

§ 140.15 Proof of financial protection.

(a) (1) Licensees who maintain financial protection in whole or in part in the form of liability insurance shall (with respect to that insurance) provide proof of financial protection that consists of a copy of the liability policy (or policies) together with a certificate by the insurers issuing that policy that states that the copy is a true copy of a currently effective policy issued to the licensee.

(2) Proof of financial protection may alternatively consist of a copy of the declarations page of a nuclear energy liability policy issued to the licensee: Provided, that the insurers have filed that policy form with the Commission. The licensee shall include with the declarations page a certificate in which the insurers state that the copy is a true copy of the declarations page of a currently effective policy. The insurers shall also identify the policy (including endorsements) by reference to the policy form they have filed with the Commission.

§ 140.20 [Amended]

5. In § 140.20, paragraphs (f) (1) (i)-(ii) and (f) (2) are removed, and paragraph (f) (3) is redesignated paragraph (f).

6. Section 140.22 is revised to read as follows:

§ 140.22 Commission guarantee and reimbursement agreements.

Each licensee required to have and maintain financial protection for each nuclear reactor as determined in § 140.11 (a) (4) shall execute an indemnity agreement with the Commission that provides for Commission payment of deferred premiums and licensee reimbursement to the Commission.

§ 140.52 [Amended]

7. In § 140.52, paragraphs (b) (1)-(2) are removed, and paragraph (b) (3) is redesignated as paragraph (b).

§ 140.72 [Amended]

8. In § 140.72, paragraphs (b) (1)-(2) are removed, and paragraph (b) (3) is redesignated as paragraph (b).

Dated at Washington, DC this 25th day of February 1983.

For the Nuclear Regulatory Commission,
Samuel Chilk,

Secretary of the Commission.

[FR Doc. 83-5344 Filed 3-3-83, 8:45

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****15 CFR Part 939**

[Docket No. 30105-04]

La Parguera National Marine Sanctuary

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

ACTION: Proposed rule.

SUMMARY: These proposed regulations define which activities are allowed and which are prohibited within the proposed La Parguera National Marine Sanctuary, the procedures by which persons may obtain permits for research of activities normally prohibited, and the penalties for committing prohibited acts without a permit. The purpose of designating the La Parguera National Marine Sanctuary is to protect and preserve a representative cross-section of tropical habitat and a coral reef ecosystem in its natural state and to regulate uses within the Sanctuary to insure the health and well-being of the coral and associated flora and fauna.

DATES: Comments will be accepted until May 3, 1983. After the close of the comment period and review of comments received, final regulations will be published in the Federal Register.

ADDRESS: Send comments to Dr. Nancy Foster, Deputy Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street, NW, Washington, D.C. 20205.

FOR FURTHER INFORMATION CONTACT: Edward Lindelof, 202/634-4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431-1434 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the continental shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f)(1) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management within the National Oceanic and Atmospheric

Administration, U.S. Department of Commerce (the Assistant Administrator).

In May 1979, six sites were nominated for consideration as a National Marine Sanctuary by the Department of Natural Resources (DNR), Commonwealth of Puerto Rico. The sites were Cordillera/Culebra/Vieques, Salinas/Jobos, Cayo Barberia/Caja de Muertos, La Parguera, Mona/Monito Islands and Descecho Island. Information was distributed to the public for comment on the feasibility of these sites as marine sanctuaries. As a result of public review, three sites were selected for further analysis: Cordillera/Culebra/Vieques, La Parguera, and Mona/Monito Islands. In May 1981, an Issue Paper was distributed and workshops held on the final three sites.

Following the workshops a decision was made by NOAA and DNR to develop draft regulations, a draft management plan and draft environmental impact statement (DEIS) on the proposed La Parguera site. The regulations found herein are also included as part of the draft management plan/DEIS. The public review period for the management plan/DEIS runs concurrently with this comment period. Following the end of the comment period final regulations, a final environmental impact statement and management plan will be developed for public review. The next step is review and approval by the President after which the Secretary of Commerce formally designates the area as a national marine sanctuary and the final regulations take effect. The Governor of Puerto Rico then has 60 days to disapprove the designation or any of its terms and both Houses of Congress also have 60 days to adopt a concurrent resolution which disapproves the designation or any of its terms.

The proposed sanctuary contains hundreds of species of marine organisms including Caribbean corals, endangered and threatened sea turtles, significant mangrove stands and diverse tropical fauna and floral communities. The area provides exceptional recreational experiences and unique scientific value as an ecological, recreational and aesthetic resource.

Other Matters

Executive Order 12291 (E.O. 12291) defines a "major rule" as "any regulation that is likely to result in (1) an annual effect on the economy of \$100 or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State or local government agencies, or geographic

regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete in domestic or export markets." The economic activity supported by the area within the sanctuary consists of a diversity of small scale commercial and recreational activities.

Most of the activities in the sanctuary are not affected by sanctuary regulations; the economic impacts on affected activities in the sanctuary are minor and regulations do not restrict recreational activities. Because the impact of the regulations on economic interests is minor or because the activities are not regulated at all, the Assistant Administrator has determined that this is not a "major rule" under E.O. 12291. For the same reasons, the Assistant Administrator has determined that the proposed rules will not have a significant economic impact on small entities in the sanctuary under the Regulatory Flexibility Act. These regulations will impose no information collection requirements of the type covered by Pub. L. 96-511 on affected State governments. Publication does not constitute major Federal action significantly affecting the quality of the human environment.

List of Subjects in 15 CFR Part 939

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

Dated: February 25, 1983.

William Matuszaska,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

(Federal Domestic Assistance Catalog Number 11-419 (Coastal Zone Management Program Administration))

Accordingly, Part 939 is proposed to be added as follows:

PART 939—LA PARGUERA NATIONAL MARINE SANCTUARY DRAFT REGULATIONS

- 939.1 Authority.
- 939.2 Purpose.
- 939.3 Boundaries.
- 939.4 Definitions.
- 939.5 Management and enforcement.
- 939.6 Allowed activities.
- 939.7 Activities prohibited or controlled.
- 939.8 Other authorities.
- 939.9 Penalties for commission of prohibited acts.
- 939.10 Permit procedures and criteria.
- 939.11 Appeals of administrative action.

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

§ 939.1 Authority.

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

§ 939.2 Purpose.

The purpose of designating the La Parguera National Marine Sanctuary is to protect and preserve a representative cross-section of tropical habitat and a coral reef ecosystem in its natural state and to regulate uses within the Sanctuary to insure the health and well-being of the coral and associated flora and fauna.

§ 939.3 Boundaries.

The sanctuary consists of a 68.27 square nautical mile area of the Caribbean Sea off southwest Puerto Rico. The exact boundaries are:

Pt. No.	Latitude	Longitude
1-1	N17°57'15.00"	W67°12'50.00"
1-2	N17°56'20.36"	W67°11'52.00"
1-3	N17°52'58.51"	W67°11'52.00"
1-4	N17°52'54.79"	W67°11'09.16"
1-5	N17°52'56.19"	W67°10'10.18"
1-6	N17°52'32.19"	W67°09'30.74"
1-7	N17°51'53.88"	W67°08'38.85"
1-8	N17°51'39.22"	W67°07'55.81"
1-9	N17°51'39.21"	W67°07'00.57"
1-10	N17°51'51.82"	W67°05'57.46"
1-11	N17°52'05.29"	W67°05'27.63"
1-12	N17°52'08.29"	W67°04'38.59"
1-13	N17°52'33.66"	W67°04'05.56"
1-14	N17°52'41.86"	W67°03'14.66"
1-15	N17°52'25.95"	W67°02'46.07"
1-16	N17°52'32.05"	W67°02'28.82"
1-17	N17°52'53.65"	W67°02'03.24"
1-18	N17°53'10.06"	W67°01'16.09"
1-19	N17°53'08.68"	W67°00'42.29"
1-20	N17°53'19.81"	W66°59'33.56"
1-21	N17°53'51.37"	W66°58'00.00"
1-22	N17°56'43.00"	W66°58'00.00"

§ 939.4 Definitions.

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

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

(c) "Secretary" means the Secretary of the Department of Natural Resources, Commonwealth of Puerto Rico.

(d) "Persons" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any State or local unit of the government.

(e) "The Sanctuary" means the La Parguera National Marine Sanctuary.

§ 939.5 Management and Enforcement.

The National Oceanic and Atmospheric Administration (NOAA) has primary responsibility for the management of the Sanctuary pursuant to the Act. The Puerto Rico Department of Natural Resources (DNR) will assist NOAA in the administration of the Sanctuary, and act as the onsite manager, in conformance with the draft Designation Document between DNR and NOAA. DNR shall conduct surveillance and enforcement of these regulations pursuant to 16 U.S.C. 1432(f)(4), or other appropriate legal authority.

§ 939.6 Allowed Activities.

All activities except those specifically prohibited by § 939.7 may be carried on within the Sanctuary subject to all prohibitions, restrictions, and conditions imposed by other authorities.

§ 939.7 Activities Prohibited or Controlled.

(a) Unless permitted by the Assistant Administrator in accordance with § 939.10, or as may be necessary for the national defense, or to respond to an emergency threatening life, property or the environment, the following activities are prohibited or controlled within the Sanctuary. All prohibitions and controls must be applied consistently with international law. Refer to § 939.9 for penalties for commission of prohibited acts.

(1) *Taking and Damaging Natural Resources.* (i) No person shall break, cut, or similarly damage or destroy the coral, bottom formation, or any marine plant, except institutions conducting scientific or educational activities that were exempted pursuant to Article 4 of the Regulations to Control the Extraction, Possession, Transportation, and Sale of Coral Resources in Puerto Rico (under authority conferred by Law No. 23 of June 20, 1972 and Law No. 83 of May 13, 1936, as amended). These eligible institutions are the University of Puerto Rico, Administration of Regional Colleges, Interamerican University, Catholic University, Center for Energetic and Environmental Research,

Environmental Quality Board, and the Puerto Rico Department of Natural Resources.

(ii) No person shall cut, damage, or similarly destroy any red mangrove (*Rhizophora mangle*) except as part of a program of routine channel maintenance.

(iii) No person shall use poisons, electrical charges, explosives, or similar methods to take any marine animal or plant.

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

(2) *Operation of Vessels.* (i) No vessel shall approach closer than 200 feet to a fishing vessel or a vessel displaying a diving flag except at a maximum speed of three knots.

(ii) No vessel or person shall interfere with any fishing activity.

(iii) All vessels from which diving operations are being conducted shall fly in a conspicuous manner, the international code flag alpha "A."

(3) *Discharging of Polluting Substances.* No person shall litter, deposit, or discharge any materials or substances of any kind except:

(i) Indigenous fish or fish parts;

(ii) Cooling waters from vessels;

(iii) Effluents from marine sanitation devices allowable under Coast Guard standards.

(iv) On a temporary basis, sewage from existing shoreline houses known as casetas with recognized permits from COE. This exception shall expire upon the completion and operation of an area wide sewage collection and treatment system or until the expiration of the Memorandum of Understanding between the Governor of Puerto Rico and the U.S. Army Corps of Engineers for the La Parguera area dated June 13, 1978, whichever is earlier.

(4) *Underwater Trails.* (i) No person shall fish within the underwater trails.

(ii) No person shall mark, deface, or injure in any way, or displace, remove, or tamper with underwater trails, signs, markers, or buoys.

(5) *Removing or Damaging Cultural Resources.* No person shall remove, damage, or tamper with any historical or cultural feature, including archaeological sites, historic structures, shipwrecks, and artifacts.

(6) *Damage to Fish Traps.* No person shall disturb, harm, or tamper with any legal fishing gear, nets, traps, or pots.

(7) *Taking of Sea Turtles.* (i) No person shall ensnare, entrap, or fish any sea turtle while it is a threatened or endangered species as defined by the Endangered Species Act of 1973.

(ii) No person shall possess or use any nets or similar fishing gear with a mesh size in excess of eight inches.

(b) The prohibitions in this section will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

§ 939.8 Other Authorities.

No license, permit or other authorization issued pursuant to any other authority may validly authorize any activity prohibited by § 939.7 unless such activity meets the criteria stated in § 939.10(a), (c) and (d) and is specifically authorized by the Assistant Administrator.

§ 939.9 Penalties for Commission of Prohibited Acts.

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

§ 939.10 Permit Procedures and Criteria.

Under special circumstances where the prohibited activity is research or education needed to better understand the Sanctuary environment and improve management decisionmaking and judged not to cause long-term or irreparable harm to the resources, a permit may be granted by NOAA in cooperation with the Secretary of DNR.

(a) Any person in possession of a valid permit issued by the Assistant Administrator in cooperation with the Secretary of the Department of Natural Resources, Commonwealth of Puerto Rico in accordance with this section may conduct the specific activity in the Sanctuary including any activity specifically prohibited under § 939.7 if such activity is (1) research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator, ATTN: Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235. An application shall include a description of

all activities proposed, the equipment, methods, and personnel (particularly describing relevant experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) In considering whether to grant a permit, the Assistant Administrator shall evaluate such matters as (1) the general professional and financial responsibility of the applicant; (2) the appropriateness of the methods being proposed to the purpose(s) of the activity; (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, education, or scientific information; and (4) the end value of the activity.

(d) Permits may be issued by the Assistant Administrator for activities otherwise prohibited under § 939.7. In addition to meeting the criteria in § 939.10 (a) and (c), the applicant must also satisfactorily demonstrate to the Assistant Administrator that: (1) The activity shall be conducted with adequate safeguards for the environment, and (2) the environment shall be returned to the condition which existed before the activity occurred. A permit issued according to the provisions for an otherwise prohibited activity shall be appropriately conditioned, and the activity monitored to ensure compliance.

(e) In considering an application submitted pursuant to this Section, the Assistant Administrator shall seek and consider the view of the Secretary of the Department of Natural Resources. The Assistant Administrator may also seek and consider the views of any other person or entity, within or outside of the Federal Government, and may hold a public hearing, as he/she deems appropriate.

(f) The Assistant Administrator may, at his/her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject to such condition(s) as deemed necessary, and shall attach to any permit grant for research related to the Sanctuary stipulations to the effect that: (1) The Assistant Administrator, Secretary of Department of Natural Resources, or their designated representatives may observe any activity permitted by this section; and (2) any information obtained in the research site shall be made available to the public; and/or the submission of one or more reports of the status of progress of such activity may be required.

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

(h) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this section, in whole or in part, temporarily or indefinitely if, in his/her view, the permit holder (the Holder) had acted in violation of the terms of the permit or of the applicable regulations; or the Assistant Administrator may do so for other good cause shown. Any such action shall be communicated in writing to the Holder, and shall set forth the reason(s) for the action taken. The Holder in relation to whom such action has been taken may appeal the action as provided for in § 939.11.

§ 939.11 Appeals of Administrative Action.

(a) The applicant for a permit, the Holder, or any other interested person (hereafter Appellant) may appeal the granting, denial, conditioning or suspension of any permit under § 939.10 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal shall be in writing, shall state the action(s) appealed and the reason(s) therefor, and shall be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this section, the Administrator may request the Appellant, and the permit applicant or Holder if other than the Appellant, to submit such additional information and in such form as will allow action upon the appeal. The Administrator shall decide the appeal using the criteria set out in § 939.10 (a), (c), and (d) any information relative to the application on file, any information provided by the Appellant, and such other consideration as is deemed appropriate. The Administrator shall notify the Appellant of the final decision and the reason(s) therefor, in writing normally within 30 days of the date of the receipt of adequate information required to make the decision.

(c) If a hearing is requested or, if the Administrator determines that one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer designated for that purpose, after first giving notice of the hearing in the Federal Register. Such hearing shall normally be held no later than 30 days following publication of the notice in the Federal Register unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the applicant or permit holder, if different, and, other interested persons may appear personally or by counsel at the hearing and submit such material and present such arguments as

determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend a decision in writing to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify the interested persons of his/her decision, and the reason(s) therefore in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's decision shall constitute final action for the Agency for the purposes of the Administrative Procedure Act.

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

[FR Doc. 83-5436 Filed 3-3-83; 8:45 am]

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FEDERAL TRADE COMMISSION

16 CFR Parts 3 and 4

Rules of Practice for Adjudicative Proceedings and Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Trade Commission proposes to amend its rules of Practice so that non-attorney experts may participate personally in the cross-examination of other experts in the same discipline. The commission has tentatively concluded that, in some cases, cross-examination by a non-attorney expert will elicit more precise and useful information from an expert witness than would cross-examination by an attorney. This notice invites comment on the desirability of greater participation by non-attorney experts than at present and on the rule revisions that would permit such participation.

DATE: Written comments must be received on or before April 18, 1983.

ADDRESS: Send comments to the Secretary, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580. Comments will be available for public inspection in Room 130 at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Bruce G. Freedman, Deputy Assistant General Counsel, Federal Trade

Commission, Washington, D.C. 20580, (202) 523-3521.

SUPPLEMENTARY INFORMATION: The Commission's current rules governing the conduct of adjudicatory proceedings are written on the assumption that only attorneys participate personally in the examination of witnesses. While experts in various professional disciplines often advise the attorneys in a case, they do not themselves participate in hearings, except as witnesses.

The Commission believes that there may well be value in allowing a more active role by non-attorney experts. In particular, permitting one expert to cross-examine another may yield a sharper delineation of issues, and especially a quicker and more precise identification of areas of agreement and disagreement, than if the questions are posed by an attorney who lacks technical expertise in the particular discipline. See Miller, *Regulators and Experts: A Modes Proposal*, Regulation, Nov./Dec. 1977, at 36.

The proposed rule preserves the Administrative Law Judge's control over the proceeding by requiring the law judge's permission before a non-attorney may participate personally. In addition, both the expert and the attorney who designates the expert to conduct cross-examination will be held accountable for the latter's adherence to the same legal and ethical standards as apply to an attorney interrogator. See 16 CFR 3.42(c)(6), (d).

List of Subjects

16 CFR Part 3

Administrative practice and procedure.

16 CFR Part 4

Administrative practice and procedure, Freedom of Information, Privacy, Sunshine Act.

For these reasons, Part 3, Subpart E, and Part 4 of Chapter I of Title 16, Code of Federal Regulations, are proposed to be amended as follows.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

1. By revising § 3.43 to read as follows:

§ 3.43 Evidence.

* * * * *

(g) Excluded evidence. When an objection to a question propounded to a witness is sustained, the questioner may make a specific offer of what he expects to prove by the answer of the witness, or the Administrative Law Judge may, in his discretion, receive and report the