	34°08'52.234"	119°30'39.562"
14.....	34°09'16.780"	119°35'22.667"
15.....	34°09'05.106"	119°36'41.694"
16.....	34°08'02.782"	119°39'33.421"
17.....	34°08'48.870"	119°41'48.621"
18.....	34°09'35.563"	119°45'57.284"
19.....	34°09'32.627"	119°46'37.335"
20.....	34°09'33.396"	119°47'32.285"
21.....	34°09'43.668"	119°48'09.018"
22.....	34°10'10.618"	119°50'07.659"
23.....	34°10'21.586"	119°51'05.146"
24.....	34°10'33.161"	119°53'17.044"
25.....	34°10'36.546"	119°56'57.373"
26.....	34°10'21.283"	119°57'26.403"
27.....	34°08'07.256"	120°01'07.293"
28.....	34°08'13.144"	120°02'27.830"
29.....	34°07'47.772"	120°05'05.449"
30.....	34°07'29.314"	120°06'38.262"
31.....	34°07'30.691"	120°09'35.238"
32.....	34°06'36.285"	120°12'39.335"
33.....	34°06'40.634"	120°13'33.940"
34.....	34°08'10.759"	120°15'07.817"
35.....	34°09'12.290"	120°17'07.046"
35A.....	34°09'50.706"	120°17'31.649"
36.....	34°10'56.346"	120°18'40.520"
36B.....	34°11'28.249"	120°19'29.213"
37.....	34°12'08.078"	120°21'00.835"
37C.....	34°12'25.468"	120°25'01.261"
38.....	34°12'18.754"	120°25'39.373"
38D.....	34°11'33.184"	120°27'33.921"
39.....	34°12'19.470"	120°30'22.620"
39E.....	34°12'17.540"	120°32'19.959"
40.....	34°10'54.592"	120°35'57.887"
40F.....	34°08'07.491"	120°38'27.883"
41.....	34°04'53.454"	120°38'16.602"
41G.....	34°03'33.333"	120°37'39.442"
42.....	34°01'09.860"	120°35'04.806"
42H.....	34°00'48.573"	120°34'25.106"
43.....	33°59'13.122"	120°33'53.385"
44.....	33°57'01.427"	120°31'54.590"
45.....	33°55'36.973"	120°27'37.168"
46.....	33°55'30.037"	120°25'14.587"
47.....	33°54'50.522"	120°22'29.536"
48.....	33°55'01.640"	120°19'26.722"
49.....	33°54'34.409"	120°18'27.344"
50.....	33°53'23.129"	120°17'39.927"
51.....	33°50'39.990"	120°16'13.874"
52.....	33°49'53.260"	120°13'41.904"
53.....	33°49'03.437"	120°12'06.750"
54.....	33°48'36.067"	120°11'10.821"

Appendix 1.A.—Coordinates of the Channel Islands Marine Sanctuary—Continued

	Latitude N	Longitude W
55	33°47'30.260"	120°07'58.707"
56	33°47'37.817"	120°08'04.002"
57	33°47'59.351"	120°04'08.370"
58	33°48'38.700"	120°02'33.188"
59	33°48'52.167"	120°01'50.244"
60	33°50'28.469"	119°57'50.820"
61	33°50'55.128"	119°58'19.934"
62	33°52'13.338"	119°52'53.439"
63	33°52'04.900"	119°52'10.719"
64	33°51'39.919"	119°47'21.152"
65	33°51'48.592"	119°48'13.213"
66	33°51'36.798"	119°44'34.589"
67	33°51'44.374"	119°41'12.738"
68	33°52'23.857"	119°39'14.708"
69	33°53'09.365"	119°37'30.784"
70	33°53'12.754"	119°35'35.793"
71	33°53'17.114"	119°34'54.567"
72	33°53'38.865"	119°32'51.578"
73	33°54'02.277"	119°31'08.274"
74	33°54'58.444"	119°28'54.052"
75	33°54'39.349"	119°27'37.512"
76	33°54'15.236"	119°25'23.779"
77	33°54'07.847"	119°24'22.849"
78	33°54'04.662"	119°22'58.066"
79	33°54'14.311"	119°21'44.573"
80	33°54'22.824"	119°21'09.003"
81	33°54'48.904"	119°19'54.677"
82	33°55'05.834"	119°19'18.027"
83	33°28'56.904"	119°10'04.092"
84	33°28'32.364"	119°10'01.328"
85	33°24'19.904"	119°08'52.236"
86	33°23'26.019"	119°07'54.826"
87	33°22'04.836"	119°06'18.718"
88	33°21'49.387"	119°04'01.551"
89	33°21'44.594"	119°02'49.887"
90	33°21'49.556"	119°01'37.839"
91	33°22'07.538"	118°59'49.357"
92	33°22'27.774"	118°58'51.823"
93	33°22'47.967"	118°58'07.633"
94	33°23'20.805"	118°57'14.375"
95	33°24'18.458"	118°56'08.450"
	33°28'24.130"	118°54'51.352"
	33°29'02.820"	118°54'22.278"
	33°31'27.917"	118°54'50.367"
	33°32'17.935"	118°55'18.399"
100	33°35'10.090"	118°59'40.0910"
101	33°35'24.575"	119°01'22.1081"
102	33°35'08.497"	119°03'59.4632"
103	33°34'48.322"	119°05'03.3743"

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**International Trade Administration
15 CFR Parts 370, 372, 375 and 386**

Amendments to the Export Administration Regulations To Clarify the Applicability of the Qualified General License

AGENCY: Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: On July 8, 1980, regulations establishing a "Qualified General License" at § 373.4 of CFR Title 15 were announced in the Federal Register (45 FR 45894). The notice establishing the Qualified General License (QGL) did not include all changes to the *Export Administration Regulations* which were necessary to clarify the effects of this newly-established license. This notice is issued to clarify the effects of the QGL

by inserting references to it in appropriate places throughout the Regulations.

EFFECTIVE DATE OF ACTION: October 2, 1980.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2062, January 9, 1979) and International Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978); "Improving Government Regulations." Therefore these regulations are issued in final form. Although there is no formal comment period, public comments on the regulations are welcome on a continuing basis.

Accordingly, the Export Administration Regulations (15 CFR Part 368 *et seq.*) are amended as follows:

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

§ 370.2 [Amended]

1. Section 370.2 is amended by inserting a new definition, "Qualified General License," between the definition of "Purchaser" and that of "Reexport" as follows:

Qualified General License (§ 373.4) A special license authorizing multiple exports of certain commodities for approved end-uses to approved consignees in countries in the P, Q, W, and Y Country Groups for a period of one year. The consignees must be actual or prospective end-users of the licensed commodity.

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

2. Section 372.2(b)(4) is revised to read as follows:

§ 372.2 Types of Validated Licenses.

(b) * * *

(4) A "Qualified General License (QGL)" (§ 373.4) authorizes the multiple export of certain commodities to approved consignees in Country Groups P, Q, W, and Y for a period of one year. The validity period of this license may be extended once for up to an additional two years. The consignees must be actual or prospective users of the licensed commodity.

3. Section 372.11 (e)(2)(ii), (e)(6), and (g)(3)(iii) are revised to read as follows:

§ 372.11 Amending Export Licenses.

(e) * * *

(2) * * *

(ii) To add one or more new consignees to an outstanding Project License, Distribution License, or Qualified General License; or

(6) *Extension of the validity period of the license, except for an export license authorized under the emergency clearance provisions of § 372.4(h); a Distribution License (see § 373.3(k)); a Qualified General License (see § 373.4(g)); or a Service Supply License (see § 373.7(n)).*

(g) * * *

(3) * * *

(iii) Amendment or extension of a Project License, Distribution License, Qualified General License, or Service Supply License.

PART 375—DOCUMENTATION REQUIREMENTS

4. Section 375.3(d)(7) is revised to read as follows:

§ 375.3 International import certificate and delivery verification certificate.

(d) * * *

(7) a license application for a Project License (§ 373.2), Distribution License (§ 373.3), Qualified General License (§ 373.4), Service Supply License (§ 373.7); or supported by Form ITA-686, Statement by Foreign Importer of Aircraft or Vessel Repair Parts (§ 373.8).

PART 386—EXPORT CLEARANCE

5. Section 386.2 is amended by adding the following footnote to the title of paragraph (d):

§ 386.2 Use of validated license.