after which improved transponder and associated pressure altitude reporting equipment will be required for flight within Terminal Control Areas (TCA's).

Notice No. 74-17 was published in the Federal Register on April 17, 1974 (39 FR 13735), stating that the Federal Aviation Administration was considering an amendment to Part 91 of the Federal Aviation regulations to postpone the effective compliance dates for operation within Terminal Control Areas by six months.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. Approximately one hundred public comments were received, which were generally unanimous in support of the proposed postponement.

One commentator agreed with the six-month extension in Group 1 TCA's to January 1, 1978, but believed that the requirement for Group II and Group III TCA's should also be effective on the same date as that for Group 1 TCA's rather than as of July 1, 1978. He expressed the opinion that there was no information available to indicate unforeseen difficulties in meeting the requirement after January 1, 1978. The information currently available to the FAA, including the most recent comments to the subject notice (74-17), clearly indicates, however, that there is a serious equipment supply problem which would prevent meeting the present schedule.

Many of the commentators suggested that a one-year extension would be more appropriate than the six-month extension. At present, the FAA believes that a six-month extension will be adequate to permit introduction of reliable equipment into the fleet.

Since this amendment relieves a restriction it may be made effective less than 30 days after publication in the Federal Register.

(Sees. 307, 218(a), Federal Aviation Act of 1958, 49 U.S.C. 1348, 1354(a); sec. 6(c) of the Department of Transportation Act, 49 U.S.C. 1509(c))

In consideration of the foregoing, §§ 91.24(b) (1), (2) and (3) of Part 91 of the Federal Aviation Regulations is amended to read as follows, effective June 27, 1974:

§ 91.24 ATC transponder equipment.
.
(b) Controlled airspace: all aircraft.
.
 . . .

(2) After July 1, 1975, in Group II Terminal Control Areas governed by § 91.90 (a);

(3) After July 1, 1975, in Group II Terminal Control Areas governed by § 91.90 (b);

(3) After July 1, 1975, in Group III Terminal Control Areas governed by § 91.90 (c), except as provided therein; and

§§ 91.24, 91.25 and 91.26, as so amended, are effective as of the date they are published in the Federal Register.

Issued in Washington, D.C., on June 24, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc. 74-14798 Filed 6-26-74; 8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 922—MARINE SANCTUARIES

The National Oceanic and Atmospheric Administration (NOAA) on March 29, 1974 (39 FR 10285), proposed guidelines pursuant to Title III of the Marine Protection Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1061) and the delegation of authority by the Secretary of Commerce dated March 13, 1974, authorizing the Administrator of NOAA to exercise the authority granted under the Title, for the purpose of setting forth the procedure by which areas may be nominated as marine sanctuaries and the concepts, procedures, and requirements for the processing of nominations and the selection, designation, and operation of a marine sanctuary.

Written comments were to be submitted to the Office of Coastal Management, National Oceanic and Atmospheric Administration before May 1, 1974, and consideration has been given these comments.

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

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

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

In addition, recognizing the key role of state(s) in areas adjacent to but outside their jurisdiction, the Secretary (Administrator NOAA) will consult with the state(s) and give due consideration to the views of the responsible state officials involved.

Where areas outside the territorial sea are involved, the State Department is to negotiate with other Governments to achieve protection of a sanctuary to the maximum extent possible.

The Title recognizes that a program will be undertaken by NOAA to identify areas for marine sanctuaries and that nominations will be made by states, local governments, organizations, industry and individuals. Public participation will be encouraged during the study and analysis phase leading to designation. Prior to a designation of a marine sanctuary, public hearings must be held in the coastal areas most affected by the designation. Regulations are to be promulgated for each such designated sanctuary.

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

The National Oceanic and Atmospheric Administration is publishing hereafter the final guidelines describing procedures for nomination, processing of the nominations, designation, and certification of activities within marine sanctuaries. The final guidelines hereafter will be revised from the proposed guidelines based on comments received. A total of twenty-two (22) states, agencies, organizations and individuals submitted responses to the proposed Title III Guidelines published in the Federal Register on March 19, 1974. Of these responses received, four (4) were wholly favorable as to the nature and content of the guidelines as they appear in the Federal Register on March 19, 1974. Eighteen (18) commentators submitted comments concerning the proposed title guidelines.

The following analysis summarizes key comments received on various sections of the proposed guidelines and presents the rationale for the changes made:

1. Introduction. Concern was expressed that overly large areas of the coastal waters would be made marine sanctuaries. It is not expected, however, that these areas will be only large enough to permit accomplishment of the purposes specified in the Act.

In each area designated, some activities will be totally prohibited, others will be modified; and others will not be permitted. The size of the area will depend upon the proposal, an analysis of the factual information, the outcome of the draft environmental impact statement process, and public hearings.

Another commentator indicated that the guidelines failed to properly implement the policy underlying the Title. With this single exception, the consensus
of the reviewers was that the proposed guidelines were basically in harmony with the legislative intent and authority. However, it was stated that multiple use of various sanctuaries seem to provide for extensive use that is neither intended nor permitted by the statute. An opposite point of view was expressed by commentators that the guidelines implied too restrictive a view of multiple use.

The question of multiple use will need to be examined on a case by case basis. The legislative history of the Title clearly indicates that multiple use of each area should be maximized consistent with the primary purpose. Additionally, the statute clearly indicates, as a safeguard that "no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary (Administrator) shall certify that the permitted activity is consistent with the purposes of the said title and can be carried out within the regulations promulgated..."

2. Programmatic objectives. One reviewers indicated that programmatic objectives § 922.2 were provided for protection of geological and oceanographic features whereas the classification § 922.10 did not. The classification § 922.10 has been modified to provide for those purposes. It was suggested that estuarine sanctuaries be added to the list of public areas in § 922.2(b). The phrase “other protected areas” covers not only estuarine sanctuaries but also other areas held for the public benefit. The intent is to complement public and private lands that are held and managed for purposes analogous to Title III.

5. Definitions. Concern was expressed that the definition of multiple use did not clearly express the concept that a sanctuary will have a primary purpose to which other uses must be compatible. The definition has been modified accordingly.

4. Effect of Marine Sanctuary Designation for Waters Outside of U.S. Jurisdictional Limits. It was indicated that § 922.12 did not adequately reflect the 1958 Geneva Convention on the High Seas. The Department of State made specific recommendations in lieu of the proposed section. Their recommendation has been incorporated verbatim.

5. Nominations. Several commentators asserted that the nomination process was not clearly elaborated and that no indication exists that NOAA is charged with the responsibility to take an active role in seeking areas for designation as marine sanctuaries.

Changes have been made to explain how interested individuals and organizations may obtain information as to nominations and their status and to explain how NOAA will stimulate and coordinate a Federal program.

6. Analysis of nominations. Concern was expressed that public was not included in the analytic process early enough time and that the guidelines were ambiguous as to the preparation of a draft environmental impact statement and public notice thereof.

Changes have been made to indicate that a draft environmental impact statement will be prepared and that public notice will announce its public availability and solicit comment.

7. Consultation. One commentator indicated the guidelines did not elaborate how differences between a state and NOAA would be resolved. Where the proposed sanctuary is within areas over which the state has jurisdiction the Governor has veto power over the action. It is anticipated that in all considerations the state(s) affected will be fully involved in the process, thus differences can be resolved at each step of the process.

8. Revision and certification. Concern was expressed that provisions were omitted for revising an established sanctuary and for certification of proposed activities in a sanctuary. New sections have been added in order to satisfy these concerns.

T. P. GLEITER, Assistant Administrator for Administration.

A new Part 922 is added, to read as follows:

Subpart A—General

Sec. 922.1 Policy and objectives.

922.2 Programmatic objectives.

Subpart B—Classifications of Marine Sanctuaries

922.10 Classifications.

922.11 Definitions.

922.12 Effect of marine sanctuary designation on waters outside of U.S. jurisdictional limits.

922.13 Effect of international principles involving freedom of the seas.

Subpart C—Nomination of Candidates

922.20 Nominations.

922.21 Analysis of nomination.

922.22 Public participation.

922.23 Consultation process.

922.24 Enforcement.

922.25 Operation.

922.26 Revision.

922.27 Certification of other activities.

Subpart D—Enforcement

922.30 Civil penalties and violations.

922.31 Notice of violation.

922.32 Enforcement hearings.

922.33 Determinations.

922.34 Final action.


Subpart A—General

§ 922.1 Policy and objectives.

(a) The Marine Sanctuaries Program shall be conducted under the expressed policy of the Title which is to designate areas as far seaward as the outer edge of the continental shelf as defined in the Convention of the Continental Shelf, 15 U.S.T. 74; TIAS 5578, of other coastal waters where the tide ebb and flow, or of the Great Lakes and their connecting waters, which the Administrator determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values.

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

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

§ 922.2 Programmatic objectives.

Marine Sanctuaries may be designed to protect, preserve, or enhance areas for their conservation, recreational, esthetic, and other uses.

Subpart B—Classification of Marine Sanctuaries

§ 922.10 Classifications.

Multiple use may be permitted in each classification to the extent the uses are compatible with the primary purpose(s) for which the sanctuary is established. Areas may be established to augment public and private lands or marine areas set aside by local, state or Federal government and private organizations for analogous purposes. Marine sanctuaries will be established for one, or a combination of, the following purposes:

(a) Habitat areas. Areas established under this concept are for the preservation, protection and management of essential or specialized habitats representative of important marine systems. Management emphasis will be toward preservation. The quantity and type of public use will be limited and controlled to protect the values for which the area was created.

(b) Species areas. Areas established under this concept are for conservation of specific species. Management emphasis may be to maintain species, populations and communities for restocking.
other areas and for reestablishment purposes in the future. The result will be a comprehensive, coordinated policy by the Council on Environmental Quality, that is, "the widest possible diversity of and within species should be maintained for ecological stability of the biozone and formation as natural resources." The orientation of such areas is "best" and for protection purposes under the principles of any species of such areas as migratory pathways, spawning grounds, nursery grounds, and the constraints on these areas will be those necessary to achieve these purposes.

(c) Research areas. Areas established under this concept will exist for scientific research and education in support of management programs carried out for the purpose of the title.

(2) The purpose of the research areas is to establish ecological baselines against which to compare and predict the effect of on man's activities, and to develop an understanding of natural processes. Research areas will be chosen according to the biota they support, to include representative samples of the significant ecosystems in the nation, and to the history of prior resource carried out in the area, and its proximity or availability to potential uses marine sanctuary designation will insure that the area will be relatively unaffected for a long period of time, thus adding a measure of stability to a research program and the value of the data in management decisions.

(d) Recreational and esthetic areas. Areas established under this concept will be on esthetic or recreational value.

(e) Unique areas. Areas established under this concept will be to protect unique or nearly one of a kind geological, oceanographic, or living resource feature.

§ 922.11 Definitions.

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

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration.
(b) "Marine sanctuary" means those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf, 15 U.S.T. 74, TIAS 5578, of other coastal waters where the tide ebbs and flows, of the Great Lakes and their connecting water, for the purpose of preserving, restoring or enhancing such areas for their conservation, recreational, ecological, research, or esthetic values.

(c) The term "multiple use" as used in this section shall mean the contemperaneous utilization of an area or resource for a variety of compatible purposes to the primary purpose so as to provide more than one benefit. The term implies the long-term, continued uses of such resources in such a fashion that one will not interfere with, diminish, or prevent other permitted uses.

(d) "Ocean waters" means those waters of the open seas lying seaward of the baseline from which the territorial sea is measured, as provided in the Convention of the Territorial Sea and the Continental Zone, 15 U.S.T. 1694, TIAS 5639.
(e) "Person" means any private individual, partnership, corporation, governmental entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government, or any state or local unit of government.
(f) "Secretary" means the Secretary of Commerce.

§ 922.12 Effect of marine sanctuary designation for waters, outside the U.S. jurisdictional limits.

The designation of a marine sanctuary and the regulations pertaining to it will be binding on United States nationals. The United States has exclusive jurisdiction over all resources within the territorial sea in which it exercises sovereignty subject only to the right of innocent passage. Beyond that limit, the U.S. regulations would be binding on foreign citizens only to the extent consistent with international law.

§ 922.13 Effect on international principles involving freedom of the seas.

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

Subpart C—Nomination of Candidates

§ 922.20 Nominations.

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

Director, Office of Coastal Zone Management
National Oceanic and Atmospheric Administration
TAS, Department of Commerce
Rockville, Maryland 20852

Information may be obtained on nominations by inquiring to the above office.

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

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

(i) Purpose for which the nomination is made;
(ii) Geographic coordinates of the site;
(iii) Plant and animal life in the area;
(iv) Geological characteristics of the area; and
(v) Present and prospective uses and impacts on the area and resources thereof.

(2) A nomination for research purpose should contain a specific scientific justification, a statement of how the research will aid in management decisions, and a history of prior research carried out on the area.

(c) A Federal program will be stimulated and coordinated by NOAA to establish, manage, and maintain a system of marine sanctuaries, marine ecosystems, recreational and esthetic areas, and research areas. It is anticipated that this system will emerge as part of the State coastal zone management plans, taking into account the national interest.

§ 922.21 Analysis of nominations.

(a) Upon receipt of a nomination or as the result of action by NOAA, the involved State(s), other Federal agencies, will be notified of the nomination and requested to participate in a preliminary review to determine feasibility.

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

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

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

(d) The factual information and the results of the analysis activity will be used in preparation of a draft environmental impact statement and proposed regulations. Subsequent to completion of the In-depth study by the Administrator, a draft Environmental Impact Statement will be prepared and circulated for review in compliance with the National Environmental Policy Act of 1969 and implementing the Council on Environmental Quality guidelines. The draft Environmental Impact Statement will discuss proposed regulations and operational procedures and programs.

§ 922.22 Public participation.

(a) The purpose of this section is to ensure that all interested parties have the opportunity to present their views.

(b) When a nomination has been determined feasible, a press release will be issued by NOAA announcing the nomination and a draft Environmental Impact Statement is in preparation.

(c) When notice of the Draft Environmental Impact Statement (DEIS) has been published by the Council on Environmental Quality, a press release will be issued by NOAA announcing the DEIS and soliciting comment.

(d) The Administrator will hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the
views of any interested party. Such hear-
ings should be held no earlier than 30
days after the Council on Environmental
Quality announces receipt of the draft
Environmental Impact Statement by
publication in the Federal Register.
Public hearings need not be held on each
proposal or nomination, but only when
sufficient facts and data are available to
the Administrator which indicates that
the proposal or nomination is feasible.
A Draft Environmental Impact Statement
has been prepared.
§ 922.23 Consultation process.
The consultation process is designed to
coordinate the interests of the State
and various Federal departments and
agencies, including those responsible for
the management of fisheries resources,
the protection of national security and
transportation interests, and the recog-
nization of responsibility for the exploita-
tion and exploitation of mineral
resources.
§ 922.24 Designation.
The designation by the Administrator
will clearly state the purpose for which
the sanctuary is designated, regulations
and guidelines promulgated, and man-
agement program under which it will op-
erate.
The designation of a marine sanctuary
establishes the basis for a continuous op-
erating program to maintain the
purposes for which the sanctuary is
designated. This involves a program of
scientific evaluation, surveillance,
and enforcement to insure the inte-
rity of the system. An interpretive
program may be conducted to aid in
public understanding and enjoyment of the
sanctuary. A specific program will be estab-
lished for each designated marine
sanctuary.
§ 922.26 Revision.
Revision of a designated marine sanctu-
ary may be proposed by the same pro-
cedure as for nomination. A public hear-
ing will be held in the area most affected
by the proposed action. A Draft Environ-
mental Impact Statement may be re-
quired if the proposed action will sig-
nificantly affect the environment.
§ 922.27 Certification of other activi-
ties.
The Act specifies that once a marine
sanctuary is designated, no permit, li-
cense, or other authorization issued pur-
suant to any other authority shall be
valid unless the Secretary shall certify
that the permitted activity is consistent with
the purposes of this title and can be
accomplished without the regulations
promulgated. The Regulations promul-
gated for each sanctuary will contain a
certification procedure.

Subpart D—Enforcement
§ 922.30 Penalties.
Any person subject to the jurisdiction
of the United States who violates any
regulation issued pursuant to this title
will be liable to a civil penalty of not
more than $50,000 for each such viola-
tion, to be assessed by the Administrator.
Each day of a continuing violation will
constitute a separate violation. No pen-
alty will be assessed under this section
until the person charged has been given
notice and an opportunity to be heard.
Upon failure of the offending party to
pay an assessed penalty, the Attorney
General, at the request of the Admini-
strator, will commence action in the ap-
propriate district court of the United
States in order to collect the penalty and
to seek such other relief as may be ap-
propriate. A vessel used in the violation
of a regulation issued pursuant to this
title will be liable in rem for any civil
penalty assessed for such violation and
may be proceeded against in any district
court of the United States having juris-
diction thereof. The district courts of the
United States will have jurisdiction to
restrain a violation of the regulations
issued pursuant to this title, and to grant
such other relief as may be appropriate.
Actions will be brought by the Attorney
General in the name of the United States,
either on its own initiative or at the re-
quest of the Administrator.
§ 922.31 Notice of violation.
Upon receipt of information that any
person has violated any provision of this
title, the Administrator or his designee
will notify such person in writing of the
violation with which he is charged, and
will convene a hearing to be conducted
sooner than 60 days after such notice,
before a hearing officer. Such hearing will
be conducted in accordance with the pro-
cedures of § 922.32.
§ 922.32 Enforcement hearings.
Hearings convened pursuant to § 922-
31 will be held on a record before a
hearing officer. Parties may be repre-
sented and will have the right to sub-
mit motions, to present evidence in
their own behalf, to cross ex-
amine adverse witnesses, to be apprised
of all evidence considered by the hearing
officer, and to have a stenographic tran-
scription of the proceedings. Formal rules
of evidence will not apply. The hearing
officer will rule on all evidentiary mat-
ters, and on all motions, which will be
subject to review pursuant to § 922.33.
§ 922.33 Determinations.
Within 30 days following conclusion of
the hearing, the hearing officer will in-
clude in the record findings of facts and
recommendations to the Administrator,
including, when appropriate, a recom-
manded appropriate penalty, after con-
sideration of the gravity of the viola-
tion, prior violations by the person
charged, and the demonstrated good
faith by such person in attempting to
achieve rapid compliance with the pro-
visions of this title and regulations issued
pursuant thereto. A copy of the findings
and recommendations of the hearing
officer shall be provided to the person
charged at the same time they are for-
warded to the Administrator. Within 30
days of the date on which the hearing
officer’s findings and recommendations
are forwarded to the Administrator, any
person objecting thereto may file written
objections with the Administrator.
§ 922.34 Final action.
A final order on a proceeding under
this part will be signed by the Adminis-
trator or by such other person designated
by the Administrator to take such final
action, no sooner than 30 days fol-
lowing receipt of the findings and rec-
ommendations. A certified copy of the
final order will be served by registered
mail on the person charged or his rep-resentative. In the event the final
order assesses a penalty, it shall be pay-
able within 60 days of the date of rece-
vision of the final order, unless judicial
review of the order is sought by the
person against whom the penalty is as-
sessed.

Title 17—Commodity and Securities
Exchanges
CHAPTER II—SECURITIES AND
EXCHANGE COMMISSION
[Release No. 34-10854]
PART 249—FORMS, SECURITIES
EXCHANGE ACT OF 1934
(‘‘Act’’), Item 1(a) and (b) was last amended in Securities
Act Release No. 5395 (June 1, 1973), effective
August 1, 1973 (38 FR 17202).
Item 1(a) calls for a description of the
registrant’s principal products and
services, markets and methods of distri-
bution. Item 1(b) requires a description
of any material changes and develop-
ments during the fiscal year in the busi-
ness of the registrant and its predeces-
sor(s), if any. Item 1(b) contains nine
specific topics, such as competitive condi-
tions, backlog and reliance upon a small
number of customers, as to which disclosure
might be required.

The Commission is advised that some
registrants construe the above disclosure
requirements as not calling for a descrip-
tion of business done and intended to be
done, unless there has been a material
change in the registrant’s business. The
Commission did not intend this result.
Instead, it was intended that each report
on Form 10-K contain a brief descrip-
tion of the business done and intended
to be done with an additional discussion
highlighting material changes occurring
during the fiscal year. In Securities Act
Release No. 5395 the Commission stated:

The description of business item in Form
10-K, as adopted, requires a brief descrip-
tion of the registrant’s business, which is an
exercise of the registrant’s discretion, that
material changes in such business that occurred
during the fiscal year. The Commission believes

[FR Doc. 74-51665 Filed 6-28-74; 8:45 am]