

EFFECTIVE DATE: On or after August 30, 1979.

FOR FURTHER INFORMATION CONTACT: Robert C. Plows, Section Chief, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3667).

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) An opportunity for public comment on an official staff interpretation may be provided upon request of interested parties and in accordance with 12 CFR Part 202.1(d)(2)(ii). As provided by 12 CFR Part 202.1(d)(3) every request for public comment must be in writing, should clearly identify the number of the official staff interpretation in question, should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and must be postmarked or received by the Secretary's office before the effective date of the interpretation. The request must also state the reasons why an opportunity for public comment would be appropriate.

(3) Authority: 15 U.S.C. 1691(b).

§ 202.7(d)(1) Credit card issuer may treat "authorized users" as joint applicants, therefore requiring them to assume contractual liability for the account.

July 11, 1979.

You ask in your . . . letter for an official interpretation of Regulation B. Your client, a bank, proposes to require all "authorized users" of credit cards that it issues to sign the credit agreement, thereby assuming contractual liability for the account. You ask whether Regulation B prohibits the proposed practice.

As you point out, the signature provisions in § 202.7(d) do not mention "authorized users." In the absence of any specific mention of authorized users, the general signature rule of § 202.7(d)(1) applies, and the issue becomes: may a creditor require that all authorized users become co-obligors and treat them as joint applicants?

The staff continues to adhere to the position taken in previous informal letters that a creditor may condition its acceptance of authorized users upon their becoming co-obligors and, thus, joint applicants too. Since the creditor is not seeking the authorized user's participation in the credit plan, the creditor may restrict that participation to a person who agrees to become a co-obligor and applicant by signing the relevant credit documents. Such a policy, if applied in a non-

discriminatory fashion, would not violate Regulation B.

Obviously, a creditor may permit authorized users without requiring that they also become joint applicants and assume contractual liability for the account. Indeed, a creditor could accept authorized users but not allow joint applicants, or could offer only individual accounts without authorized users. Please also recall that § 202.7(a) provides that "a creditor shall not refuse to grant an individual account to a creditworthy applicant . . ." Therefore, a creditworthy applicant seeking a single credit card for his or her sole use may not be required to provide additional signatures.

As you have requested, this is an official staff interpretation of Regulation B. It will become effective on or before August 30, 1979, unless a request for public comment, made in accordance with the Board's procedures, is received and granted. We will notify you if the effective date of the interpretation is suspended. If you have further questions about this letter, please let me know. If you have other questions in the future, you may also address them to Mr. John Yorke, Assistant Vice President, Consumer Affairs Department, Federal Reserve Bank of Kansas City, 925 Grand Avenue, Kansas City, Missouri 64198.

Sincerely,

Jerauld C. Kluckman,
Associate Director.

Board of Governors of the Federal Reserve System, July 20, 1979.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc. 79-23533 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

12 CFR Part 226

Truth in Lending; Technical Amendments to Regulation Z

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Technical amendments to Regulation Z to correct references to a section number that has been redesignated: Correction.

SUMMARY: This notice corrects a previous Federal Register document (FR Doc. 79-22282) appearing at page 42165 of the issue for Thursday, July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Anne Geary, Assistant Director, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

SUPPLEMENTARY INFORMATION: The last paragraph in the center column on page 42165 should read as follows:

Therefore, pursuant to the authority granted in 15 U.S.C. 1604 (1978), the Board amends Interpretations § 226.706 and

§ 226.707 to insert "§ 226.7(f)" wherever the citation "§ 226.7(e)" currently appears.

Board of Governors of the Federal Reserve System, July 24, 1979.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 79-23532 Filed 7-30-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Designation and Management of Marine Sanctuaries

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

ACTION: Final rule.

SUMMARY: These regulations revise existing regulations which prescribe the procedures for nominating and designating marine sanctuaries, establishing appropriate management systems within designated sanctuaries and enforcing compliance with these management systems. The regulations reflect new approaches and interpretations developed by NOAA during the administration of the program to date.

EFFECTIVE DATE: August 31, 1979.

FOR FURTHER INFORMATION CONTACT: Joann Chandler, Director, Sanctuary Programs Office, Office of Coastal Zone Management, Page Building 1, 3300 Whitehaven Street, N.W., Washington, D.C. 20235; (202) 634-4236.

SUPPLEMENTARY INFORMATION: On February 5, 1979, NOAA published proposed revisions to its General Marine Sanctuaries regulations pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92-532, 16 U.S.C. 1431-1434 (the Act). Written comments were requested by April 6, 1979. Comments were received from three members of the House of Representatives, ten Federal agencies, eleven State reviewers, seven industrial groups, fourteen environmental groups, two Regional Fishery Management Councils and three other commentators. These comments have been considered in preparing these regulations.

Discussion of Major Issues and NOAA Responses

Below is a discussion of the major comments. It is followed by a section-

by-section discussion of the additional comments received.

Breadth of Criteria: A number of reviewers felt that the criteria by which an area would be judged eligible for inclusion on a List of Recommended Areas and ultimately for designation as a sanctuary and/or the criteria by which selection of Active Candidates would be made were unclear. Suggestions included qualifying only those areas which are "most unique, rare or distinctive" or "unique" resources. In particular, criterion (b)(2), "a marine ecosystem of exceptional richness . . ." was thought to open up the possibility of vast areas for inclusion. One reviewer thought the present classification scheme (present § 923.10) was preferable.

NOAA Response: NOAA's experience and public reaction have indicated that the present criteria were not helpful. Response to the new criteria was generally favorable. NOAA has rewritten § 922.21 slightly, including § 922.21(b)(2) to provide additional focus and alleviate the concerns expressed. It should be kept in mind that the criteria of § 922.21(b) are necessarily somewhat broad and that the criteria for the selection of Active Candidates will be the basis for narrowing the number of sites actually designated. In addition the boundary section (922.27) has been incorporated into the criteria section to make clearer the intention to concentrate on discrete areas.

Specification of Boundaries: Several reviewers objected to the possibility, inherent in § 922.27, that the boundary of an area being considered for a marine sanctuary could be changed at any time prior to the designation, even following the EIS process, conceivably without consultation.

NOAA Response: NOAA agrees that the regulations as written raised the concern expressed. The regulations have been reorganized to make clear that any changes in boundaries would receive the same examination and consultation as any other changes made during the review process.

Economic Analysis: A number of commentators objected to the omission of the economic value of resources which would be protected by a marine sanctuary designation as a factor to be considered in selecting Active Candidates. These commentators pointed out that the economic consequences of failing to utilize any resources because of sanctuary designation are to be taken into account under § 922.23(a)(6) and rational decisionmaking should balance both factors.

NOAA Response: NOAA agrees with these comments and has added a new § 922.23(a)(7) to add the economic value of the protected resources as a factor to be considered. At the same time, NOAA recognizes that some of the values to be protected under the Act are not easily quantifiable economically and the inability to assign a clean economic value to the resources of an area should not disqualify it as a sanctuary candidate.

Treatment of Esthetics: Five reviewers felt that the esthetic value of an area was not given the proper emphasis in the consideration of that area for possible designation as a marine sanctuary. Section 922.21 did not list the esthetic value of an area alone as one of the resource values making it eligible for placement on the List of Recommended Areas and thus ultimately for designation as a sanctuary. Section 922.23, however, did list the esthetic value of the area as one of the factors to be considered in selecting an area as an Active Candidate once it has been placed on the List of Recommended Areas. Two commentators felt that esthetics alone should qualify an area for listing and ultimately designation and should therefore be included as a separate criteria under § 922.21. One reviewer felt that the esthetic quality of an area was "too vague" to be considered even in the selection of Active Candidates. Two other commentators essentially agreed with NOAA's position that the esthetic quality of an area should be considered, but should not be the sole basis for a sanctuary. They requested additional clarification that esthetics not be the sole basis.

NOAA Response: NOAA believes that the Act provides discretion in treating an area whose sole value is esthetic and that it is highly unlikely that in practice a situation will ever arise where esthetic value will not be combined with one or more of the criteria listed in § 922.21, e.g., recreational use or distinctive or fragile ecological features which will qualify the area for initial listing, and the esthetic value will be one of the factors in considering the priority of the area for actual designation. Consequently, NOAA has not altered the basic treatment of esthetics.

Designation Modification: A number of reviewers suggested that the provisions of § 922.26(b) requiring the completion of a full designation procedure to modify a designation could prove burdensome and prevent adequate response to emergency situations.

NOAA Response: NOAA agrees that a certain degree of flexibility to deal with emergency situations is necessary but feels that the more appropriate method is to provide for limited emergency regulation in the Designation document to ensure through the amendment procedure including agency consultation and public review and participation, appropriate review prior to modifying the Designation itself. A provision for emergency regulation has been proposed in the Flower Gardens Marine Sanctuary Designation document and a new § 922.26(d) has been added to these regulations expressly recognizing such an emergency provision.

Section-by-Section Analysis

(a) Section 922.1—Policy.—(1) One commentator suggested that the language is too broad and could include species whose management is primarily the responsibility of the Regional Fishery Management Councils under the Fishery Conservation and Management Act of 1976 (FCMA).

NOAA Response: Both commercial and recreationally valuable species of fish and their habitats are among the resources which a sanctuary could be designed to protect, and activities affecting such species could become subject to control in a designated sanctuary. The Designation document described in § 922.26(b) provides the mechanism for ensuring for each sanctuary that only appropriate activities are regulated and that other activities are excluded from regulation. There is no suggestion in § 922.1 that regulation will include fishing activities or interfere with the management responsibility of the councils.

(2) One reviewer suggested that "minimum regulation necessary to protect legitimate environmental interests" be listed as a major goal of the program.

NOAA Response: Section 922.23 states that the existence of adequate regulatory authority to protect the resources is a criterion for the selection of Active Candidates (see comment (g)(5) below). Furthermore, under the statute only "reasonable and necessary" regulations may be imposed in any sanctuary.

(3) One commentator suggested that some mention of the distinction between the marine and estuarine sanctuary programs be made.

NOAA Response: Section 922.1(d) has been rewritten to describe briefly the estuarine program and cross-reference its regulations.

(4) Three commentators requested additional clarification of the extent to

which compatible activities are to be allowed in a sanctuary. One commentator suggested that § 922.1(c) specifically state that "compatible, multiple human use" should be allowed; another suggested that § 922.1(c) specify that activities which "can be made compatible" with the sanctuary be specifically allowed; the third appears to suggest that no human activity be allowed.

NOAA Response: NOAA feels that the formulation of § 922.1(c) clearly provides that compatible activities may take place in a sanctuary and this adequately responds to the concerns of the first two comments. It does not agree with the third commentator that no human activities should be allowed. NOAA's interpretation is supported by the legislative history of the Act.

(5) Two commentators found that § 922.1 (a) and (b) were "somewhat contradictory."

NOAA Response: Section 922.1(b) establishes a "primary emphasis" for the program within the broader purposes described in § 922.1(a). No inconsistency results.

(6) One commentator requested clarification of the distinction between "natural" and "biological" resources. A second commentator suggested that "natural" should read "physical."

NOAA Response: Natural resources includes physical resources. NOAA prefers the somewhat broader term.

(7) One commentator suggested that the purposes should include preservation and restoration for research purposes.

NOAA Response: The significance of an area for research purposes is listed as a criterion for the selection of Active Candidates under § 922.23. NOAA feels this provision sufficiently emphasizes the importance of research, which is not among the values specifically listed in the Act.

(8) Two commentators objected to using cumulative impacts to determine whether or not activities will be allowed in a sanctuary.

NOAA Response: NOAA feels that cumulative impacts can be as significant to the destruction of resources as other impacts and assessing these impacts with respect to certain activities is important. It may be necessary to restrict or ban certain activities to control impacts including cumulative impacts.

(9) One commentator suggested language redrafting § 922.1(a) to clarify the reason for identifying distinctive areas.

NOAA Response: NOAA has redrafted this section as suggested.

(10) One commentator suggested clarification as to who determines whether a use is detrimental.

NOAA Response: The regulations as a whole set forth the procedures for making this determination, which procedures include review of the initial submission, consultations with other Federal agencies, State and local governments and interested parties, and the full EIS procedure.

(11) Two commentators suggested specifying additional programs closely related to marine sanctuaries.

NOAA Response: NOAA has added the programs suggested.

(12) One commentator questioned the phrase, "Congressional design."

NOAA Response: This phrase has been deleted.

(b) Section 922.2—Definitions.—(1) One commentator suggested that terms such as "exceptional richness," "sufficient" and "degradation," be more specifically defined.

NOAA Response: This comment relates essentially to the breadth of the criteria and is analyzed in connection with §§ 922.21 and 922.23.

(2) One commentator questioned whether the definition of "ocean waters" in section 922.2(e) excluded from consideration marine sanctuary sites in estuarine areas lying inland of the baselines from which the territorial sea is measured.

NOAA Response: Exclusion of such areas was unintentional. This definition appears to be unnecessary and has been deleted.

(3) One commentator requested that the area of the Great Lakes eligible for consideration for marine sanctuaries be defined.

NOAA Response: NOAA has included the definition of the Great Lakes contained in the Coastal Zone Management Act.

(4) One commentator objected to the exclusion of the Trust Territories of the Pacific Islands from the definition of "United States" in § 922.2(d).

NOAA Response: This omission was inadvertent and has been corrected.

(c) Section 922.10—Effect of Marine Sanctuary Designation.—One commentator felt that NOAA should specify the manner in which recognized principles of international law would be applied where sanctuaries include areas outside the territorial sea.

NOAA Response: Following consultation with the State Department, NOAA has determined that such application must be made on a case-by-case basis to ensure conformance with the evolving principles involved.

(d) Section 922.20—Submission of Recommendations.—(1) One commentator suggested that the format for submission should include a description of past uses as well as present and prospective uses.

NOAA Response: NOAA has incorporated this suggestion in the format.

(2) One commentator suggested that the regulations should establish a more affirmative role for NOAA rather than an implicitly passive/reactive role.

NOAA Response: Based on past experience, NOAA anticipates that for the most part potential sites will be brought to NOAA's attention initially by interested persons outside the agency. NOAA has actively solicited this help and relies upon the expertise and experience provided. NOAA on its own could propose an appropriate area for inclusion on the list and § 922.20(a) has been rewritten to make this possibility explicit.

(3) One commentator requested that a copy of any submission be forwarded to the State or States most affected upon receipt; a second commentator suggested that notification be given to the affected local and State agencies and other interested parties.

NOAA Response: A major purpose of including an area in the List of Recommended Areas is to notify all interested persons at the appropriate stage that the area has at least some potential for sanctuary status and earlier notification is unnecessarily burdensome. However, a new § 922.25(a) has been added to provide that, in States with coastal management plans approved under Section 306 of the Coastal Zone Management Act of 1972, as amended, the designated Coastal Zone Management agency will be notified upon receipt of a recommendation.

(4) One commentator pointed out that the format of § 923.20 should require an explanation of why a particular area should be designated a sanctuary.

NOAA Response: The range of information called for, particularly under the heading "Management," should allow initial analysis of this issue. It is not reasonable to request more specificity from the public prior to the consultation and review process.

(5) One commentator suggested the elimination of the format requirements of § 922.20(b), allowing the public to submit recommendations essentially in any form, and allowing a 30-day period for NOAA to request additional information.

NOAA Response: NOAA feels that use of the format suggested will provide

more timely receipt of necessary information. Additional information can be requested either from the nominator, from outside sources, or from within NOAA itself, and any failure to submit the information suggested can be corrected.

(6) One commentator pointed out that it might be difficult for a recommender to assess the effects of sanctuary regulations.

NOAA Response: NOAA has inserted the word "recommended" in this section of the format to indicate that such assessment should simply be the recommender's suggestion as to what needs to be regulated.

(e) Section 922.21—Analysis of Recommendations.—(1) Three commentators suggested that migration routes and staging areas be added to the life cycle activities described in § 922.21(b)(3).

NOAA Response: NOAA agrees and has incorporated this suggestion.

(2) Two commentators objected to the inclusion of "rare to the waters to which the Act applies" as a criterion.

NOAA Response: NOAA feels that an obligation exists to consider the necessity of protecting resources which are rare in U.S. waters and, therefore, such areas should be listed. NOAA expects that sites of little overall value will be screened out as Active Candidates are selected.

(3) One commentator suggested deleting historical or cultural remains as criteria for eligibility; a second commentator suggested that these resources might be given less weight than those involving biological resources.

NOAA Response: NOAA feels historical and cultural remains such as the wreck of the U.S.S. *Monitor* are the subject of strong public interest and are appropriate resources for protection. The program does place "primary emphasis" on physical and biological resources (See § 922.1(b)).

(4) Two commentators objected to criterion (b)(4), "intensive recreational use growing out of * * * distinctive marine characteristics" as being too restrictive. One commentator felt the criterion conflicted somewhat with the purposes in § 922.1.

NOAA Response: NOAA has rewritten § 922.1 in line with the changes suggested by the commentators and does not feel any conflict exists.

(5) Two commentators felt that the criteria of § 922.21(b) underrated the importance of habitat and ecosystem protection.

NOAA Response: The criteria of § 922.21(b) have been rewritten slightly, in part to emphasize such protection.

(6) Two commentators felt that NOAA should specify the reasons for rejecting any recommended site for its List of Recommended Areas and should provide an appeal mechanism to the recommender.

NOAA Response: NOAA agrees with specifying the reasons for rejection but disagrees that an appeal mechanism is appropriate. Any site may be resubmitted for consideration with additional information. Section 922.21(a) has been rewritten to require that the reasons for rejection be specified and a new § 922.21(e) added to provide explicitly for resubmission.

(7) One commentator felt that alternative boundaries and management schemes should be developed prior to publication on the List of Recommended Areas.

NOAA Response: The commentator is placing too much significance of the inclusion on the List of Recommended Areas. Such analysis is premature and beyond the resources of the program. NOAA will develop this information during the review of sites selected as Active Candidates.

(8) One commentator suggested that the words "commercial fishing" be added after "recreational use" in § 922.21(b)(4) to reflect NOAA's responsibilities under the FCMA.

NOAA Response: NOAA feels that fishery management responsibility has been assigned to the National Marine Fisheries Service (NMFS) and the Regional Fishery Councils and, does not anticipate designating sanctuaries solely for fishery management purposes. Certain sanctuaries will include commercially valuable species in which case NOAA's role will involve coordination with the relevant councils. For example, the purpose of designating a sanctuary may include protection of the habitat of a commercially valuable species and sanctuary regulations may restrict certain fishing techniques to protect other marine resources, e.g. trawling to protect coral reefs.

(f) Section 922.22—Effect of Placement on the List.—(1) Five commentators requested clarification as to the effect of the placement of a recommended site on the List of Recommended Areas. Two commentators suggested that the effect of listing an area as an Active Candidate be included in this section.

NOAA Response: The section has been rewritten to emphasize that the List of Recommended Areas is primarily for informational purposes and to

indicate that Active Candidates would normally be mentioned in an Environmental Impact Statement (EIS) prepared by any agency analyzing impacts of a proposed action in the area.

(g) Section 922.23—Selection of Active Candidates.—(1) Three commentators objected that the criteria for selection of Active Candidates was too broad. In particular, two objected to the test of "significance" in § 922.23(a).

NOAA Response: The issues raised are essentially the same as those raised in connection with the criteria of § 922.21 and are discussed under major issues above. NOAA feels that these criteria, when read in conjunction with the criteria of § 922.21, as rewritten, are as specific as possible.

(2) Four commentators suggested that time periods be established for the consideration of Active Candidates. One commentator was concerned about the time period prior to selection as an Active Candidate and suggested a 120-day period to ensure periodic review. The other commentators were concerned about the length of time that a candidate could remain upon the Active Candidates List without designation. No specific time limit was suggested.

NOAA Response: NOAA feels that first commentator overestimates the weight to be given to selection of a site for the List of Recommended Areas, and that no time limit should be established within which an area on the recommended list must become an Active Candidate in light of the large number of Recommended Areas anticipated. Section 922.24 does establish time limits for the review of Active Candidates leading up to the decision to prepare a Draft Environmental Impact Statement (DEIS). However no time limits for the completion of the EIS process are established. Since NOAA will proceed as quickly as possible with publication of the DEIS, and since Council on Environmental Quality (CEQ) regulations provide a detailed time sequence for DEIS review, no additional deadlines seem necessary.

(3) One commentator suggested that "the significance of area to the development of any energy facility necessary to the National interest" be added as a factor to be considered in the selection of Active Candidates.

NOAA Response: NOAA feels that this factor is taken into account by subsection (a)(6) requiring consideration of "the economic significance to the Nation of such additional resources and uses."

(4) One commentator suggested that the highest priority be given to areas believed to be important habitats for rare, endangered or threatened species.

NOAA Response: Habitat protection is emphasized already (see comment (e)(5) particularly for rare or endangered species—§ 922.21(b)(1)(a)). The factors taken into account in the selection of Active Candidates: e.g., the severity and imminence of threats, are also valid considerations.

(5) One commentator suggested that the availability of other regulatory authorities should be a separate, principal criterion for selecting Active Candidates to emphasize its significance (See also comment (a)(2).) Another reviewer objected to considering this criterion at all.

NOAA Response: NOAA feels that on balance the emphasis placed on existing regulations by § 922.23(a)(2) is the proper one.

(6) One commentator objected to establishing the value of an area in complementing other areas as a criterion for the selection of Active Candidates.

NOAA Response: NOAA believes that this is a valid consideration and will maximize the importance of the marine sanctuary program in relation to other government programs.

(7) One commentator suggested that priorities be set forth in terms of the significance of ecosystems at global, national and State levels.

NOAA Response: NOAA agrees with the general concept but does not feel that it is useful to specify this particular hierarchy in the regulations. The precise degree of significance could be debated in scientific communities and involving NOAA in these debates does not appear productive.

(8) One reviewer objected to examining cumulative impacts in determining the severity of potential threats to the resources.

NOAA Response: NOAA disagrees. Instances may exist where individual activities could not be said to pose a severe threat to the resources of an area, but the total number of such activities anticipated would pose such a threat.

(9) Two commentators suggested that specific justification for treating an area as significant to research be provided.

NOAA Response: There does not appear to be any need to require special justification for the importance of research.

(10) One reviewer requested further clarification of what constitutes adequate means available to support full review.

NOAA Response: This means simply adequate budget and personnel in the relevant NOAA program offices.

(11) Three commentators objected to the description of consultation set forth in § 922.23(b). Two claimed it appeared to make the consultations discretionary. The third suggested rephrasing to provide a more positive connotation.

NOAA Response: NOAA disagrees that there is any ambiguity as to whether the Assistant Administrator must consult with the named parties. The rephrasing suggested has been adopted.

(12) One commentator has suggested announcing the selection of an Active Candidate in local papers.

NOAA Response: NOAA will issue a press release for local area newspapers which should assure adequate publicity.

(h) *Section 922.24—Review of Active Candidates.*—(1) Three commentators suggested that this section specify that the workshops to discuss Active Candidates be held in the area or areas most significantly affected by the proposed designation.

NOAA Response: NOAA concurs. Section 922.24(a) has been rewritten to so provide.

(2) Two reviewers felt that alternative boundaries, management measures and other fairly detailed information must be provided prior to the holding of public workshops.

NOAA Responses: NOAA appreciates the importance of holding informed public meetings, but feels these commentators tend to confuse the function of the workshop with the function of the public hearing to be held on the Draft Environmental Impact Statement later in the process. In many cases, the public workshop will aid in the formulation of such options, and the attempt to provide them in advance of this first major public consultation may frustrate effective public involvement. NOAA will supply as much information as possible.

(3) One commentator suggested specifically providing that compensation under NOAA's public participation regulations may be available for the workshops.

NOAA Response: NOAA agrees. New § 922.1(f) states that compensation is available in appropriate circumstances and cross references the public participation regulations (15 CFR Part 904).

(4) One commentator suggested that § 922.24 specifically include affected land owners in the workshops.

NOAA Response: NOAA feels that the change is unnecessary since such

individuals are clearly covered by "other interested persons."

(5) One commentator suggested that the hearing provided for in § 922.24(c) is at the wrong stage in the process and should be at the beginning of the site selection process.

NOAA Response: NOAA feels that the commentator is placing undue weight upon the selection of a site for the List of Recommended Areas and that it is more appropriate to hold the hearing when full information is available and the regulatory options are apparent. The time of the hearing is in line with the statutory requirement of § 302(e) of the Act. The public workshops at the early stages of evaluating an Active Candidate will answer the commentator's concern.

(6) One commentator suggested amending § 922.24(b) and § 922.26(a) to reflect that an EIS may not be required.

NOAA Response: NOAA intends to use the EIS process for disseminating information any time it proposes a sanctuary whether or not required under the National Environmental Policy Act (NEPA).

(7) One commentator suggested that if, following a public workshop, NOAA determines not to proceed with the DEIS, an announcement stating the reasons for the determination should be placed in the Federal Register.

NOAA Response: NOAA concurs and has amended § 922.24(b) appropriately.

(8) One commentator suggested appointing State and local citizen advisory councils to further the consultation process.

NOAA Response: NOAA agrees that in many cases such bodies may be helpful but does not feel it appropriate to require this in all cases. In addition the Federal Advisory Committee Act restricts NOAA's ability to appoint such committees.

(i) *Section 922.25—Coordination with States.*—(1) One commentator felt that the proposed regulations are too general in their provision for the necessary coordination procedure, particularly with respect to the preparation of the Designation document and regulations.

NOAA Response: The regulations fully involve the relevant parties in the process of preparation of the Designation and regulations. §§ 922.24(b) and 922.26(a) have been rewritten to clarify this role.

(2) One reviewer objected to the failure of § 922.25(a)(3) to state that sanctuary designations must be consistent with the States' coastal zone management programs.

NOAA Response: NOAA has reworded this section to refer to the

necessity for consistency with a State's approved coastal zone management program.

(j) *Section 922.26—Designation.*—(1) Three commentators complained that the relationship between the Designation and the regulations implementing the Designation was unclear, and particularly that the opportunity for interested persons to participate in the development of the regulations was not clearly established.

NOAA Response: NOAA has rewritten § 922.26(a) as well as § 922.24(b), Review of Active Candidates, to clarify the relationship and emphasize the public's role in the development of the Designation and regulations particularly at the workshops and through the DEIS process prior to designation.

(2) Three commentators addressed the use of the Designation document as set forth in this section. Two commentators favored the device as a method for avoiding overregulation. A third commentator objected that NOAA should not limit its ability to regulate activities in a sanctuary. Other commentators discussed generally the need to avoid overregulation but did not specifically recognize the Designation document as a method to accomplish this end.

NOAA Response: NOAA feels that the Designation document in the form described in the regulations is an important and useful mechanism to focus public and agency attention on the need for regulations and the appropriate limits for each regulation.

(3) Three commentators discussed the veto authority given to the Governor of a State whose waters are included in the sanctuary. One favored and one opposed this authority. The third felt that § 922.26(d) allowed designation, despite a Governor's objection.

NOAA Response: The Governor's authority is statutory. See § 302(b) of the Act. NOAA disagrees that under either the statute or § 922.26(d) it can designate a sanctuary in State waters despite the Governor's objection.

(4) Two commentators suggested specifying a time limit for the Governor's certification.

NOAA Response: Section 302(b) of the Act gives a governor 60 days to certify unacceptability. This limit has been added for clarity.

(5) Two commentators suggested that NOAA utilize some form of "emergency designation." One commentator suggested promulgating some form of regulations imposing, in essence, a moratorium on degrading activities pending designation. A second

commentator favored expediting the placement of a site on the Active Candidates List (i.e. within 30 days of receipt of the recommendation).

NOAA Response: Under the Act, NOAA is empowered to control activities in an area only after its designation as a sanctuary. With respect to expedited processing, NOAA can expedite its procedures for any recommended site so long as the required consultations and evaluations took place.

(6) One commentator thought the Designation should be more specific as to the extent to which activities in a sanctuary may be regulated.

NOAA Response: Certain Designations may provide such specificity, but NOAA disagrees that it is desirable or even possible in all cases.

(7) One commentator suggested it might be useful to describe in a Designation other regulatory programs applicable to the sanctuary area.

NOAA Response: NOAA feels that it is more appropriate to describe such regulatory programs in the EIS.

(8) One commentator suggested that the Designation should be the subject of a separate subpart to stress that selection of an Active Candidate does not necessarily lead to designation.

NOAA Response: NOAA feels that a separate section is adequate to provide clarity, and that the concept is stressed throughout.

(9) One commentator suggested rewriting § 222.26(a) to provide explicitly for the receipt of evidence from appropriate parties including citizens of the affected state.

NOAA Response: NOAA feels such addition is superfluous.

(10) Two commentators objected to NOAA's failure to preempt each and every regulatory authority in the area of a designated sanctuary and recommended retaining the requirement that all other authorizations be certified before they are valid.

NOAA Response: NOAA agrees that its authority could preempt other regulatory authorities in the area, but sees advantages in terms of providing clarity to potential users and, generally, of reduced bureaucracy, in not doing so unless necessary.

(11) One commentator suggested that § 922.26(c) provide explicitly that multiple use be permitted provided it does not cause significant adverse impact.

NOAA Response: This concept is clearly established by § 922.1 and § 922.26 is built on this principle.

(12) One commentator suggested that the concurrence of other affected

Federal agencies should be required prior to the promulgation of any regulations.

NOAA Response: NOAA disagrees. Consultation with other Federal agencies is required by statute. Presidential approval of the designation is the statutory mechanism to insure balancing the interests of all Federal agencies. It takes the place of other mechanisms for resolving conflicts such as the mediation provided in the Coastal Zone Management Act.

(13) One commentator suggested formal notice of a designation be provided in the *Federal Register*.

NOAA Response: NOAA concurs. See new § 922.26(e).

(k) *Section 922.27—Boundaries*

(1) Seven commentators objected to the provision for altering boundaries and expressed concern about appropriate consultation.

NOAA Response: This section has been consolidated with section 922.21 to address this concern. See also discussion under Major Issues above.

(2) One commentator expressed concern that criteria 922.27(a)(2) was too broad and too open to subjective judgment.

NOAA Response: The determination of what constitutes an adequate buffer zone to protect the resources of a sanctuary is necessarily made on a case-by-case basis. The determination will be made through the full review in the designation process, thus minimizing subjectivity.

(l) *Section 922.30—Penalties*

(1) Two commentators thought this section and § 922.31 should specify the agency responsible for enforcement.

NOAA Response: Different agencies will have enforcement responsibilities. The individual regulation for each sanctuary is the proper place to specify such responsibility. The Coast Guard will be responsible for enforcement in most sanctuaries and a specific reference to this agency's enforcement programs has been included in section 922.1(e).

(2) One commentator felt the regulations should specifically provide for the delegation of enforcement and administration to State agencies for sanctuaries located off their shores. The commentator believed the existing regulations provided explicitly for such delegation.

NOAA Response: The existing regulations do not provide explicitly for delegation. NOAA agrees that delegation may be appropriate in individual sanctuaries and will provide for it in the regulations governing these sanctuaries.

Revised Regulations Effective Immediately

The regulations described above constitute general statements of policy and rules of procedure or practice governing the administration of the marine sanctuary program by NOAA. For the most part, the practices and procedures have evolved under the existing regulations and are being followed currently. Consequently, to delay the effective date for thirty days would simply result in additional confusion, and NOAA hereby finds for good cause, in accordance with 5 U.S.C. 553(d), that such 30 days delay prior to the effective date is unnecessary. The regulations are effective on publication in the Federal Register.

Date: July 23, 1979.

R. L. Carnahan,

Deputy Assistant Administrator for Administration.

In consideration of the foregoing, Part 922 is revised as follows:

PART 922—MARINE SANCTUARIES**Subpart A—General**

Sec.

922.1 Policy and objectives.

922.2 Definitions.

922.10 Effect of marine sanctuary designation.

Subpart B—Initial Review of Areas Recommended as Sanctuaries

922.20 Submission of recommendations.

922.21 Analysis of recommendations.

922.22 Effect of placement on the list of recommended areas or active candidates.

Subpart C—Selection of Active Candidates and Designation of Sanctuaries

922.23 Selection of Active Candidates.

922.24 Review of Active Candidates.

922.25 Coordination with States.

922.26 Designations

Subpart D—Enforcement

922.30 Penalties.

922.31 Notice of Violation.

922.32 Enforcement Hearings.

922.34 Final Action.

Authority: Title III, Public Law 95-532, as amended; 86 Stat. 1061 (16 U.S.C. 1431-1434).

Subpart A—General**§ 922.189 Policy and Objectives.**

(a) The purpose of the marine sanctuaries program is to identify areas in the ocean from the shore to the edge of the continental shelf and in the Great Lakes that are distinctive for their conservation, recreational, ecological or esthetic values, and to preserve and restore such areas by designating them

as marine sanctuaries and providing appropriate regulation and management.

(b) The primary emphasis of the program will be the protection of natural and biological resources, and in most cases higher priority will be afforded candidate sites containing these resources.

(c) The presence of actual or potential conflicts among existing or potential human uses of a candidate site is not of itself a basis for designating the site as a marine sanctuary. Human activities will be allowed within a designated sanctuary to the extent that such activities are compatible with the purposes for which the sanctuary was established, based on an evaluation of whether the individual or cumulative impacts of such activities may have a significant adverse effect on the resource value of the sanctuary.

(d) The marine sanctuary program will be fully coordinated with the coastal zone management and estuarine sanctuary programs established under the Coastal Zone Management Act of 1972, as amended 16 U.S.C. 1451 *et seq.* (The estuarine sanctuary program, 16 U.S.C. 1461, authorizes grants for the acquisition, development or operation of estuarine areas as natural field laboratories. See regulations at 15 CFR Part 921).

(e) The marine sanctuaries program will be conducted also in close cooperation with other related Federal and State programs, including those of the Regional Fishery Management Councils under the Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. 1801 *et seq.*; the marine mammal protection and endangered species programs of the National Marine Fisheries Service, under the Marine Mammal Protection Act, as amended, 16 U.S.C. 1361 *et seq.* and the Endangered Species Act, as amended, 16 U.S.C. 1531 *et seq.*; leasing programs of the Department of the Interior for the Outer Continental Shelf under the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1331 *et seq.*; relevant programs of the Department of Energy; and the regulatory and enforcement programs of the United States Coast Guard.

(f) A basic objective of the marine sanctuaries program is to obtain the maximum public participation throughout all the stages that may lead to the designation of a sanctuary. To further this purpose NOAA may make funds available to compensate eligible persons for the costs of participation in certain proceedings in accordance with NOAA regulations at 15 CFR Part 904.

§ 922.2 Definitions.

(a) "Act" means Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431-1434.

(b) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, United States Department of Commerce.

(c) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration, United States Department of Commerce, or his designee.

(d) "Continental Shelf" means the Continental Shelf, as defined in the Convention on the Continental Shelf, 15 U.S.T. 74 (TIAS 5578), which lies adjacent to any of the several states or any territory or possession of the United States, or the Trust Territory of the Pacific Islands.

(e) The "Great Lakes" means the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes.

(f) "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, local or regional unit of government.

§ 922.10 Effect of marine sanctuary designation.

The designation of a marine sanctuary and the regulations implementing it are binding on any person subject to the jurisdiction of the United States. Designation does not in any case constitute any claim of territorial jurisdiction on the part of the United States, and the regulations implementing it apply to foreign citizens only to the extent consistent with recognized principles of international law or authorized by international agreement.

Subpart B—Initial Review of Areas Recommended as Sanctuaries**§ 922.20 Submission of recommendations.**

(a) Any person (including NOAA employees in their official capacity or otherwise) may recommend a site to be considered for potential designation as a marine sanctuary. Recommendations should be addressed to: Director, Sanctuary Programs Office, Office of Coastal Zone Management, National Oceanic and Atmospheric

Administration, 3300 Whitehaven St., N.W., Washington, D.C. 20235.

Further information can be obtained by contacting this office.

(b) Recommendations should be submitted in the following format:

Site recommended
 General description of area
 Approximate coordinates
 Area in square miles
 Name of person or organization submitting recommendation
 Principal Contact
 Name, Title
 Address
 Telephone number
 Detailed description of the feature or features which make the site distinctive (See sec. 922.21)
 Available data on the resources and site
 Summary of existing research and other data to support description
 Principal data deficiencies
 Description of past, present and prospective uses of site
 Impacts of present and prospective uses on site and its distinctive features
 Probable effects of marine sanctuary designation and recommended regulations
 Present uses of resources
 Future uses of resources
 Uses of adjacent areas (including those on shore)
 Management
 Summary of who should manage area and why
 Summary of activities which must be regulated to ensure protection of distinctive features

(c) The Assistant Administrator may request such additional information as is necessary to make the determination called for by §§ 922.21 and 922.23.

§ 922.21 Analysis of recommendations.

(a) Within 3 months of receiving a recommendation for any site the Assistant Administrator shall review the site in accordance with the criteria of subsection (b) to determine if it should be placed on the List of Recommended Areas. The Assistant Administrator shall promptly notify the recommender in writing of his determination. In the event the site is rejected, the Assistant Administrator shall include a statement of the reasons for the rejection and indicate that the recommendation may be resubmitted with additional information. Notification of the placement of any site on the List will be published in the *Federal Register*.

(b) To be eligible for placement on the List of Recommended Areas for marine sanctuaries a candidate area shall contain one or more of the following:

(1) Important habitat on which any of the following depend for one or more life

cycle activity, including breeding, feeding, rearing young, staging, resting or migrating:

- (i) Rare, endangered or threatened species; or
- (ii) Species with limited geographic distribution, or
- (iii) Species rare in the waters to which the Act applies, or
- (iv) Commercially or recreationally valuable marine species.

(2) A marine ecosystem of exceptional productivity indicated by an abundance and variety of marine species at the various tropic levels in the food web.

(3) An area of exceptional recreational opportunity relating to its distinctive marine characteristics.

(4) Historic or cultural remains of widespread public interest.

(5) Distinctive or fragile ecological or geologic features of exceptional scientific research or educational value.

(c) Sanctuary boundaries should include an area sufficient to provide reasonable assurance that the resource value of the area can be protected against degradation or destruction. The boundary will not include an area greater than that appropriate to protect the resource. The determination of boundaries should consider the following elements, depending on the resource values that justify establishing the sanctuary:

- (1) The range and interrelations of key elements of the ecosystem.
- (2) The potential for adverse impact from human activities at some distance from where they are conducted, whether as a result of normal operations or foreseeable accidents.
- (3) The economic, safety, and other effects of displacing certain human activities to other locations to the extent such displacement is likely to occur.
- (4) The feasibility and cost of conducting surveillance and enforcement activities in the area.

(d) Where overlapping or adjacent sites are recommended or where the recommended boundaries of an area appear either excessive or inadequate to protect the identified features, the Assistant Administrator may prepare a combined or revised description for placement on the List of Recommended Areas.

(e) All recommendations submitted prior to the effective date of these regulations will be reviewed in accordance with this section and an initial List of Recommended Areas will be published in the *Federal Register* within 3 months of such date. Thereafter the List will be updated at least semi-annually and a cumulative List published in the *Federal Register*.

§ 922.22 Effect of placement on the List of Recommended Areas or Active Candidates.

(a) The List of Recommended Areas provides a source of information on sites believed to contain some resource value and may be helpful to Federal agencies and others planning or conducting activities that affect these sites. It is anticipated that, normally, once a site is selected as an Active Candidate, such status will be mentioned in an agency's Environmental Impact Statement (EIS) covering such an activity.

(b) Placement of a site on either List does not establish any regulatory controls, which can be established only after designation in accordance with § 922.28. Listing is a prerequisite for designation as a marine sanctuary but many more sites will be listed than designated and listing does not imply that designation will ever occur.

Subpart C—Selection of Active Candidates and Designation of Sanctuaries

§ 922.23 Selection of Active Candidates.

(a) A site on the List of Recommended Areas will be selected as an Active Candidate for designation as a marine sanctuary on the basis of:

(1) The significance of the resources identified during review for listing under § 922.21(b);

(2) The extent to which the means are available to the Assistance Administrator to support full review within the time specified in § 922.24; and

(3) The following additional factors:

(i) The severity and imminence of existing or potential threats to the resources including the cumulative effect of various human activities that individually may be insignificant.

(ii) The ability of existing regulatory mechanisms to protect the values of the sanctuary and the likelihood that sufficient effort will be devoted to accomplishing those objectives without creating a sanctuary.

(iii) The significance of the area to research opportunities on a particular type of ecosystem or on marine biological and physical processes.

(iv) The value of the area in complementing other areas of significance to public or private programs with similar objectives, including approved Coastal Zone Management programs.

(v) The esthetic qualities of the area.

(vi) The type and estimated economic value of the natural resources and human uses within the area which may be foregone as a result of marine sanctuary designation, taking into

account the economic significance to the nation of such resources and uses and the probable impact on them of regulations designed to achieve the purposes of sanctuary designation.

(vii) The economic benefits to be derived from protecting or enhancing the resources within the sanctuary.

(b) Before selecting a site as an Active Candidate, the Assistant Administrator shall consult on a preliminary basis with relevant Federal agencies, state and local officials including port authorities, Regional Fishery Management Councils and other interested persons including the recommender to determine the nature of potential impacts in the area and to gather additional information as necessary to conduct the review process.

(c) Selection of any site as an Active Candidate for designation shall be announced in the Federal Register and all Active Candidates shall be placed on a separate list published and updated concurrently with the List of Recommended Areas as provided in § 922.21(e).

(d) Any site for which a Public Workshop as described in § 922.24(a) has been held or for which such a workshop has been scheduled prior to the effective date of these regulations, shall be considered an Active Candidate. These Active Candidates shall be announced in the Federal Register as soon as practicable after the effective date of these regulations, and prerequisites to Active Candidate status will be considered satisfied by inclusion in this announcement.

§ 922.24 Review of active candidates.

(a) Within six months of selection as an Active Candidate as specified in § 922.23, the Assistant Administrator shall conduct one or more Public Workshops in the area or areas most affected to solicit the views of interested persons to aid in determining whether the site should be further considered for Designation and whether any modifications to the recommendation may be appropriate. This workshop shall be before and in addition to the public hearings required under section 302(e) of the Act.

(b) Based on the views obtained at the Public Workshop and other relevant information, the Assistant Administrator shall determine whether the site should continue to be an Active Candidate and shall announce that decision in the Federal Register within 90 days of the last Public Workshop. If the site will not continue to be an Active Candidate, the notice shall specify the reasons. If the site continues to be an Active

Candidate, the Assistant Administrator shall prepare a draft Environmental Impact Statement (DEIS), containing a draft Designation document and regulations implementing the Designation in consultation with relevant Federal, State and local officials, Regional Fishery Management Council members and other interested persons. At or about the same time, the Assistant Administrator will publish the proposed Designation and regulations in the Federal Register in accordance with the Administrative Procedure Act.

(c) No less than 30 days after the Environmental Protection Agency (EPA) publishes a Notice of Availability in the Federal Register, the Assistant Administrator shall hold at least one public hearing in the area or areas most affected by the proposed designation in accordance with section 302(e) of the Act to consider the draft Designation, proposed regulations and DEIS.

§ 922.25 Coordination with States.

(a) Following the receipt of any recommendation, the Assistant Administrator shall notify the designated Coastal Zone Management Agency of an affected State or States with an approved Coastal Zone Management Program.

(b) The Assistant Administrator shall make every effort to consult and cooperate with affected States through the entire review and consideration process. In particular the Assistant Administrator shall

(1) Consult with the relevant State officials prior to selection of an Active Candidate for consideration, pursuant to § 922.23(b).

(2) Ensure that any State agency designated under sections 305 or 306 of the Coastal Zone Management Act of 1972 and any other appropriate State agency is consulted prior to holding any Public Workshop pursuant to § 922.24(a) or public hearing pursuant to § 922.24(c), and

(3) Ensure that such Public Workshops and Public Hearings include consideration of the relationship of a proposed designation to State waters and the consistency of the proposed designation with an approved State Coastal Zone Management Program.

§ 922.26 Designation.

(a) In response to the comments received, including those at the Public Hearing described in § 922.24(c), the Assistant Administrator shall prepare a final environmental impact statement including the Designation and implementing regulations and file it with EPA. After final consultation with all

appropriate Federal agencies and Regional Fishery Management Councils, the Secretary shall transmit to the President for approval the proposed Designation prior to making the site a Marine Sanctuary.

(b) The Designation shall specify by its terms the geographic coordinates of the Sanctuary area, its distinctive features that require protection, and the types of activities that may be subject to regulation. The terms of the Designation may be modified only by the same procedures through which the original designation was made.

(c) The regulations shall be consistent with and implement the terms of the Designation and shall set forth the limits of human activities within the sanctuary and procedures for the review and certification of permits, licenses or other authorizations pursuant to other authorities. All amendments to these regulations must remain consistent with the Designation.

(d) Where essential to prevent immediate, serious and irreversible damage to the resources of a sanctuary, activities other than those listed in the Designation 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 the Designation would be sought.

(e) If, within 60 days of the publication of the Designation as provided in paragraph (e), the Governor of a state whose waters are included in the sanctuary certifies that any terms of the Designation are unacceptable, such terms and any regulations implementing them shall not become effective for the part of the sanctuary in state waters until the certification is withdrawn. If the Governor so certifies, the Designation may be withdrawn if, in the opinion of the Assistant Administrator, the sanctuary, as modified, no longer achieves the objectives specified in the Act, the regulations, and the Designation.

(f) The Assistant Administrator shall announce the designation of a Sanctuary and publish the Designation document and implementing regulations in the Federal Register.

Subpart D—Enforcement

§ 922.30 Penalties.

Any person subject to the jurisdiction of the United States who violates any regulation issued pursuant to the Act shall be liable for a civil penalty of not more than \$50,000 for each such violation. Each day of a continuing violation shall constitute a separate

violation. No penalty may be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Administrator, will commence action in the appropriate District Court of the United States in order to collect the penalty and to seek such other relief as may be appropriate. A vessel used in the violation of a regulation issued pursuant to the Act will be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any District Court of the United States having jurisdiction thereof. Pursuant to section 303(a) of the Act, the District Courts of the United States having jurisdiction to restrain a violation of the regulations issued pursuant to the Act, and to grant such other relief as may be appropriate.

§ 922.31 Notice of violation.

Upon receipt of information that any person has violated any provision of this title, the Administrator shall notify such person in writing of the violation with which charged, and of the right to demand a hearing to be held in accordance with § 922.32. The notice of violation shall inform the person of the procedures for requesting a hearing and may provide that, after a period of 30 days from receipt of the notice, any right to a hearing will be deemed to have been waived.

§ 922.32 Enforcement hearings.

Hearings requested under § 922.31 shall be held not less than 60 days after the request is received. Such hearings shall be on the record before a hearing officer. Parties may be represented by counsel, and shall have the right to submit motions, to present evidence in their own behalf, to cross examine adverse witnesses, to be apprised of all evidence considered by the hearing officer, and, upon payment of appropriate costs, to receive copies of the transcript of the proceedings. The hearing officer shall rule on all evidentiary matters and on all motions, which shall be subject to review pursuant to § 922.33.

§ 922.33 Determinations.

Within 30 days following conclusion of the hearing, the hearing officer shall make findings of facts and recommendations to the Administrator, unless such time limit is extended by the Administrator for good cause. When appropriate, the hearing officer may recommend a penalty, after consideration of the gravity of the violation, prior violations by the person charged, and the demonstrated good faith by such person in attempting to achieve compliance with the provisions

of the title and regulations issued pursuant thereto. A copy of the findings and any recommendation of the hearing officer shall be provided to the person charged at the same time they are forwarded to the Administrator. Within 30 days of the date on which the hearing officer's findings and recommendations are forwarded to the Administrator, any party objecting thereto may file written exceptions with the Administrator.

§ 922.34 Final action.

A final order on a proceeding under this part shall be issued by the Administrator no sooner than 30 days following receipt of the findings and recommendations of the hearing officer. A copy of the final order shall be served by registered mail (return receipt requested) on the person charged or his representative.

[FR Doc. 79-23574 Filed 7-30-79; 8:45 am]

BILLING CODE 2510-22-M

FEDERAL TRADE COMMISSION 16 CFR Part 13

[Docket No. C-2976]

International Inventors Incorporated, East, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, among other things, requires an Alexandria, Va. idea promotion firm and its principal officer to cease failing to provide fair and thorough evaluations as to the commercial feasibility of customers' ideas; and misrepresenting that they successfully promote and negotiate with interested manufacturers on clients' behalf; that they secure lucrative contracts for clients through such efforts; and that the Document Disclosure Program of the United States Patent and Trademark Office protects clients' ideas prior to the filing of a formal patent application. The order requires that prescribed disclosures regarding the financial success of previous clients, the lack of legal protection for ideas, and the advisability of consulting with a patent attorney before signing an agreement be included in contracts and promotional material; and prohibits the company from accepting any fees for promotional services, other than a percentage of royalties earned through its endeavors. Additionally, the firm is required to maintain particular records for a specified period, and institute a continuing surveillance program designed to ensure compliance with the terms of the order.

DATES: Complaint and order issued July 5, 1979.¹

FOR FURTHER INFORMATION CONTACT: FTC/PL, Edward D. Steinman, Washington, D.C. 20580. (202) 523-3948.

SUPPLEMENTARY INFORMATION: On Tuesday, March 27, 1979, there was published in the *Federal Register*, 44 FR 18231, a proposed consent agreement with analysis in the Matter of International Inventors Incorporated, East, a corporation, and James H. Haren, individually and as an officer of said corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order. Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR 13, are as follows: Subpart-Advertising Falsely or Misleading; § 13.15 Business status, advantages or connections; 13.15-5 Advertising and promotional services; 13.15-20 Business methods and policies; 13.15-30 Connections or arrangements with others; 13.15-80 Government connections; 13.15-100 History; 13.15-195 Nature; 13.15-220 Patent or other rights; 13.15-245 Prospects; 13.15-250 Qualifications and abilities; 13.15-255 Reputation, success or standing; 13.15-265 Service; § 13.42 Connection of others with goods; § 13.60 Earnings and profits; § 13.85 Government approval, action, connection or standards; § 13.90 History of product or offering; § 13.143 Opportunities; § 13.145 Patent or other rights; § 13.160 Promotional sales plans; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.250 Success, use or standing; § 13.275 Undertakings in general. Subpart-Contracting For Sale in Any Form Binding On Buyer Prior To End Of Specified Time Period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-40 Furnishing information to media; 13.533-45 Maintain records; 13.533-55 Refunds, rebates and/or credits. Subpart-Misrepresenting Oneself and Goods—Business Status, Advantages or Connections: § 13.1370 Business

¹ Copies of the Complaint and Decision and Order filed with the original document.