

Proposed Rules

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

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[15 CFR Part 922]

MARINE SANCTUARIES

Program Guidelines

The following guidelines setting forth the procedures by which areas may be nominated as marine sanctuaries and the policies and procedures for the selection, designation, and operation of a marine sanctuary are proposed by the Administrator of the National Oceanic and Atmospheric Administration pursuant to the authority of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (Pub. L. 92-532; 86 Stat. 1061) hereinafter referred to as the Title, and the delegation of authority of the Secretary of Commerce dated March 13, 1974, authorizing the Administrator of the National Oceanic and Atmospheric Administration to exercise the authority under the Title.

The Title recognizes that certain areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, or other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters need to be preserved or restored for their conservation, recreational, ecological or esthetic values.

The Secretary of Commerce, after consultation with the Secretaries of State, Defense, the Interior, Transportation, the Administrator of the Environmental Protection Agency, other interested Federal Agencies, the State(s) involved and with the approval of the President, may designate a marine sanctuary.

Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any state or sub-jacent to the subsoil and seabed within the seaward boundary of a coastal state, the Secretary shall consult with and give due consideration to the view of the responsible state officials involved. A designation under this section shall become effective sixty days after it is published, unless the governor of any state involved shall, before the expiration of the sixty day period, certify to the Secretary that the designation, or a specified portion thereof, is unacceptable to his state, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the governor withdraws his certification of unacceptability.

Where areas outside the territorial sea are involved, the State Department is to

take whatever action is necessary to negotiate with other Governments to assure protection of a sanctuary.

Prior to a designation of a marine sanctuary, public hearings must be held in the coastal areas most affected by the designation. Regulations are to be promulgated for each such designation.

These guidelines set forth the concepts and procedures under which marine sanctuaries will be designated and managed.

Pursuant to the Office of Management and Budget (OMB) memorandum of October 5, 1971, which established a procedure for improving interagency coordination of proposed agency regulations, standards and guidelines pertaining to environmental quality, the following guidelines have been circulated to all interested Federal agencies for their review and comment. Comments submitted will be reviewed before final guidelines are published.

Prior to adoption of the proposed guidelines as final guidelines, consideration will be given to comments which are submitted in writing to the Office of Coastal Environment, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852, before May 1, 1974.

ROBERT M. WHITE,
Administrator.

March 14, 1974.

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Subpart A—General

§ 922.1 Policy and objectives.

(a) The Marine Sanctuaries Program shall be conducted under the expressed policy of the Title which is to designate areas from the near high tide line to the outer edge of the continental shelf, as defined in the Convention of the Continental Shelf (IS U.S.T. 74; TIAS 8878), of other coastal waters where the tide ebbs and flows, or of the Great Lakes

and their connecting waters, which the Administrator determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

(b) Multiple use of marine sanctuaries as defined in this subpart will be permitted to the extent the uses are compatible with the primary purpose of the sanctuary.

(c) It is anticipated that the marine sanctuaries program will be conducted in close cooperation with section 312 of the Coastal Zone Management Act of 1972, Pub. L. 92-583, which recognizes that the coastal zone is rich in a variety of natural, commercial, recreational, industrial and esthetic resources of immediate and potential value to the present and future well-being of the nation and which authorizes the Secretary of Commerce to make available to a coastal State grants of up to 50 percent of the costs of acquisition, development and operation of estuarine sanctuaries.

§ 922.2 Programmatic objectives.

Marine Sanctuaries may be designated to preserve or restore areas for their conservation, recreational, ecological, or esthetic values in coastal waters. Anticipated examples include:

(a) Areas necessary to protect valuable, unique or endangered marine life, geological features, and oceanographic features.

(b) Areas to complement and enhance public areas such as parks, national seashores and national or state monuments and other preserved areas.

(c) Areas important to the survival and preservation of the nation's fisheries and other ocean resources.

(d) Areas to advance and promote research which will lead to a more thorough understanding of the marine ecosystem and the impact of man's activities.

Subpart B—Classifications of Marine Sanctuaries

§ 922.10 Classifications.

Marine sanctuaries will be established for one, or a combination of, the following purposes:

(a) *Habitat Preserves.* Preserves established under this concept are for the preservation, protection and management of essential or specialized habitats representative of important marine systems. Management emphasis will be toward preservation or restrictive use. This does not necessarily mean all human activity will be prohibited. However, the quantity and type of public use will be limited and controlled to protect the

values for which the preserve was created.

(b) *Species Preserves*. Preserves established under this concept are for conservation of genetic resources. Management emphasis will be to maintain species, populations and communities for restocking other areas and for reestablishment purposes in the future. The result will be a contribution to the goal stated by the Council on Environmental Quality, that is, "the widest possible diversity of and within species should be maintained for ecological stability of the biosphere and for use as natural resources." The orientation envisaged will be toward species preservation by protection of such areas as migratory pathways, spawning grounds, nursery grounds, and the constraints on these areas will be those necessary to achieve these purposes. Uses which are compatible with protection of the selected species will be permitted.

(c) *Research Areas*. Areas established under this concept will exist for scientific research and education and will be of two types: natural areas and field laboratories. Research natural areas will be left essentially undisturbed.

(1) In field laboratories certain manipulative research to ascertain the response to specific human modification may be permitted.

(2) The purpose of both types of research areas is to establish ecological baselines against which to compare and predict the effect of man's activities, and to develop an understanding of natural processes. Research areas will be chosen according to the biota they support and to include representative samples of the significant ecosystems in the nation. The use of the marine sanctuary authority for research purposes will insure that the area will be relatively unaffected for a long period of time, thus adding a measure of stability to a research program.

(d) *Recreational and Esthetic Areas*. Areas established under this concept will be based on esthetic or recreational value. These may be used to augment public lands already set aside by local, state or Federal government.

§ 922.11 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

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

(b) "Marine Sanctuary" means those areas of the ocean waters as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (IS U.S.T. 74, TIAS SS78), of other coastal waters where the tide ebbs and flows, of the Great Lakes and their connecting waters for the purpose of preserving or restoring such areas for their conservation, recreational, ecological or esthetic values.

(c) The term "multiple use" as used in this section shall mean the contemporaneous utilization of an area of resource for a variety of compatible purposes or to provide more than one benefit. The

term implies the long-term, continued uses of such resources in such a fashion that one use will not interfere with, diminish, or prevent other permitted uses.

(d) "Ocean waters" means those waters of the open seas lying seaward of the baseline from which the territorial sea is measured, as provided for in the Convention of the Territorial Sea and the Contiguous Zone (IS U.S.T. 1606, TIAS S639).

(e) "Person" means any private person or entity, or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, or any state or local unit of government.

(f) "Secretary" means the Secretary of Commerce.

§ 922.12 Effect of Marine Sanctuary Designation for Waters Outside of U.S. Jurisdictional Limits.

The designation of a marine sanctuary and the regulations pertaining to it will be binding on United States citizens. In accordance with international law, the United States has exclusive jurisdiction over resources within the territorial sea and the contiguous zone and exercises sovereignty in the territorial sea subject only to the right of innocent passage. As to marine sanctuaries beyond the contiguous zone, U.S. regulations would be binding on foreign citizens in accordance with international law, including the 1958 Geneva Convention on the Continental Shelf. The extent that foreign citizens would otherwise be bound to follow regulations relating to sanctuaries beyond the contiguous zone would be dependent upon the State Department reaching agreements with the foreign nation involved. It is not anticipated by the Administrator that use restrictions would be imposed on U.S. citizens beyond the contiguous zone without also restricting the use of the same area to foreign citizens who have access to such use.

§ 922.13 Effect on International Principles Involving Freedom of the Seas.

The designation of a marine sanctuary will not infringe upon the normal rights of innocent passage in territorial waters, the rights of navigation through international straits, or the freedoms of the high seas, including freedom of navigation.

Subpart C—Nomination of Candidates

§ 922.20 Nomination of Candidates.

The nomination of a given marine area for consideration as a designated marine sanctuary may result from studies carried out by Federal, State or local officials or from any other interested persons. Nominations should be addressed to:

Director, Office of Coastal Environment
National Oceanic and Atmospheric Administration
U.S. Department of Commerce
Rockville, Maryland 20852

The nomination for designation as a marine sanctuary must contain the following information:

(a) A general description of the area including the following information:

(1) Purpose for which the nomination is made;

- (2) Geographic coordinates of the site;
- (3) Plant and animal life in the area;
- (4) Geological characteristics of the area;
- (5) Present and prospective uses and impacts on the area.

§ 922.21 Analysis of Nomination.

(a) If a preliminary review demonstrates the feasibility of the nomination a more in depth study will be required. Factual information will be gathered to obtain an understanding of the:

- (1) Animal and plant life;
- (2) Geological features;
- (3) Weather and oceanographic conditions and features;
- (4) Present and potential recreational and economic uses;
- (5) Present and potential adjacent land uses;
- (6) Laws and programs of Federal, State and local government that apply to the area.

(b) An analysis will be made of how the sanctuary will impact on the present and potential uses and *vice versa* how these uses will impact on the primary purpose for which the sanctuary is being considered.

(c) The factual information and the results of the analysis activity will be used in preparation of a draft environmental impact statement and proposed regulations.

§ 922.22 Hearings.

(a) Before a marine sanctuary is designated under this section, the Administrator shall hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

(b) The purpose of this section is to ensure that all interested parties have the opportunity to express their views. Public hearings need not be held on each proposal or nomination but only when sufficient facts and data are available to the Administrator which indicate that designation action appears to be feasible.

§ 922.23 Consultation Process.

The consultation process is designed to coordinate the interests of the state and various Federal departments and agencies, including the management of fisheries resources, the protection of national security and transportation interests, and the recognition of responsibility for the exploration and exploitation of mineral resources. All interests will be considered, and no sanctuary will be designated without complete coordination in this regard. In case of serious disagreement, among Federal departments, the Secretary, in cooperation with the Executive Office of the President, will seek to mediate the differences.

§ 922.24 Designation.

Subsequent to completion of the in depth study by the Administrator, a draft Environmental Impact Statement will be prepared and circulated for review in

compliance with the Natural Environmental Policy Act of 1969 and implementing CEQ guidelines. The designation by the Administrator will clearly state the purpose for which the sanctuary is designated and regulations and guidelines promulgated under which it will operate.

§ 922.25 Operation.

The designation of a marine sanctuary establishes the basis for a continuous operating program designed to maintain the purpose for which the sanctuary is designated. This involves a program of continuous scientific evaluation, surveillance, and enforcement to insure the integrity of the system. An interpretative program may be conducted to aid in public understanding and enjoyment of the sanctuary. The mechanisms for this will be specific regulations established for each designated marine sanctuary.

[FR Doc. 74-6226 Filed 3-18-74; 8:45 am]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Office of Education
[45 CFR Part 127]

GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL HEALTH AND NUTRITION SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

Notice of Proposed Rule Making

In accordance with section 503 of the Education Amendments of 1972 (P.L. 92-318) and pursuant to the authority contained in section 808 of the Elementary and Secondary Education Act of 1965, as amended, 20 U.S.C. 887a, the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to add a new part 127 to Title 45 of the Code of Federal Regulations to read as set forth below.

1. *Program purpose.* The proposed regulations govern a program of grants to local educational agencies and under extraordinary circumstances, to nonprofit private educational organizations, to support demonstration projects designed to improve health, nutrition and related educational services provided to elementary school children from low-income families. The projects, funded at yearly intervals for up to 36 months, would coordinate already available federally-funded health and nutrition services in the area, and provide supplementary services not otherwise available.

2. *Section 503 procedures and effect.* Section 503 of the Education Amendments of 1972 requires the Commissioner to study all rules, regulations, guidelines, or other published interpretations, or orders issued by him or by the Secretary after June 30, 1965, in connection with, or affecting, the administration of Office of Education programs; to report to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives concerning such study; and to publish in the FEDERAL

REGISTER such rules, regulations, guidelines, interpretations, and orders, with an opportunity for public hearing on the matters so published. The regulations proposed below reflect the results of this study as it pertains to the program under Section 808 of the Elementary and Secondary Education Act. Upon publication of Part 127 in final form, after comments and hearings, all preceding rules, regulations, guidelines, and other published interpretations and orders issued in connection with or affecting the program will be superseded effective thirty days after such publication. At present there will be no guidelines for the program. If guidelines should be issued in the future, they will be limited to recommendations and suggestions for program operation and management.

3. *Citations of legal authority.* As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)) and section 503 of the Education Amendments of 1972, a citation of statutory or other legal authority for each section of the regulations has been placed in parentheses on the line following the text of the section.

On occasion, a citation appears at the end of a subdivision of the section. In that case, the citation applies to all that appears in that section between the citation and the next preceding citation. When the citation appears only at the end of the section it applies to the entire section.

4. *Opportunity for public hearing.* Pursuant to section 503(c) of the Education Amendments of 1972, the Commissioner will provide interested parties an opportunity for a public hearing on these regulations as follows:

A hearing will take place at the U.S. Office of Education on April 16, 1974, in the auditorium of Regional Office Building Three (ROB-3) located at 7th and D Streets, SW., Washington, D.C. beginning at 10 a.m.

The purpose of the hearing is to receive comments and suggestions on the published materials.

Parties interested in attending the hearing should notify the Chairman of the Office of Education Task Force on section 503, 400 Maryland Avenue, SW., Room 2079-G of Federal Office Building Six (FOB-6), Washington, D.C. 20202, and are urged to submit a written copy of their comments with such notification. Each party planning to make oral comments at the hearing is urged to limit his presentation to a maximum of fifteen minutes.

Interested parties may also submit written comments and recommendations to the Chairman of the Education Task Force on section 503 at the above address. All relevant material received prior to the date of the hearing will be considered. Comments and suggestion submitted in writing will be available for review in the above office between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday of each week.

(Catalog of Federal Domestic Assistance Program Number 13.523, Demonstration Projects in School Health and Nutrition Services for Children from Low-Income Families.)

Dated: January 24, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: March 8, 1974.

CASPAR W. WEINBERGER,
Secretary of Health,
Education, and Welfare.

PART 127—GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL HEALTH AND NUTRITION SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

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- 127.4 Children who may be served.
- 127.5 Applications.
- 127.6 Review and disposition of applications.
- 127.7 Advisory committee.
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- 127.9 Health services.
- 127.10 Mental health services.
- 127.11 Nutritional services.
- 127.12 Educational services.

AUTHORITY: Sec. 164 of P.L. 91-230, 84 Stat. 153 (20 U.S.C. 887a), unless otherwise noted.

§ 127.1 Scope and purpose.

(a) The regulations set forth in this part are applicable to demonstration project grants under Section 808 of the Elementary and Secondary Education Act of 1965, as amended, to improve school health and nutrition services and activities for children from low-income families.

(b) Grants may be made under this part to local educational agencies and, under exceptional circumstances, to nonprofit private educational organizations to support demonstration projects designed to improve health and nutrition services in public and private schools serving areas with high concentrations of children from low-income families.

(c) Projects assisted under this part shall be designed to demonstrate exemplary methods of organizing a system of health, nutrition and related educational services,

(1) By more effectively coordinating programs providing such services so that:

(i) Project target school personnel, parents, and community service providers jointly develop a comprehensive school based system of assessment and response to the health, nutrition and related educational needs of children from low-income families;

(ii) The school plays a major role in implementing a design for the early detection and removal of health- and nutrition-related barriers to a child's optimum development; and

(iii) The community service providers, particularly federally-assisted health, mental health, and nutrition programs, become an integral part of the response system by more effectively focusing the delivery of their services to children from low-income families; and