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REGISTRATION

Part II

**Department of
Commerce**

**National Oceanic and Atmospheric
Administration**

15 CFR Part 925

**Olympic Coast National Marine Sanctuary
Regulations and Public Hearings on the
Draft Environmental Impact Statement/
Management Plan; Proposed Rule and
Notice**

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****CFR Part 925**

[Docket No. 901064-0264]

RIN 0648-AC63

Olympic Coast National Marine Sanctuary Regulations

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed Rule; notice of proposed designation; summary of draft management plan; and notice of public availability of draft management plan and draft environmental impact statement.

SUMMARY: By this notice, NOAA, as required by section 205(a)(4) of Public Law 100-627, is proposing to designate an approximately 2,605 square nautical mile area of coastal and ocean waters and the submerged lands thereunder, off the Olympic Peninsula of the State of Washington as the Olympic Coast National Marine Sanctuary (the "Sanctuary"). This notice publishes the proposed Designation Document, and summarizes the draft management plan, for the proposed Sanctuary. The draft management plan details the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance, activities for the proposed Sanctuary. By this notice, NOAA proposes regulations to implement the proposed designation and regulate activities consistent with the provisions of the proposed Designation Document. Finally, this notice announces the public availability of the Draft Environmental Impact Statement/Management Plan (DEIS/MP) prepared for the proposed designation. The intended effect of the proposed designation, proposed regulations, and DEIS/MP is to protect the conservation, recreational, ecological, historical, research, educational, and aesthetic qualities of the Olympic Peninsula coastal and ocean waters and the submerged lands thereunder.

DATES: Comments are invited and will be considered if submitted in writing to the address below by November 27, 1991.

ADDRESSES: Comments should be submitted to Joseph A. Uravitch, Chief, or Rafael V. Lopez, Regional Manager, Sanctuaries and Reserves Division,

Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Rafael V. Lopez, Pacific Regional Manager, Chris Ostrom, Senior Project Manager, or Nina Garfield, Program Specialist 202/606-4126.

SUPPLEMENTARY INFORMATION:**I. Introduction**

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.* (the "Act"), authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries to protect their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities.

The Western Washington Outer Coast, recognized for its high natural resource and human-use values, was placed on the National Marine Sanctuaries Program Site Evaluation List (SEL) in August of 1983 (48 FR 35568). In 1988, Congress re-authorized and amended the Act and directed the Secretary to issue a notice of designation with respect to the Western Washington Outer Coast National Marine Sanctuary (hereinafter referred to as the Olympic Coast National Marine Sanctuary), as generally described in the August 1983 **Federal Register** notice, not later than June 30, 1990. (Section 205 (a)(4), Pub. L. 100-627, 102 Stat. 3213).

NOAA held four scoping meetings in Washington State during the week of April 10th-13th, 1989, to solicit public comments on the proposed Sanctuary: Aberdeen on April 10th, Port Angeles on April 11th, Forks on April 12th, and Seattle on April 13th. Notice of the scoping meetings was published in local newspapers. NOAA invited all interested persons to attend, and asked those attending the meeting to comment on readily identifiable issues, suggest additional issues for examination, and provide information useful in evaluating the site's potential as a Sanctuary (54 FR 10398).

Before an area may be designated as a national marine sanctuary, section 303 (16 U.S.C. 1433) of the Act requires the Secretary to find:

(1) The area is of special national significance due to its resource or human-use values;

(2) Existing State and Federal authorities are inadequate to ensure coordinated and comprehensive

conservation and management of the area, including resource protection, scientific research, and public education;

(3) Designation of the area as a national marine sanctuary will facilitate coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education; and

(4) The area is of a size and nature that will permit comprehensive and coordinated conservation and management.

Section 304 (16 U.S.C. 1434) requires the Secretary to issue in the **Federal Register** a notice of the proposal, proposed regulations, and a summary of the draft management plan.

The authority of the Secretary to designate national marine sanctuaries has been delegated to the Under Secretary of Commerce for Oceans and Atmosphere by DOC Organization Order 10-15, section 3.01(z) (Jan. 11, 1988). The authority to administer the other provisions of the Act has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by NOAA Circular 83-38, Directive 05-50 (Sept. 21, 1983, as amended).

Comments on the proposal, proposed regulations, and draft environmental impact statement/management plan are solicited from all interested persons. Holders of, owners of, or future applicants for leases, permits, licenses, approvals, other authorizations, or rights are specifically invited to comment on how they may be affected by the proposed designation of the Sanctuary and particularly §§ 925.8-925.11 of the proposed regulations. Comments are also specifically sought on the adequacy of the regulatory regime to protect Sanctuary resources and qualities, including the exclusion of fishing activities from the activities subject to potential regulation under the terms of the proposed Designation Document.

After the comments received during the comment period have been considered, a final environmental impact statement and management plan will be prepared, and a notice of designation together with final regulations implementing the designation will be published in the **Federal Register**. The designation and regulations will become final and take effect at the close of a 45-day Congressional review period unless a joint resolution disapproving the designation or any of its terms is enacted, or the Governor of the State of Washington certifies to the Secretary of

Commerce that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable terms will not take effect in the area of the Sanctuary lying within the seaward boundary of the State. A document will be published in the *Federal Register* announcing the effective date.

II. Summary of Draft Environmental Impact Statement/Management Plan

The DEIS/MP for the proposed Olympic Coast National Marine Sanctuary sets forth the Sanctuary's location and provides details on the most important resources and uses of the Sanctuary. The DEIS/MP describes the resource protection, research, education and interpretive programs, and details the specific activities to be taken in each program. The DEIS/MP includes a detailed discussion, by program area, of agency roles and responsibilities. The goals and objectives for the proposed Sanctuary are:

Resource Protection

The highest priority management goal is to protect the marine environment, resources and qualities of the proposed Sanctuary. The specific objectives of protection efforts are to: (1) Coordinate policies and procedures among the agencies sharing responsibility for protection and management of resources; (2) encourage participation by interested agencies and organizations in the development of procedures to address specific management concerns (e.g. monitoring and emergency-response programs); (3) develop an effective and coordinated program for the enforcement of Sanctuary regulations in addition to other regulations already in place; (4) promote public awareness of, and voluntary compliance with, Sanctuary regulations and objectives through an educational/interpretive program stressing resource sensitivity and wise use; (5) ensure that the water quality of the Olympic Coast is maintained at a level consonant with Sanctuary designation; (6) establish cooperative agreements and other mechanisms for coordination among all the agencies participating in Sanctuary management; (7) ensure that the appropriate management agency incorporates research results and scientific data into effective resource protection strategies; and (8) reduce threats to Sanctuary resources.

Research Program

Effective management of the proposed Sanctuary requires the initiation of a Sanctuary research program. The purpose of Sanctuary research is to

improve understanding of the Olympic Coast's coastal and offshore environment, resources, and qualities, and to resolve specific management problems. Some of these management problems involve resources common to coastal and offshore waters, and nearby Federal, State, local, and Tribal parks, refuges, and reserves. Research results will both support management efforts to protect Sanctuary resources and qualities, and be incorporated into interpretative programs for visitors and others interested in the Sanctuary.

Specific objectives for the research program are to: (1) Establish a framework and procedures for administering research to ensure that research projects are responsive to management concerns and that results contribute to improved management of the Sanctuary; (2) focus and coordinate data collection efforts on the physical, chemical, geological, and biological oceanography of the Sanctuary; (3) encourage studies that integrate research from the variety of coastal habitats with nearshore and open ocean processes; (4) initiate a monitoring program to assess environmental changes as they occur due to natural and human processes; (5) identify the range of effects on the environment that would result from predicted changes in human activity or natural phenomena; (6) encourage information exchange and cooperation among all the organizations and agencies undertaking management-related research in the Sanctuary to promote more informed management; and (7) incorporate research results into the interpretive/education program in a format useful for the general public.

Education

The goal for Sanctuary education programs is to improve public awareness and understanding of the significance of the Sanctuary and the need to protect its resources and qualities.

The management objectives designed to meet this goal are to: (1) Provide the public with information on the Sanctuary and its goals and objectives, with an emphasis on the need to use Sanctuary resources and qualities wisely to ensure their long-term viability; (2) broaden support for Sanctuary management by offering programs suited to visitors with a diverse range of interests; (3) provide for public involvement by encouraging feedback on the effectiveness of education programs, collaboration with Sanctuary management staff in extension and outreach programs, and participation in other volunteer programs; and (4) collaborate with other

organizations to provide educational services complementary to the Sanctuary program.

Visitor Use

The Sanctuary goal for visitor management is to facilitate, to the extent compatible with the primary objective of resource protection, public and private uses of the resources of the Sanctuary not prohibited pursuant to other authorities.

Specific management objectives are to: (1) Provide relevant information about Sanctuary regulations, use policies, and standards; (2) collaborate with public and private organizations in promoting compatible uses of the Sanctuary; (3) encourage the public who use the Sanctuary to respect sensitive Sanctuary resources and qualities; and (4) monitor and assess the levels of use to identify and control potential degradation of resources and qualities, and minimize potential user conflicts.

The proposed Sanctuary would be managed from a headquarters facility located in the Olympic Peninsula region.

III. Proposed Designation Document

Section 304(a)(4) of the Act requires that the proposed Designation Document include the geographic area proposed to be included within the Sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or aesthetic value; and the types of activities that will be subject to regulation by the Secretary to protect these characteristics. Section 304(a)(4) also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made. Thus the terms of designation serve as a constitution for the Sanctuary.

Proposed Designation Document for the Olympic Coast National Marine Sanctuary

Under the authority of title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (the "Act"), 16 U.S.C. 1431 *et seq.*, the ocean and coastal waters, and the submerged lands thereunder, off the Olympic Peninsula of the State of Washington, as described in Article 2, are hereby designated as the Olympic Coast National Marine Sanctuary (the "Sanctuary") for the purposes of protecting and managing the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area.

Article I. Effect of Designation

The Act authorizes the Secretary of Commerce to issue such final regulations as are necessary and reasonable to implement the designation, including managing and protecting the conservation, recreational, ecological, historical, research, educational, and aesthetic resources and qualities of the designated sanctuary. Section I of article IV of this Designation Document lists those activities that may have to be regulated on the effective date of designation, or at some later date, in order to protect Sanctuary resources and qualities. Thus, the act of designation empowers the Secretary of Commerce to regulate the activities listed in section 1. Listing does not necessarily mean that an activity will be regulated; however, if an activity is not listed it may not be regulated, except on an emergency basis, unless section 1 of Article IV is amended by the same procedures by which the original designation was made.

Article II. Description of the Area

The Olympic Coast National Marine Sanctuary boundary encompasses a total of approximately 2,605 square nautical miles (approximately 8,935 square kilometers) of coastal and ocean waters, and the submerged lands thereunder, off the central and northern coast of the State of Washington. The Sanctuary boundary extends from Koitlah Point due north to the United States/Canada international boundary. The Sanctuary boundary then follows the U.S./Canada international boundary seaward to the 100 fathom isobath. The seaward boundary of the Sanctuary approximates the 100 fathom isobath from the U.S./Canada international boundary to a point due west of the mouth of the Copalis River, cutting across the heads of Nitinat, Juan de Fuca, and Quinault Canyons. The southern boundary of the Sanctuary follows latitude 47° 08' N to the mean high water line, so as to incorporate the Copalis National Wildlife Refuge into the Sanctuary.

The coastal boundary of the Sanctuary is the mean high water line extending up rivers to the point of tidal influence. However, when adjacent to native American reservations, the coastal boundary extends to the mean lower low water line, cutting across the mouths of any rivers. The precise boundary of the Sanctuary is set forth in Appendix I of this designation document.

Article III. Characteristics of the Area That Give It Particular Value

The Sanctuary area is a highly productive, nearly pristine ocean and coastal environment, that is important to the continued survival of several ecologically and commercially important species of fish, seabirds, and marine mammals. The diversity of habitats that make up the Sanctuary area support a great variety of biological communities. This unusually large range of habitat types include: offshore islands and rocks; intertidal pools; erosional features such as rocky headlands, seawalls, and arches; interspersed exposed beaches and protected bays; protected inlets at river mouths; submarine canyons and ridges; the continental shelf, including a broad shallow plateau known as the "plains"; and continental slope environments.

The region's high biological productivity results from areas of seasonal enhanced upwelling along the edge of the continental shelf, especially at submarine canyons, during periods of high solar radiation. In addition, the numerous seawalls and rocky outcrops along the coast, coupled with a large tidal range and wave splash zone, provide a substrate for an extensive rocky intertidal community.

The Sanctuary area provides an essential habitat for a wide variety of marine mammals and birds, and is of particular interest due to the presence of endangered and threatened species that live or migrate through the region. Twenty nine species of marine mammals are reported to breed, rest within, or migrate through the Olympic Coast region. Of particular interest are the migration route of the endangered California gray whale, the presence of the northern sea lion (recently included on the threatened species list), and the reintroduced resident population of sea otters. In addition, the seabird colonies of Washington's outer coast are among the largest in the continental United States and include a number of species listed as endangered or threatened including the short-tailed albatross, peregrine falcon, brown pelican, and Aleutian Canada goose, and one of the largest populations of bald eagles in the continental United States.

The high biological productivity of the coastal and offshore waters in the Sanctuary support valuable fisheries that contribute significantly to the State's economy. The commercially important species of fish include five species of salmon, bottomfish, and shellfish.

In addition to the Sanctuary's value with respect to its biological resources,

the region encompasses significant historical and cultural resources including: Indian village sites, ancient canoe runs, petroglyphs, Indian artifacts, and numerous shipwrecks. The diversity and richness of marine resources suggests that the marine sanctuary designation will provide exceptional opportunities for scientific research in the areas of species interactions, population dynamics, physiological ecology, and marine anthropology. The scientific research encouraged by the sanctuary management plan will, in turn, help support an intensive public education and awareness program that will address the diverse, complex, and sensitive ecosystems in Washington's coastal and oceanic environments.

Article IV. Scope of Regulations

Section 1. Activities Subject to Regulation. The following activities are subject to regulation, including prohibition, to the extent necessary and reasonable, to ensure the protection and management of the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area:

- a. Exploring for, developing, or producing oil, gas or minerals within the Sanctuary;
- b. Discharging or depositing, within the Sanctuary, any material or other matter;
- c. Discharging or depositing, outside the Sanctuary, any material or other matter;
- d. Moving, possessing, injuring, destroying or causing the loss of, or attempting to move, possess, injure, destroy or cause the loss of a Sanctuary historical resource;
- e. Drilling into, dredging, or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary;
- f. Taking any marine reptile, marine mammal, or seabird within or above the Sanctuary;
- g. Flying over the Sanctuary in motorized aircraft at low altitude;
- h. Operating commercial (other than fishing) vessels within the Sanctuary.

Section 2. Consistency with International Law. The regulations governing the activities listed in Section 1 of this Article shall apply to United States-flag vessels and to persons who are citizens, nationals, or resident aliens of the United States, and shall apply to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in

accordance with treaties, conventions, and other agreements to which the United States is a party.

Section 3. Emergencies. Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all activities, including those not listed in section 1 of this Article, are subject to immediate temporary regulation, including prohibition.

Article V. Effect on Other Regulations, Leases, Permits, Licenses, and Rights

Section 1. Fishing Regulations, Licenses, and Permits. Fishing in the Sanctuary, including fishing for shellfish and invertebrates, and mariculture activities, shall not be regulated as part of the Sanctuary management regime authorized by the Act. However, fishing in the Sanctuary may be regulated other than pursuant to the Act by Federal and State authorities of competent jurisdiction, and designation of the Sanctuary shall have no effect on any regulation, permit, or license issued thereunder (e.g., regulations promulgated under the Washington State Department of Fisheries Code, and regulations implementing Fishery Management Plans promulgated under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*). Notwithstanding the above, discharges and deposits from fishing vessels may be regulated pursuant to Article IV, section 1, paragraph (b) and (c); drilling into, dredging, or otherwise altering the seabed of the Sanctuary or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary in connection with fishing and mariculture activities may be regulated pursuant to Article IV, section 1, paragraph (e); and taking of marine reptiles, marine mammals and seabirds may be regulated pursuant to Article IV, section 1, paragraph (f).

Section 2. Other. If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Secretary of Commerce or designee as more protective of Sanctuary resources and qualities shall govern.

Pursuant to section 304(c)(1) of the Act, 16 U.S.C. 1434(c)(1), no valid lease, permit, license, approval, or other authorization issued by any Federal, State, or local authority of competent jurisdiction, or any right of subsistence use or access, may be terminated by the Secretary of Commerce or designee as a result of this designation or as a result of

any Sanctuary regulation, if such authorization or right was in existence on the effective date of this designation. However, the Secretary of Commerce or designee may regulate the exercise of such authorization or right consistent with the purposes for which the Sanctuary is designated.

Accordingly, the prohibitions set forth in the Sanctuary regulations shall not apply to any activity authorized by any valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or to any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that holder of such authorization or right complies with Sanctuary regulations regarding the certification of such authorizations and rights (e.g., notifies the Secretary or designee of the existence of, requests certification of, and provides requested information regarding, such authorization or right) and complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification by the Secretary or designee as deemed necessary to achieve the purposes for which the Sanctuary was designated.

Pending final agency action on the certification, such holder may exercise any such authorization or right without being in violation of any prohibitions set forth in the Sanctuary regulations, provided that the holder is in compliance with Sanctuary regulations regarding certifications.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity authorized by any valid lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, provided that the applicant complies with Sanctuary regulations regarding notification and review of applications (e.g., notifies the Secretary or designee of the application for such authorization and provides requested information regarding such application), the Secretary or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Secretary or designee deems necessary to protect Sanctuary resources and qualities.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity conducted in accordance with the scope, purpose, terms, and conditions of a National Marine

Sanctuary permit issued by the Secretary or designee in accordance with the Sanctuary regulations. Such permits may only be issued if the Secretary or designee finds that the activity for which the permit is applied for will: further research related to Sanctuary resources; further the educational, natural, or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in managing the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary, title to which is held by the State of Washington.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity conducted in accordance with the scope, purpose, terms, and conditions of a Special Use permit issued by the Secretary or designee pursuant to Section 310 of the Act.

If the Sanctuary regulations prohibit the exploration, development, or production of oil, gas, or minerals in any area of the Sanctuary, the Secretary or designee may in no event permit or otherwise approve such activities in that area of the Sanctuary. Under such a prohibition, any leases, licenses, permits, approvals, or other authorizations issued after the effective date of Sanctuary designation authorizing the exploration, development, or production of oil, gas, or minerals in that area of the Sanctuary shall be invalid.

Article VI. Alteration of this Designation

The terms of designation may be modified only by the same procedures by which the original designation is made, including public hearings, consultation with appropriate Federal, State, regional, and local agencies, review by the appropriate Congressional Committees and Governor of the State of Washington, and approval by the Secretary of Commerce or designee.

Appendix I—Proposed Olympic Coast National Marine Sanctuary Boundary Coordinates

(Appendix I will set forth the precise boundaries based on the comments received on the DEIS).

IV. Summary of Proposed Regulations

The proposed regulations would set forth the boundary of the proposed Sanctuary; prohibit a relatively narrow range of activities; establish procedures for applying for National Marine Sanctuary permits to conduct otherwise

prohibited activities; establish certification procedures for existing leases, licenses, permits, approvals, other authorizations, or rights authorizing the conduct of a prohibited activity; establish notification procedures for applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity; set forth the maximum per-day penalties for violating Sanctuary regulations; and establish procedures for administrative appeals.

Specifically, the proposed regulations would add a new part 925 to title 15, Code of Federal Regulations.

Proposed § 925.1 would set forth the purpose of the regulations and briefly summarize the prohibitions contained therein. The purpose of the regulations would be to implement the designation of the Olympic Coast National Marine Sanctuary by regulating activities affecting the Sanctuary consistent with the terms of that designation in order to protect and manage the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area. In brief summary, the regulations would prohibit: (1) discharging or depositing most materials and other matter within the Sanctuary; (2) discharging or depositing any such materials or other matter outside the Sanctuary that subsequently enter the Sanctuary and injure Sanctuary resources and qualities; (3) exploring for, developing, or producing oil, gas, or minerals within the Sanctuary; (4) constructing on, placing objects on, or altering the seabed; (5) removing or damaging historical resources; (6) disturbing or otherwise taking marine reptiles, marine mammals, or seabirds; and (7) flying motorized aircraft at less than 1000 feet above the Sanctuary within one nautical mile of the Flattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges, and the coastal boundary of the Sanctuary. The specific detailed prohibitions are set forth in proposed § 925.5 and are discussed in detail below.

Proposed § 925.2, and proposed Appendix I following proposed § 925.11, would set forth the boundary of the Sanctuary.

Proposed § 925.3 would define various terms used in the regulations. Other terms appearing in the proposed regulations are defined at 15 CFR 922.2, or in the Act.

Proposed § 925.4 would allow all activities, except those prohibited by § 925.5, to be undertaken subject to any emergency regulation promulgated pursuant to § 925.6 and all prohibitions, restrictions, and conditions validly

imposed by any other authority of competent jurisdiction.

If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Director of the Office of Ocean and Coastal Resource Management or designee as more protective of Sanctuary resources and qualities would govern.

Proposed § 925.5 would prohibit a variety of activities and thus make it unlawful to conduct them. However, any of the prohibited activities other than exploring for, developing, or producing oil, gas, or minerals in the Sanctuary could be conducted lawfully if:

(1) Necessary to respond to an emergency threatening life, property, or the environment; pursuant to a National Marine Sanctuary permit issued pursuant to proposed § 925.8; or pursuant to a Special Use permit issued under Section 310 of the Act;

(2) With regard to Department of Defense activities: the activity is being carried out as of the effective date of Sanctuary designation; the activity has no potential for any significant adverse impacts on Sanctuary resources or qualities; or the activity, although having the potential for significant adverse impacts, is exempted by the Director of the Office of Ocean and Coastal Resource Management after consultation between the Director and the Department of Defense (the regulations require that the Department of Defense carry out its activities in a manner that minimizes any adverse impact on Sanctuary resources and qualities and that it, in the event of threatened or actual destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an untoward incident, including but not limited to spills and groundings, caused by it, promptly coordinate with the Director for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the Sanctuary resource or quality);

(3) Pursuant to a certification by the Director of the Office of Ocean and Coastal Resource Management or designee under proposed § 925.9, of a valid lease, permit, license, or other authorization issued by any Federal, State, or local authority of competent jurisdiction and in existence on (or conducted pursuant to any valid right of subsistence use or access in existence on) the effective date of designation of this Sanctuary, subject to complying with any terms and conditions imposed by the Director or designee to achieve

the purposes for which the Sanctuary was designated; or

(4) Pursuant to a valid lease, permit, license, or other authorization issued by any Federal, State, or local authority of competent jurisdiction after the effective date of Sanctuary designation, provided that the Director or designee was notified of the application in accordance with the requirements of proposed § 925.10, the applicant complies with the requirements of § 925.10, the Director or designee notifies the applicant and authorizing agency that he or she does not object to the issuance of the authorization, and the applicant complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities.

Under § 925.5, the prohibitions would apply to: United States-flag vessels, and to persons who are citizens, nationals, or resident aliens of the United States; and to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

The first activity prohibited would be exploring for, developing, or producing oil, gas, or minerals in the Sanctuary. This prohibition is based on the best available scientific information which establishes that the Sanctuary's significant natural resources and qualities are especially sensitive to potential impacts from outer continental shelf oil and gas activities and should be protected. In particular, the sea otters, sea birds, and pinnipeds that use the haul-out sites, kelp forests, and rocks along the Olympic Peninsula and the Sanctuary's high water quality are especially vulnerable to oil and gas activities in the area. A prohibition on oil and gas activities within the proposed Sanctuary boundary would help protect the Sanctuary's resources and qualities. However, if new scientific information, developed through environmental studies that may be performed in the Sanctuary in the future, establishes that oil and gas development can be pursued in the Sanctuary in an environmentally safe manner, the prohibition on oil and gas activities may be removed or otherwise modified by NOAA after the year 2000 pursuant to the Administrative Procedure Act's notice-and-comment rulemaking process and the requirements of the National Environmental Policy Act. A prohibition on oil and gas activities within the Sanctuary is consistent with President

Bush's June 26, 1990, policy statement which excludes the Washington and Oregon Planning Area from consideration for lease sale until after the year 2000. A prohibition on mineral activities within the proposed Sanctuary is necessary to be consistent with the prohibition on drilling into, dredging or otherwise altering the seabed discussed below.

The second activity prohibited would be depositing or discharging, except for valid law enforcement purposes, within the Sanctuary, any material or other matter except for: fish, fish parts, chumming materials, or bait used in, or resulting from, normal fishing operations in the Sanctuary; biodegradable effluents incidental to vessel use generated by marine sanitation devices approved by the U.S. Coast Guard; water generated by routine vessel operations (e.g., cooling water and deck washdown) excluding bilge pumping; or engine exhaust. This prohibition is necessary in order to protect the Sanctuary resources and qualities.

The third activity prohibited would be depositing or discharging, except for valid law enforcement purposes, outside the Sanctuary, any material or other matter, except for the exclusions discussed above for the second activity, that subsequently enter the Sanctuary and injure a Sanctuary resource or quality. The intent of this prohibition is to protect the Sanctuary resources and qualities.

The fourth activity prohibited would be moving, possessing, or injuring, or attempting to move, possess, or injure, except for valid law enforcement purposes, a Sanctuary historical resource. Historical resources in the marine environment are fragile, finite, and non-renewable. This prohibition is designed to protect these resources so that they may be researched, and information about their contents and type made available for the benefit of the public. This prohibition does not apply to accidental moving, possession, or injury during normal fishing operations.

The fifth activity prohibited would be drilling into, dredging, or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary, except as a result of: valid law enforcement activities; anchoring vessels; normal fishing operations; routine harbor maintenance; installation of navigation aids; maintenance of mariculture operations existing as of the effective date of these regulations; and the construction of docks and piers. The intent of this prohibition is to protect the

resources of the Sanctuary from the harmful effects of activities such as, but not limited to, drilling into the seabed, mining, ocean mineral extraction, and dumping of dredge spoils.

The sixth activity prohibited would be taking any marine reptile, marine mammal, or seabird within or above the Sanctuary, except as permitted by regulations promulgated under the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), and the Migratory Bird Treaty Act (MBTA). The term "taking" includes all forms of harassment. The MMPA, ESA, and MBTA prohibit the taking of specific species protected under those Acts. Sanctuary enforcement officials may consider harassment cases pursuant to the MMPA, ESA, and MBTA. While some marine reptiles, marine mammals, and seabirds are protected under the MMPA, ESA, and MBTA, the proposed prohibition would protect all marine reptiles, marine mammals, and seabirds in or above the Sanctuary.

The seventh and final activity prohibited would be flying motorized aircraft at less than 1000 feet above the Sanctuary within one nautical mile of the Flattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges, and the coastal boundary of the Sanctuary, except for valid law enforcement purposes. This prohibition is intended to protect marine birds and mammals from the disturbance and harassment of low-flying aircraft. For example, seabirds and pinnipeds use rocks and islands within the three offshore wildlife refuges, and coastal sea stacks and cliffs, for nesting colonies and resting areas.

Proposed § 925.6 would authorize the regulation, including prohibition, on a temporary basis of any activity where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury.

Proposed § 925.7 would set forth the maximum statutory civil penalty per day for conducting a prohibited activity—\$50,000. Each day of a continuing violation would constitute a separate violation. Proposed § 925.7 would also repeat the provision in section 312 of the Act that any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury, and any vessel used to destroy, cause the loss of, or injure any sanctuary resource is liable in rem to the United States for

response costs and damages resulting from such destruction, loss, or injury.

Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions and denials for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property are set forth in part 904, title 15, Code of Federal Regulations.

Proposed § 925.8 would set forth the procedures for applying for a National Marine Sanctuary permit to conduct an otherwise prohibited activity, and the criteria governing the issuance, denial, amendment, suspension, and revocation of such permits. Permits would be granted by the Director of OCRM or designee if he or she finds that the activity will: Further research related to Sanctuary resources; further the educational, natural, or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in the management of the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary, title to which is held by the State of Washington. In deciding whether to issue a permit, the Director or designee would be required to consider such factors as the professional qualifications and financial ability of the applicant as related to the proposed activity, the duration of the activity and the duration of its effects, the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity, the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, the cumulative effects of the activity, and the end value of the activity. In addition, the Director or designee would be authorized to consider any other factors deemed appropriate.

Proposed § 925.9 would set forth procedures for requesting certifications of leases, licenses, permits, approvals, other authorizations, or rights in existence on the date of Sanctuary designation authorizing the conduct of an activity otherwise prohibited under proposed § 925.5(a)(2)-(7). Pursuant to proposed § 925.5(f), the prohibitions in proposed § 925.5(a)(2)-(7) would not apply to any activity authorized by a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective

date of Sanctuary designation, provided that the holder of such authorization or right complies with the requirements of § 925.9 (e.g., notifies the Director or designee of the existence of, requests certification of, and provides requested information regarding such authorization or right) and complies with any terms or conditions on the exercise of such authorization or right imposed by the Director or designee as deemed necessary to achieve the purposes for which the Sanctuary was designated.

Proposed § 925.9 would allow the holder 90 days from the effective date of Sanctuary designation to request certification. The holder would be allowed to conduct the activity without being in violation of § 925.5(a) (2)-(7) pending final agency action on his or her certification request, provided the holder has complied with all requirements of § 925.9.

Proposed § 925.9 also would allow the Director or designee to request additional information from the holder and to seek the views of other persons.

As a condition of certification, the Director or designee would impose such terms and conditions on the exercise of such lease, permit, license, approval, other authorization, or right as she or he deems necessary to achieve the purposes for which the Sanctuary was designated. This is consistent with the Secretary's authority under section 304(c)(2) of the Act.

The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 940.11.

Any amendment, renewal or extension not in existence as of the date of Sanctuary designation of a lease, permit, license, approval, other authorization or right would be subject to the provisions of § 940.10.

Proposed § 925.10 states that consistent with § 940.5(g), the prohibitions of § 925.5(a) (2)-(7) do not apply to any activity authorized by any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, provided that the applicant notifies the Director or designee of the application for such authorization within 15 days of the date of filing of the application or of the effective date of Sanctuary designation, whichever is later, that the applicant/holder is in compliance with the other provisions of proposed § 925.10, that the Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant

complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities.

Proposed § 925.10 would allow the Director to request additional information from the applicant and to seek the views of other persons.

The applicant may appeal any objection by, or terms or conditions imposed by, the Director or designee to the Assistant Administrator or designee in accordance with the procedures set forth in proposed § 925.11.

An application for an amendment to, an extension of, or a renewal of an authorization would also be subject to the provisions of proposed § 925.10.

Proposed § 925.11 would set forth the procedures for appealing to the Assistant Administrator or designee actions of the Director or designee with respect to: (1) The granting, conditioning, amendment, denial, suspension or revocation of a National Marine Sanctuary permit under proposed § 925.8 or a Special Use permit under section 310 of the Act; (2) the granting, denial, conditioning, amendment, suspension or revocation of a certification under proposed § 925.9; or (3) the objection to issuance or the imposition of terms and conditions under proposed § 925.10.

Thus, the regulatory regime that the proposed regulations would establish provides for multiple uses of the Olympic Coast National Marine Sanctuary while at the same time providing for the protection of Sanctuary resources and qualities.

For example, if a city or town were discharging sewage effluent into coastal waters pursuant to a valid National Pollution Discharge Elimination System (NPDES) permit issued prior to the effective date of Sanctuary designation, the city or town could continue to discharge under the permit without being in violation of the discharge prohibition by requesting certification of the permit under proposed § 925.9. The Director would then impose on the exercise of the NPDES permit such terms and conditions as he or she deems necessary to achieve the purposes for which the Sanctuary was designated. Such discharges would remain subject to all prohibitions, restrictions, and conditions imposed by any other authority of competent jurisdiction.

For another example, if an entity is dumping dredge spoils in Sanctuary waters pursuant to a valid existing permit, the entity could continue to do so by requesting certification in accordance with proposed § 925.9.

Prior to conditioning existing or future leases, permits, licenses, approvals,

other authorizations, or rights, NOAA intends to consult with relevant issuing agencies as well as owners, holders or applicants. NOAA's policy is to encourage best available management practices to minimize non-point source pollution entering the Sanctuary, and to require at a minimum secondary treatment, and sometimes tertiary treatment or more, depending on predicted effects on Sanctuary resources and qualities from industrial and municipal wastewater discharge.

V. Miscellaneous Rulemaking Requirements

Marine Protection, Research, and Sanctuaries Act

Section 304 of the Act requires the Secretary to submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the same day as this notice is published, a prospectus on the proposal which must contain, among other things, the terms of the proposed designation, the proposed regulations, a draft environmental impact statement, and a draft management plan detailing the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement and surveillance activities, for the area. In accordance with section 304, the required prospectus is being submitted to the specified Congressional Committees.

Executive Order 12291

Under Executive Order 12291, the Department of Commerce must judge whether the regulations proposed in this notice are "major" within the meaning of section 1 of the Order, and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. The Administrator of NOAA has determined that the regulations proposed in this notice are not major because, if adopted, they are not likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs 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 with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The regulations proposed in this notice would allow all activities to be conducted in the proposed Sanctuary other than a relatively narrow range of prohibited activities. The procedures proposed in these regulations for applying for National Marine Sanctuary permits to conduct otherwise prohibited activities, for requesting certifications for existing leases, licenses, permits, approvals, other authorizations, or rights authorizing the conduct of a prohibited activity, and for notifying NOAA of applications for licenses, permits, approvals, or other authorizations to conduct a prohibited activity would all act to lessen any adverse economic effect on small entities. The proposed regulations, in total, if adopted in final form as proposed, are not expected to have a significant economic impact on a substantial number of small entities, and the General Counsel of the Department of Commerce has so certified to the Chief Counsel for Advocacy of the Small Business Administration. As a result, an initial Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This proposed rule contains a reduction of information requirement subject to the requirements of the Paperwork Reduction Act (Pub. L. No. 96-511). The collection of information requirement applies to persons seeking permits to conduct otherwise prohibited activities and is necessary to determine whether the proposed activities are consistent with the management goals for the Sanctuary. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. The public reporting burden per respondent for the collection of information contained in this rule is estimated to average 1.83 hours annually. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments from the public on the collection of information requirement are specifically invited and should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: Desk Officer for NOAA); and to Richard Roberts, room 724, 6010 Executive Boulevard, Rockville, MD 20852.

Executive Order 12612

A Federalism Assessment (FA) was prepared for the proposed designation, draft management plan, and proposed implementing regulations. The FA concluded that all would be fully consistent with the principles, criteria, and requirements set forth in sections 2 through 5 of Executive Order 12612, Federalism Considerations in policy Formulation and Implementation (52 FR 41685). Copies of the FA are available upon request to the Office of Ocean and Coastal Resource Management at the address listed above.

National Environmental Policy Act

In accordance with section 304(a)(2) of the Act (16 U.S.C. 1434(a)(2)), and the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370(a)), a Draft Environmental Impact Statement (DEIS) has been prepared for the proposed designation and the proposed regulations. As required by section 304(a)(2), the DEIS includes the resource assessment report required by section 303(b)(3) of the Act (16 U.S.C. 1433(b)(3)), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area. Copies of the DEIS are available upon request to the Office of Ocean and Coastal Resource Management at the address listed above.

Executive Order 12630

This proposed rule, if issued in final form as proposed, would not have takings implications within the meaning of Executive Order 12630 because it would not appear to have an effect on private property sufficiently severe as effectively to deny economically viable use of any distinct legally potential property interest to its owner or to have the effect of, or result in, a permanent or temporary physical occupation, invasion, or deprivation. While the prohibition on the exploration, development, production of oil, gas and minerals from the Sanctuary might have a takings implication if it abrogated an existing lease for Outer Continental Shelf (OCS) tracts within the proposed Sanctuary or an approval of an exploration or development and production plan, no OCS leases have been sold for tracts within the proposed Sanctuary and no exploration or production and development plans have been filed or approved.

List of Subjects in 15 CFR Part 925

Administrative practice and procedure, Coastal zone, Marine

resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research. (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: September 13, 1991.

John J. Carey,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR chapter IX is proposed to be amended as set forth below.

A new part 925 is added to subchapter B (as proposed at 55 FR 31793, August 3, 1990) to read as follows:

**PART 925—OLYMPIC COAST
NATIONAL MARINE SANCTUARY**

Sec.

- 925.1 Purpose and summary.
- 925.2 Boundary.
- 925.3 Definitions.
- 925.4 Allowed activities.
- 925.5 Prohibited activities.
- 925.6 Emergency regulations.
- 925.7 Penalties for commission of prohibited acts.
- 925.8 National Marine Sanctuary permits; application procedures and issuance criteria.
- 925.9 Certification of pre-existing leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.
- 925.10 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.
- 925.11 Appeals of administrative action.

**Appendix I to Part 925—Olympic Coast
National Marine Sanctuary Boundary
Coordinates**

Authority: Sections 302, 303, 304, 305, 307 and 310 of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (16 U.S.C. 1431 *et seq.*).

§ 925.1 Purpose and summary.

The purpose of the regulations in this part is to implement the designation of the Olympic Coast National Marine Sanctuary by regulating activities affecting the Sanctuary consistent with the terms of that designation in order to protect and manage the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area. In brief summary, this part prohibits: discharging or depositing most materials and other matter within the Sanctuary; discharging or depositing any such materials or other matter outside the Sanctuary that subsequently enter the Sanctuary and injure Sanctuary resources and qualities; exploring for, developing, or producing oil, gas, or minerals within the Sanctuary;

constructing on, placing objects on, or altering the seabed; removing or damaging historical resources; disturbing or otherwise taking marine turtles, marine mammals, or seabirds; and flying motorized aircraft at less than 1000 feet above the Sanctuary within one nautical mile of the Flattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges, and the coastal boundary of the Sanctuary. The specific detailed prohibitions are set forth in § 925.5.

§ 925.2 Boundary.

The Olympic Coast National Marine Sanctuary consists of an area of approximately 2,605 square nautical miles of coastal and ocean waters, and the submerged lands thereunder, off the central and northern coast of Washington. The Sanctuary boundary extends from Koiitlah Point due north to the United States/Canada International boundary. The Sanctuary boundary then follows the U.S./Canada international boundary seaward to the 100 fathom isobath. The seaward boundary of the Sanctuary approximates the 100 fathom isobath from the U.S./Canada international boundary to a point due west of the mouth of the Copalis River, cutting across the heads of Nitinat, Juan de Fuca, and Quinault Canyons. The northern boundary of the Sanctuary follows latitude 47° 08' N to the mean high water line, so as to incorporate the Copalis National Wildlife Refuge into the Sanctuary. The coastal boundary of the Sanctuary is the mean high water line extending up rivers to the point of tidal influence. However, when adjacent to native American reservations, the coastal boundary extends to the mean lower low water line, cutting across the mouths of any rivers. The precise boundary of the Sanctuary appears in appendix I to this part.

§ 925.3 Definitions.

(a) *Act* means Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (16 U.S.C. §§ 1431 *et seq.*).

(b) *Administrator* or *Under Secretary* means the Administrator of the National Oceanic and Atmospheric Administration/Under Secretary of Commerce for Oceans and Atmosphere.

(c) *Assistant Administrator* means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

(d) *Director* means the Director of the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

(e) *Commercial vessel* means any vessel engaged in the trade of carrying cargo, including, but not limited to: tankers and other bulk carriers and barges; vessels used in seismic surveys; and vessels engaged in the trade of servicing offshore installations.

(f) *Effective date of Sanctuary designation* means the date this part implementing the designation of the Sanctuary becomes effective.

(g) *Historical resource* means a resource possessing historical, cultural, archaeological or paleontological significance, including sites, structures, districts, and objects significantly associated with, or representative of, earlier people, cultures, and human activities and events.

(h) *Injure* means change adversely, either in the long- or short-term, a chemical, biological, or physical attribute of, or the viability of. To "injure" therefore includes, but is not limited to, to cause the loss of and to destroy.

(i) *Person* means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, or any State or local unit of government, or of any foreign government.

(j) *Sanctuary* means the Olympic Coast National Marine Sanctuary.

(k) *Sanctuary quality* means a particular and essential characteristic of the Sanctuary, including, but not limited to, water quality and air quality.

(l) *Sanctuary resource* means any living or nonliving resource of the Sanctuary that contributes to its conservation, recreational, ecological, historical, research, educational, or aesthetic value, including, but not limited to, the substratum, invertebrates, algae, plankton, fish, seabirds, marine reptiles, marine mammals, and historical resources.

(m) *Taking any marine reptile, marine mammal, or seabird* means harassing, hunting, capturing, collecting, or killing, or attempting to harass, hunt, capture, collect, or kill, any marine reptile, marine mammal, or seabird, including, but not limited to, any of the following activities: collecting dead marine reptiles, marine mammals, or seabirds, or parts thereof; restraining or detaining any marine reptile, marine mammal, or seabird, no matter how temporary; tagging a marine reptile, marine mammal, or seabird; feeding a marine reptile or marine mammal; operating an aircraft or vessel, or doing any other act, that results in the disturbance or molestation of marine reptiles, marine mammals, or seabirds.

(n) *Vessel* means watercraft of any description capable of being used as a means of transportation in the waters of the Sanctuary.

(o) Other terms appearing in this part are defined at 15 CFR 922.2 or in the Act.

§ 925.4 Allowed activities.

All activities except those prohibited by § 925.5 may be undertaken subject to any emergency regulation promulgated pursuant to § 925.6 and all prohibitions, restrictions, and conditions validly imposed by any other authority of competent jurisdiction. If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Director or designee as more protective of Sanctuary resources and qualities shall govern.

§ 925.5 Prohibited activities.

(a) Except as specified in paragraphs (c) through (h) of this section, the following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted:

(1) Exploring for, developing, or producing oil, gas, or minerals in the Sanctuary. This prohibition will be reviewed, pursuant to the notice-and-comment rulemaking process provided in the Administrative Procedure Act, after the year 2000 and the completion of environmental studies on the impacts of oil and gas activities on Sanctuary resources and qualities;

(2) Discharging or depositing, except for valid law enforcement purposes, within the Sanctuary, any material or other matter except:

(i) Fish, fish parts, chumming materials or bait used in, or resulting from, normal fishing operations in the Sanctuary;

(ii) Biodegradable effluents incidental to vessel use generated by marine sanitation devices approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1322);

(iii) Water generated by routine vessel operations (*e.g.*, cooling water, deck washdown, and graywater as defined by section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1322), excluding bilge pumping; or

(iv) Engine exhaust;

(3) Discharging or depositing, except for valid law enforcement purposes, outside the Sanctuary, any material or other matter, other than those listed in paragraphs (a)(2) (i) through (iv) of this section, that subsequently enter the

Sanctuary and injure a Sanctuary resource or quality:

(4) Moving, possessing or injuring, or attempting to move, possess, or injure, except for valid law enforcement purposes, a Sanctuary historical resource. This prohibition does not apply to accidental moving, possession or injury during normal fishing operations;

(5) Drilling into, dredging, or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary. This prohibition does not apply if any of the above results from: valid law enforcement activities, anchoring vessels, normal fishing operations, routine harbor maintenance, installation of navigation aids, maintenance of mariculture operations existing as of the effective date of this part, or the construction of docks and piers;

(6) Taking any marine reptile, marine mammal, or seabird in or above the Sanctuary, except as permitted by regulations promulgated under the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), and the Migratory Bird Treaty Act (MBTA); and

(7) Flying motorized aircraft at less than 1000 feet above the Sanctuary within one nautical mile of the coastal boundary of the Sanctuary and the Lattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges, except for valid law enforcement purposes.

(b) The prohibitions in paragraph (a) of this section apply to United States-flag vessels and to persons who are citizens, nationals or resident aliens of the United States; and to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

(c) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any activity necessary to respond to an emergency threatening life, property, or the environment.

(d)(1) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to activities being carried out by the Department of Defense as of the effective date of Sanctuary designation.

Such activities shall be carried out in a manner that minimizes any adverse impact on Sanctuary resources and qualities. The prohibitions in paragraphs (a)(2) through (a)(7) of this section, do not apply to any new activities carried

out by the Department of Defense that do not have the potential for any significant adverse impacts on Sanctuary resources or qualities. Such activities shall be carried out in a manner that minimizes any adverse impact on Sanctuary resources and qualities. New activities with the potential for significant adverse impacts on Sanctuary resources or qualities may be exempted from the prohibitions in paragraphs (a)(2) through (a)(7) by the Director or designee after consultation between the Director or designee and the Department of Defense. If it is determined that an activity may be carried out, such activity shall be carried out in a manner that minimizes any adverse impact on Sanctuary resources and qualities.

(2) In the event of threatened or actual destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an untoward incident, including but not limited to spills and groundings, caused by a component of the Department of Defense, the cognizant component shall promptly coordinate with the Director or designee for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the Sanctuary resource or quality.

(e) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any activity executed in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to § 925.8 of this part, or a Special Use permit issued pursuant to Section 310 of the Act.

(f) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any activity authorized by a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the owner or holder of such authorization or right complies with § 925.9 and complies with any terms and conditions on the exercise of such authorization or right imposed by the Director or designee to achieve the purposes for which the Sanctuary was designated.

(g) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any activity authorized by any lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation, provided that the applicant complies with § 925.10, the Director or designee

notifies the applicant and the authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities.

(h) Notwithstanding paragraphs (e), (f), and (g) of this section, in no event may the Director or designee issue a National Marine Sanctuary permit under § 925.8 or a Special Use permit under section 310 of the Act authorizing, or otherwise approve, the exploration for, development, or production of oil, gas or minerals in any area of the Sanctuary for which the exploration for, development, or production of oil, gas or minerals is prohibited by paragraph (a)(1) of this section. Any leases, licenses, permits, approvals, or other authorizations authorizing the exploration, development, or production of oil, gas or minerals in the Sanctuary issued after the effective date of Sanctuary designation shall be invalid with respect to any area of the Sanctuary for which the exploration for, development, or production of oil, gas or minerals is prohibited by paragraph (a)(1) of this section.

§ 925.6 Emergency regulations.

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss or injury, any and all activities are subject to immediate temporary regulation, including prohibition.

§ 925.7 Penalties for commission of prohibited acts.

(a) Each violation of the Act, any regulation in this Part, or any permit issued pursuant thereto, is subject to a civil penalty of not more than \$50,000. Each day of a continuing violation constitutes a separate violation.

(b) Regulations setting forth the administrative procedures governing the assessment of civil penalties, enforcement hearings and appeals, permit sanctions and denials for enforcement reasons, and the issuance of written warnings are set forth in 15 CFR part 904.

(c) Under section 312 of the Act, any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury, and any vessel used to destroy, cause the loss of, or injure any sanctuary resource is liable in rem to the United States for

response costs and damages resulting from such destruction, loss, or injury.

§ 925.8 National Marine Sanctuary permits; application procedures and issuance criteria.

(a) A person may conduct an activity otherwise prohibited by § 925.5(a) (2) through (7) if such activity is conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section.

(b) Applications for such permits should be addressed to the Director of the Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. An application must include a detailed description of the proposed activity including a timetable for completion of the activity and the equipment, personnel, and methodology to be employed. The qualifications and experience of all personnel must be set forth. The application must set forth the potential effects of the activity, if any, on Sanctuary resources and qualities. Copies of all other required licenses, permits, approvals, or other authorizations must be attached.

(c) Upon receipt of a complete application, the Director or designee may request such additional information from the applicant as he or she deems necessary to act on the application and may seek the views of any persons.

(d) The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as deemed appropriate, to conduct an activity otherwise prohibited by § 925.5(a) (2) through (7), if the Director finds that the activity will: further research related to Sanctuary resources; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in managing the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary, title to which is held by the State of Washington. In deciding whether to issue a permit, the Director shall consider such factors as: the professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and the duration of its effects, the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extent

to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities; the cumulative effects of the activity; and the end value of the activity. In addition, the Director may consider such other factors as he or she deems appropriate.

(e) A permit issued pursuant to this section is nontransferable.

(f) The Director may amend, suspend, or revoke a permit issued pursuant to this section or deny a permit application pursuant to this section, in whole or in part, if it is determined that the permittee has acted in violation of the terms of the permit or of this part or for other good cause. Any such action shall be communicated in writing to the permittee or applicant and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are set forth in subpart D of 15 CFR part 904.

(g) It shall be a condition of any permit issued that the permit, or a copy thereof, be displayed on board all vessels or aircraft used in the conduct of the activity.

(h) The Director or designee may make it a condition of any permit issued that any information obtained under the permit be made available to the public.

(i) The Director or designee may make it a condition of any permit issued that a NOAA official be allowed to observe any activity conducted under the permit and/or that the permit holder submit one or more reports on the status, progress, or results of any activity authorized by the permit.

(j) The applicant for or holder of a National Marine Sanctuary permit may appeal the denial, conditioning, amendment, suspension, or revocation of the permit in accordance with the procedures set forth in § 925.11.

§ 925.9 Certification of pre-existing leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.

(a) The prohibitions set forth in § 925.5(a) (2) through (7) do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that:

(1) The holder of such authorization or right notifies the Director or designee, in writing, within 90 days of the effective date of Sanctuary designation, of the existence of such authorization or right

and requests certification of such authorization or right;

(2) The holder complies with the other provisions of this section; and

(3) The holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director or designee, to achieve the purposes for which the Sanctuary was designated.

(b) The holder of a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, or of any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, authorizing an activity prohibited by § 925.5(a) (2) through (7) may conduct the activity without being in violation of § 925.5(a) (2) through (7), pending final agency action on his or her certification request, provided the holder is in compliance with this section.

(c) Any holder of a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, may request the Director or designee to issue a finding as to whether the activity for which an authorization has been issued is prohibited under § 925.5(a) (2) through (7).

(d) Requests for findings or certifications should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. A copy of the lease, permit, license, approval or other authorization must accompany the request.

(e) The Director or designee may request additional information from the certification requester as or he deems necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the Sanctuary was designated. The information requested must be received by the Director or designee within 45 days of the postmark date of the request. The Director or designee may seek the views of any persons on the certification request.

(f) The Director or designee may amend any certification made under this section whenever additional information

becomes available justifying such an amendment.

(g) The Director or designee shall communicate any decision on a notification request or any action taken with respect to any certification made under this section, in writing, to both the holder of the certified lease, permit, license, approval, other authorization or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(h) Any time limit prescribed in or established under this section may be extended by the Director or designee for good cause.

(i) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 925.11.

(j) Any amendment, renewal or extension not in existence as of the date of Sanctuary designation of a lease, permit, license, approval, other authorization or right is subject to the provisions of § 925.10.

§ 925.10 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.

(a) The prohibitions set forth in § 925.5(a) (2) through (7) do not apply to any activity authorized by any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any Federal, State or local authority of competent jurisdiction, provided that:

(1) The applicant notifies the Director or designee, in writing, of the application for (or for an amendment to, for a renewal of, or for an extension of) such authorization within fifteen (15) days of the date of application or of the effective date of Sanctuary designation, whichever is later;

(2) The applicant is in compliance with the other provisions of this section;

(3) The Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of (or the amendment to, the renewal of, or the extension of) the authorization; and

(4) The applicant complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities.

(b) Any potential applicant for (or for an amendment to, for a renewal of, or for an extension of) a lease, permit, license, approval or other authorization on any Federal, State or local authority may request the Director or designee to issue a finding as to whether the activity for which an application is intended to be made is prohibited by § 925.5(a) (2) through (7).

(c) Notifications of filings for applications and requests for findings should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. A copy of the application must accompany the notification.

(d) The Director or designee may request additional information from the applicant as he or she deems necessary to determine whether to object to issuance of such lease, license, permit, approval or other authorization (or to issuance of an amendment to, or to the extension or renewal of such authorization), or what terms and conditions are necessary to protect Sanctuary resources and qualities. The information requested must be received by the Director or designee within 45 days of the postmark date of the request. The Director or designee may seek the views of any persons on the application.

(e) The Director or designee shall notify, in writing, the agency to which application has been made of his or her review of the application and possible objection to issuance. After review of the application and information received with respect thereto, the Director or designee shall notify both the agency and applicant, in writing, whether he or she has an objection to issuance, extension, or renewal and what terms and conditions he or she deems necessary to protect Sanctuary resources and qualities. The Director or designee shall state the reasons for any objection or the reason(s) why any term(s) and condition(s) are deemed necessary to protect Sanctuary resources and qualities.

(f) The Director or designee may amend the terms and conditions deemed necessary to protect Sanctuary resources and qualities whenever additional information becomes available justifying such an amendment.

(g) Any time limit prescribed in or established under this section may be extended by the Director or designee for good cause.

(h) The applicant may appeal any objection by, or terms or conditions imposed by, the Director, to the Assistant Administrator or designee in accordance with the procedure set forth in § 925.11.

§ 925.11 Appeals of administrative action.

(a) Except for permit actions taken for enforcement reasons (*see* subpart D of

15 CFR part 904 for applicable procedures), an applicant for, or a holder of, a § 925.8 National Marine Sanctuary permit, an applicant for, or holder of, a section 310 of the Act Special Use permit, a § 925.9 certification requester, or a § 925.10 applicant (hereinafter appellant) may appeal to the Assistant Administrator or designee:

(1) The grant, denial, conditioning, amendment, suspension, or revocation by the Director or designee of a National Marine Sanctuary or Special Use permit;

(2) The conditioning, amendment, suspension, or revocation of a certification under § 925.9; or

(3) The objection to issuance or the imposition of terms and conditions under § 925.10.

(b) An appeal under paragraph (a) of this section should be in writing, state the action(s) appealed and the reason(s) for the appeal, and be received within 30 days of the action(s) by the Director or designee. Appeals should be addressed to the Assistant Administrator, Office of Ocean and Coastal Resource Management, ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235.

(c) While the appeal is pending, appellants requesting certification pursuant to § 925.9 who are in compliance with such section may continue to conduct their activities without being in violation of the prohibitions in § 925.5(a) (2) through (7). All other appellants may not conduct their activities without being subject to the prohibitions in § 925.5(a).

(d) The Assistant Administrator or designee may request the appellant to submit such information as the Assistant Administrator or designee deems necessary in order for him or her to decide the appeal. The information requested must be received by the Assistant Administrator or designee within 45 days of the postmark date of the request. The Assistant Administrator or designee may seek the views of any other persons. The Assistant Administrator or designee may hold an informal hearing on the appeal. If the Assistant Administrator or designee determines that an informal hearing should be held, the Assistant Administrator or designee may designate an officer before whom the hearing shall be held. The hearing officer shall give notice in the **Federal Register** of the time, place, and subject matter of the hearing. The appellant and

the Director or designee may appear personally or by counsel at the hearing and submit such material and present such arguments as deemed appropriate by the hearing officer. Within 60 days after the record for the hearing closes, the hearing officer shall recommend a decision in writing to the Assistant Administrator or designee.

(e) The Assistant Administrator or designee shall decide the appeal using the same regulatory criteria as for the initial decision and shall base the appeal decision on the record before the

Director and any information submitted regarding the appeal, and, if a hearing has been held, on the record before the hearing officer and the hearing officer's recommended decision. The Assistant Administrator or designee shall notify the appellant of the final decision and the reason(s) therefore in writing. The Assistant Administrator or designee's decision shall constitute final agency action for the purposes of the Administrative Procedure Act.

(f) Any time limit prescribed in or established under this section other than

the 30 day limit for filing an appeal may be extended by the Assistant Administrator, designee, or hearing officer for good cause.

Appendix I to Part 925—Olympic Coast National Marine Sanctuary Boundary Coordinates

Note: Appendix I will set forth the precise boundary based on the comments received on the DEIS/MP.

[FR Doc. 91-22565 Filed 9-19-91; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Public Hearings on the Draft Environmental Impact Statement/Management Plan for the Proposed Olympic Coast National Marine Sanctuary

AGENCY: Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: NOAA, pursuant to section 205(a)(4) of Public Law 100-627, and as required by section 304(a)(3) of Public Law 92-532, as amended, is proposing to designate an approximately 2,605 square nautical mile area of coastal and ocean waters, and the submerged lands thereunder, off the Olympic Peninsula of the State of Washington as a National Marine Sanctuary. This notice announces NOAA's intent to hold public hearings on a Draft Environmental Impact Statement/Management Plan (DEIS/MP) for the proposed Olympic Coast National Marine Sanctuary. The purpose of the hearings is to receive the views of interested parties on the proposed designation and the DEIS/MP. The views expressed at these hearings, as well as written comments received on the DEIS/MP, will be considered in the preparation of the Final Environmental Impact Statement/Management Plan (FEIS/MP).

DATES: The hearings will be held on November 6, 1991, from 7 to 10 p.m. at Peninsula Community College, 1502 East Lauridsen Blvd., Port Angeles, Washington; on November 7, 1991, from 7 to 10 p.m. at NOAA Administration Auditorium, Building 9, 7600 Sandpoint Way NE., Seattle, Washington; on November 12, 1991, from 7 to 10 p.m. at the General Administration Building, Auditorium, 11th and Columbia, Olympia, Washington; on November 13, 1991, from 7 to 10 p.m. at Grays Harbor Community College, 1620 E.P. Smith Drive, Room 220, Aberdeen, Washington; on November 14, 1991, from 7 to 10 p.m. at Peninsula Church Center, 5000 N Street, Seaview, Washington; and on November 20, 1991 from 1 to 4 p.m. at room 4830, U.S.

Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. All interested persons are invited to attend.

FOR FURTHER INFORMATION CONTACT: Mr. Rafael V. Lopez, Regional Manager,

or Mr. Chris Ostrom, Senior Project Manager, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, N.W., Suite 714, Washington, DC 20235, (202/606-4126); or Ms. Linda Maxson, On-site Liaison, Sanctuaries and Reserves Division, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE., Seattle, WA 98115, (206/526-6304). Copies of the DEIS/MP are available upon request to the Sanctuaries and Reserves Division.

SUPPLEMENTARY INFORMATION: In the *Federal Register* on March 13, 1989, NOAA announced the Western Washington Outer Coast as an active candidate for National Marine Sanctuary Designation and the intent to prepare a DEIS/MP and to hold public scoping meetings on the proposal to designate the Western Washington Outer Coast as a National Marine Sanctuary (54 FR 10398). The announcement also described the study area, the natural resources, human uses, existing protection of marine resources and the designation process for the proposed Sanctuary.

NOAA has prepared the DEIS/MP in accordance with the National Marine Sanctuary Program Regulations (15 CFR Part 922); and published in the *Federal Register* on September 20, 1991, a Notice of Public Availability of the DEIS/MP; and a Notice of Proposed Rule, Notice of Proposed Designation and Summary of Draft Management Plan. Based on the analysis of information collected from the public scoping meetings, consultations with Federal, State and local agencies and research scientists, among others, and literature review, NOAA intends to designate an approximately 2,605 square nautical mile (sq. nmi) area of coastal and ocean waters on the Western Washington Outer Coast, and the submerged lands thereunder, as the Olympic Coast National Marine Sanctuary. The preferred boundary alternative encompasses the coastal and ocean waters over the continental shelf off the Olympic Peninsula, extending from the U.S./Canada EEZ boundary, westward to the edge of the continental shelf (approximating the 100 fathom depth contour, but including the heads of submarine canyons), and southward to include the southern tip of the Copalis National Wildlife Refuge.

Five boundary alternatives (including the preferred alternative) are presented in the DEIS/MP. The smallest boundary alternative (approximately 392 sq. nmi)

encompasses the coastal waters adjacent to Olympic National Park and surrounding the Quillayute Needles, Flattery Rocks, and Copalis National Wildlife Refuges. The other boundary alternatives are based on seaward expansions to the 50 fathom and 100 fathom isobaths, and southerly expansions to the mouth of the Columbia River. The total areas encompassed range from approximately 1,000 to 4,400 square nautical miles. The environmental consequences of each of these five boundary alternatives are described in the DEIS/MP.

The designation of the Olympic Coast area as a National Marine Sanctuary would provide an integrated program of resource protection, research and education to assist in the long-term management and protection of its resources. Resource protection will involve cooperation with other agencies in formulating comprehensive resource protection policies and procedures including the enforcement of regulations.

Seven regulations are proposed governing: hydrocarbon and mineral activities; discharges and deposits (both from within and outside of Sanctuary boundaries); overflights; alteration of or construction on the seabed (including, but not limited to drilling or digging into, or dredging the seabed); historical resources; and marine mammals, marine reptiles, and seabirds. Commercial vessel traffic (other than fishing) is potentially subject to regulation. Alternatives to the proposed regulations include status quo and non-regulatory options.

Research planned for the Sanctuary will include conducting baseline studies, as well as monitoring, analysis and prediction projects to provide information needed to further understanding of marine ecosystems, and to aid in resolving management issues. Education programs planned for the Sanctuary will be directed at improving public awareness of the Sanctuary's resources and the need to manage them as wisely as possible to ensure their viability. The Sanctuaries and Reserves Division (SRD) is responsible for the overall management of the proposed Sanctuary. The SRD, represented by an on-site Sanctuary Manager, will coordinate its on-site activities through cooperative agreements with the State, regional, local and other Federal agencies. A Sanctuary Advisory Committee (SAC) will be established to assist the interested groups and agencies in participating in Sanctuary management, and advise the on-site Sanctuary Manager. The SRD will determine the

structure, composition and functions of the SAC. The general administrative framework and specific roles of each agency in Sanctuary management are described in the DEIS/MP.

Federal Domestic Assistance Catalog
Number 11.429 Marine Sanctuary Program.

Dated: September 13, 1991.

John J. Carey,

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

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