of Title III of the Act ("Marine Sanctuaries"); and that it can be carried out within the regulations promulgated under section 302(c).

The authority of the Secretary to administer the provisions of the Act has been delegated to the Administrator, National Oceanic and Atmospheric Administration, U.S. Department of Commerce thereafter the Administrator, 39 FR 10255, March 19, 1974.

On February 5, 1975, the Administrator published in the Federal Register interim regulations applicable to the MONITOR Marine Sanctuary (40 FR 5347), and invited comments on these regulations until March 7, 1975. Comments which have been received have suggested six changes in the regulations as follows:

1. That § 924.2, the description of the Sanctuary, be substantially shortened and revised to read:

The Sanctuary consists of a vertical water column in the Atlantic Ocean one mile in diameter extending from the surface to the seabed, the center of which is at 35°00'30" N latitude and 70°43'50" W longitude.

2. That § 924.3, which prohibits "bottom anchoring" in the Sanctuary, be revised to read:

Anchoring in any manner, stopping, remaining, or drifting without power at any time.

3. That § 924.3(i), which prohibits the "discharging of waste material" into the waters of the Sanctuary, be revised to read:

Discharging waste material into the water in violation of any Federal statute or regulation.

It was stated that this change was felt to be desirable because of the breadth of the original language, and the difficulty of enforcing a prohibition which could be construed to extend to routine operational discharges from vessels—such as bilge, sanitary, and galley wastes—which discharge is no adverse impact on the MONITOR.

4. That § 924.4, which lists penalties for the commission of prohibited acts within the Sanctuary, be revised to read:

Section 303 of the Act authorizes the assessment of a civil penalty of not more than $50,000 against any citizen of the United States for each violation of any regulation issued pursuant to Title III of the Act, and further authorizes proceedings in rem against any vessel used in violation of the penalty description above. See also 15 CFR 922 (published at 39 FR 13235, June 6, 1974), for details applicable to any instance of a violation of these regulations.

Essentially this change substitutes the "penalty described above" for "any such regulations" at the end of the first sentence of the intermediate regulations; and rephrases the second and third sentences without substantially changing their meaning.

5. That so much of the last part of § 924.5 as provides that "except that, no permit is required for the conduct of any activity necessary in connection with an air or marine casualty" be revised to read:

except that, no permit is required for the conduct of any activity necessary in connection with an air or marine casualty, except that the permit is required for the conduct of any activity necessary in the protection of the environment or the environment.

The suggested change would appear to add an environmental casualty, such as oil spill, to the air and/or marine casualties already contemplated by the regulation.

6. That § 924.7, having to do with certification procedures, be revised so as to require any Federal agency which, as of the effective date of the regulations, has authorized any prohibited activity in the Sanctuary, be required to notify the Administrator of that fact in writing. The change was from "activity," as stated in the intermediate regulations, to "prohibited activity." It was stated that the Secretary's concern should be with any prohibited activity, not with an activity not prohibited.

As noted above, and for the reasons set out, the Administrator has decided to accept these suggested changes, and they have been incorporated into the final regulations. With regard to the suggested changes in § 924.4 (paragraph 4, above), it is felt that the substitution of "penalty" for "regulations" somewhat misstates the thought involved, since the violation in question is of the regulations, not of the penalty. Otherwise, the suggested changes do not alter the meaning of the intermediate regulations. Therefore, § 924.4 will be retained in its present form. With regard to the suggested change in § 924.5 (paragraph 5, above), it is felt that there must be an immediate and urgent need for the activity if it is to be conducted without a permit. Therefore the words "immediately and urgently" will be added before "necessary." At the same time, it is felt that a permit should be required for any activity to be conducted in a sanctuary pertaining to an air or marine casualty already expressed. In no case is there any need for immediate entry into the sanctuary, such as in relation to salvage or recovery operations. Therefore § 924.5 (a)(2) has been appropriately modified. Finally, the Administrator is desirous of providing for the extension of the various time limits prescribed in § 924.8 for good cause shown. This has been done by the addition of a new paragraph (c).

There having been no other comments, and the Administrator being of the view that no additional changes in the regulations are necessary at this time, there are published herewith final regulations pertaining to the MONITOR Marine Sanctuary to become effective May 19, 1975.

15 CFR Part 924 is revised as follows:

Sec. 924.1 Authority.

924.2 Description of the Sanctuary.

924.3 Activities Prohibited Within the Sanctuary.

924.4 Penalties for Commission of Prohibited Acts.

924.5 Permitted Activities.

924.6 Permit Procedures and Criteria.
RULES AND REGULATIONS

§ 924.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 306(a) of the Act. The following regulations are issued pursuant to the authority of sections 302(d), 302(g) and 303 of the Act.

§ 924.2 Description of the Sanctuary.

The Sanctuary consists of a vertical water column in the Atlantic Ocean one mile in diameter extending from the surface to the seabed, the center of which is at 31°-00'15" north latitude and 75°-20'15" west longitude.

§ 924.3 Activities prohibited within the Sanctuary.

Except as may be permitted by the Administrator, no person subject to the jurisdiction of the United States shall conduct, nor cause to be conducted, any of the following activities in the Sanctuary:

(a) anchoring in any manner, stopping, remaining, or drifting without power at any time;

(b) any type of subsurface salvage or recovery operation;

(c) any type of diving, whether by an individual or by a submersible;

(d) lowering below the surface of the water of a device using a conveyor, dredging or wrecking device;

(e) obstruction below the surface of the water of any explosive or explosive mechanism;

(f) seabed drilling or coring;

(g) lowering, laying, positioning or raising any type of seabed cable or cable-laying device;

(2) in addition to

(1) discharging waste material into the water in violation of any Federal statute or regulation.

§ 924.4 Penalties for commission of prohibited acts.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than $10,000 for each violation of any regulation issued pursuant to Title III of the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation. Determinations are set out in Subpart (D) of Part 924 of this Chapter (39 FR 23234, 23257, June 27, 1974). Subpart (D) is applicable to any instance of a violation of these regulations.

§ 924.5 Permitted activities.

Any person or entity may conduct in the Sanctuary any activity listed in § 924.3 of this Part if: (a) such activity is not otherwise prohibited or restricted in any way related to the Monitor, or (2) pertains to salvage or recovery operations in connection with an air or marine casualty; and (b) such person or entity is in possession of a valid permit issued by the Administrator authorizing the conduct of such activity; except that, no permit is required for the conduct of any activity immediately and urgently necessary for the protection of life, property or the environment.

§ 924.6 Permit procedures and criteria.

(a) Any person or entity who wishes to conduct any activity for which a permit is authorized by § 924.5 (hereafter a permitted activity) may apply in writing to the Administrator for a permit to conduct such activity, stating the basis for the application. Such application should be made to the Administrator, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Office of Enforcement, 325 N. 12th St., Virginia Avenue and Prince St., Washington, D.C. 20520. Upon receipt of such application, the Administrator shall request, and such person or entity shall supply to the Administrator, such information and in such form as the Administrator may require to enable him to act upon the application.

(b) In considering whether to grant a permit for the conduct of a permitted activity for which an application has been received, the Administrator shall give such matters as: (1) the general professional and financial qualifications of the applicant and the adequacy of the research methods and facilities utilized in the purpose(s) of the research; (2) the extent to which the permit(s) of any permitted activity may diminish the values of the Monitor and other facilities in the area, including the cultural, aesthetic and/or maritime information; (3) the end value of the research envisioned; and (5) such other matters as the Administrator determines appropriate.

(c) In considering whether to grant a permit for the conduct of a permitted activity in the Sanctuary in relation to an air- or maritime casualty, the Administrator shall, (1) the completeness of the application; (2) the necessity of conducting such activity; (3) the appropriateness of any activity envisioned to the area; (4) the extent to which the conduct of any such activity may diminish the values of the Monitor as a source of cultural, aesthetic and/or maritime information; and (5) such other matter as the Administrator determines appropriate.

(d) In considering any application submitted under § 924.5 of this Chapter, the Administrator shall consider the views of any person or entity, within or outside of the Federal Government, as to the desirability of the permit as proposed; except that he shall give such weight to the views of the Advisory Council on Historic Preservation.

(e) The Administrator, in his discretion, may also impose the condition that an applicant for a permit to conduct any permitted activity in the Sanctuary, in whole or in part, and subject to such condition(s) as he deems appropriate, except that the Administrator shall attach to any permit granted for research related to the Monitor the condition that any information obtained in the research shall be made available to the public. The Administrator may suspend or revoke a permit granted pursuant to this Section, in whole or in part, temporarily or indefinitely, if, in his judgment, the permit holder has committed a violation of the terms of the permit, or he Administrator may do so for other goods. Any such action shall be in writing to the permit holder, and shall set forth the reasons for the action taken.

§ 924.7 Certification procedures.

Any Federal agency which, as of the effective date of these regulations, authorized or otherwise authorized any prohibited activity in the Sanctuary shall notify the Administrator of this fact in writing. The writing shall include a reasonably detailed certification as to the activity or activities, the person or persons involved, the beginning and ending dates of such permission, the reason(s) and purpose(s) for same, and a description of the total area affected. The Administrator shall then determine whether the continuation of the permitted activity, in whole or in part, subject to such condition(s) as he may deem appropriate, is consistent with the purposes of Title III of the Act and can be carried out within these regulations. The Administrator shall inform the Federal agency of his decision in these regards, and the reason(s) therefore, in writing. The decision of the Secretary made pursuant to this section shall be final action for the purpose of the Administrative Procedure Act.

§ 921.8 Appeals of administrative action.

(a) In any instance in which the Administrator, as regards a permit authorized by or issued pursuant to this Part, (1) denies a permit; (2) issues a permit embodying less authority than was requested; (3) conditions a permit in a manner unacceptable to the applicant; or (4) amends, suspends, or revokes a permit for a reason other than the violation of regulations issued pursuant to this Part, the applicant or the permit holder may appeal the Administrator's action to the Secretary. In order to be considered by the Secretary, such appeal shall be in writing, shall state the reasons for the appeal, and shall be filed within 30 days of the action(s) by the Administrator to which the appeal is directed. The Secretary may request a hearing on the appeal.

(b) Upon receipt of an appeal authorized by this Section, the Secretary may require, and he may give the Appellant an opportunity for the additional presentation of evidence and in such form as the Secretary
may request in order to enable him to act upon the appeal. If the Appellant has not requested a hearing, the Secretary shall decide the appeal upon (1) the basis of the evidence set out in §§ 924.4(b) or 924.4(c) of this part, as appropriate. (2) Information relative to the application on file in NOAA, (3) Information procured by the Appellant, and (4) other considerations as he deems appropriate. He shall notify the Appellant of his decision and the reasons therefore, in writing within 30 days of the date of his receipt of the appeal.

(c) If the Appellant has requested a hearing, the Secretary shall grant an informal hearing before a Hearing Officer designated for that purpose by the Secretary after giving notice of the time, place, and subject matter of the hearing in the Federal Register. Such hearing shall begin no later than 30 days following the Secretary’s receipt of the appeal. The Appellant and any interested party may appear personally or by counsel at the hearing, present evidence, cross-examine witnesses, offer arguments, and file a brief. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Secretary based upon the considerations expressed in paragraph (b) of this section and based upon the record made at the hearing.

(d) The Secretary may adopt the Hearing Officer’s recommended decision. In whole or in part, or may reject or modify it. In any event, the Secretary shall notify the Appellant of his decision, and the reasons therefor, in writing within 30 days of the date of the Hearing Officer’s decision. The Secretary’s action, whether or not a hearing is held, may be appealed by any party in accordance with the Administrative Procedure Act.

Any time limit prescribed in this Section may be extended by the Secretary for good cause, either upon the Secretary’s own motion and upon written notification to an Appellant stating the reason(s) therefore, or upon the written request of an Appellant to the Secretary stating the reason(s) therefore, except that no time limit may be extended more than 30 days.

R. L. Carnahan, Acting Assistant Administrator for Administration.

[FR Doc. 75-13009 Filed 5-10-75; 8:45 am]

Title 16—Commercial Practices
CHAPTER I—FEDERAL TRADE COMMISSION
SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE
PART 2—NONADJUDICATIVE PROCEDURES
Subpart A—Investigations

Effect of a Motion to Quash on the Obligations to Make Return

The Federal Trade Commission’s regulations regarding subpoenas in investigations, orders requiring access and reports are contained in §§ 27.2, 211, and 2.12, respectively, of its procedures and rules of practice (16 C.F.R. 2.7, 2.11, 2.12), for the filing of motions to limit or quash investigatory subpoenas, orders requiring access, and orders requiring reports or answers to special questions. As a general rule, the filing of a motion to quash on the obligation to make a return, the Federal Trade Commission announces the amendment of §§ 27.2, 2.11, and 2.12, by the addition of paragraph (c) to read as set forth below.

Because the amendments pertain to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemakings, opportunity for public participation, and delay in effective date are inapplicable.

§ 2.7 Subpoenas in investigations.

The timely filing of a motion to limit or quash any investigatory subpoena shall stay the requirement of a return on the portion challenged if the Commission has not ruled upon the motion by the return date. If it rules on or subsequent to the return date, its ruling may extend the motion in whole or in part, the Commission shall specify a new date of compliance.

§ 2.11 Orders requiring access.

The timely filing of any motion to limit or quash such an order shall stay the requirement of a return on the portion challenged if the Commission has not ruled upon the motion by the return date. If it rules on or subsequent to the return date, its ruling may extend the motion in whole or in part, the Commission shall specify a new date of compliance.

§ 2.12 Reports.

Except as otherwise provided by the Commission, the timely filing of any motion to limit or quash such an order shall stay the requirement of a return on the portion challenged if the Commission has not ruled upon the motion by the return date. If it rules on or subsequent to the return date, its ruling may extend the motion in whole or in part, the Commission shall specify a new date of compliance.

These amendments are effective May 19, 1975.


By direction of the Commission; dated May 6, 1975.

[SEAL]

Charles A. Torn, Secretary.

[FR Doc. 75-13019 Filed 5-16-75; 8:45 am]

PART 4—MISCELLANEOUS RULES

Service of Documents by Parties Other Than the Commission

The Federal Trade Commission’s regulations on the service of documents by parties other than the Commission are contained in § 4.4(b) of its procedures and rules of practice (16 C.F.R. 4.4(b)). And provide that service of pleadings and other documents upon complaint counsel is complete upon delivery to the Secretary of the Commission.

Because of the dispersal of the litigation staff in buildings and regional offices removed from headquarters, there is an inevitable time lag between the documents reach complaint counsel. As a consequence, if the documents start the running of time for response or other action by complaint counsel, they frequently have an insufficient time to act.

The Commission has concluded that to effectively resolve the problem requires a revision of its rules to place complaint counsel on an equal footing with respondents by establishing a new date of service as the date delivered to its/her office, rather than to the Office of the Secretary. Service upon respondent’s counsel is most frequently achieved by delivery of a letter addressed to him/her or to his/her office. In the case of complaint counsel, many of whom do not have secretaries who could receive documents in their absence, analogous service would be upon the office of the Assistant Director or Regional Director to whom complaint counsel is responsible in the handling of the case. The delivery must be by the Secretary of the Commission rather than directly by respondent to permit adequate control and record-keeping.

It is contemplated that a return receipt will be date stamped and signed by the receiving officer and returned to the Secretary of the Commission who will place the receipt in the official record of the case establishing the date when service was effective.

Accordingly, the Federal Trade Commission announces the amendment of §§ 4.4(a) and 4.4(b) to read as set forth below, and the deletion of § 4.4(a) (2).

Because the amendment pertain to matters of procedure and policy, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemakings, opportunity for public participation, and delay in effective date are inapplicable.

In § 4.4, (a) (1) and (b) are revised as follows: (a) (2) is removed, and (a) (3) is renumbered as (a) (2). (b) By other parties. Service of documents by parties other than the Commission shall be by delivering copies