approval, to designate ocean waters as far seaward as the outer edge of the continental shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f)(1) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

On December 18, 1975, the Key Largo National Marine Sanctuary (the Sanctuary) was designated, and on January 13, 1976, NOAA published interim-final regulations [41 FR 2379] pursuant to the authorities of Sections 302(f), 302(g) and 303 of the Act. Since NOAA never issued final rules, these regulations are being published as proposed rules to allow interested parties the opportunity to comment. These regulations respond to comments received on certain sections of the interim-final regulations and certain issues that have arisen since designation. Following the 60 day comment period, these proposed rules may be amended at the Assistant Administrator's discretion to reflect comments received. The Assistant Administrator shall then publish final regulations in the Federal Register.

Discussion of Issues

(a) Boundaries: One reviewer of the interim-final regulations called attention to an apparent error in the description of the boundaries of the Sanctuary. The apparent discrepancy results from an error on NOAA chart 11462 (formerly C&GS 1249) and has been corrected in the 14th Edition, August 1977, NOAA Chart 11462, to be consistent with the boundary description as published in the rules and regulations for the Sanctuary.

(b) Removal or Damaging of Natural Features and Marine Life—Taking of Spiny Lobster: Although NOAA has not received formal comments, it understands that many recreational divers believe that the existing interim regulations which prohibit taking spiny lobster by hand is unfair and discriminatory. There is concern among resource managers that lobster stocks in the Sanctuary are low and may not withstand additional harvest pressure. NOAA does not have enough scientific evidence to support either claim and therefore proposes to conduct a baseline population study to gather information on stock abundance and natural fluctuation. Until adequate data are available, NOAA intends to rely upon regulations implemented pursuant to the Spiny Lobster Fishery Management Plan in the Gulf of Mexico and South Atlantic.

(c) Use of Harmful Fishing Methods—Wire Fish Traps: NOAA has been requested by the Superintendents of the adjacent John Pennekamp Coral Reef State Park and others to clarify that the taking of fish by means of wire traps is prohibited. This prohibition is consistent with State park regulations and Federal regulations at the nearby Biscayne National Park. NOAA has rewritten § 929.7 to clarify that taking by this method is prohibited. It should be noted that the new language merely clarifies the prohibition under the existing regulations and does not add any new restriction.

(d) Use of Harmful Fishing Methods—Nets: NOAA also has been requested to clarify the prohibition on taking of fish by means of nets. NOAA has rewritten § 929.7 to clarify that taking of fish by bottom trawls, dredges, fish sleds, or other similar vessel towed or anchored fishing gear or net that comes in contact with the seafloor is prohibited. A prohibition on the use of the hand-held nets to collect tropical fish is covered under § 929.7[1](c). It should be noted that the new language merely clarifies what is a prohibition under the existing regulations and does not add new restrictions.

(e) Utilization of Certain Living Resources for Scientific and Educational Purposes: The principal comment on the interim-final regulations, submitted by six commentors, was that taking of tropical fish and certain invertebrates except "for the purpose of research related to the resources of the Sanctuary" was precluded, thus preventing taking for public display or educational purposes at public aquaria or universities. These commentors agreed that commercial taking of large numbers of these resources should be prohibited, but agreed that the wording of the regulations was too restrictive. NOAA appreciates these concerns and has rewritten § 929.10 to make the language consistent with regulations for other established sanctuaries where taking for scientific and educational purposes includes taking for legitimate public display and other related purposes and is allowed by permit.

(f) Appeals of Administrative Actions: Section 929.11 has been rewritten to provide that any interested party can...
appeal a permit decision to the
Administrator of NOAA, also to
fish that a hearing is discretionary.
Changes are in line with the
permit appeals procedure established
for the sanctuary program generally.
(g) Format: The regulations have been
revised for purposes of clarity by using
separate sections to define permitted
and prohibited uses and by adding a
purpose section (929.2).

Other Matters

Executive Order 12291 (E.O. 12291)
defines a "major rule" as "any
regulation that is likely to result in:
(1) An annual effect on the economy of $100
million or more; (2) a major increase in
cost or prices for consumers, individual
industries, Federal, State or local
government agencies, or geographic
regions; or (3) significant adverse effects
on competition, employment,
investment, productivity, innovation, or
the ability of United States-based
enterprises to compete in domestic or
export markets." The economic activity
supported by the area within the
Sanctuary consists of a diversity of
commercial and recreational activities.
The economic impacts on affected
activities in the Sanctuary are minor and
restrictions do not restrict recreational
ties. Fishing with traps,
harvesting, and "tropical fish" taking are
already prohibited by regulation.

Because the majority of the activities
are already regulated by other
authorities, not regulated at all, or
regulated by Sanctuary authority
consistent with those proposed to take
effect, the Acting Assistant
Administrator has determined that this
is not a "major rule" under Executive
Order 12291. For the same reasons, the
Acting Assistant Administrator has
determined that the proposed rules will
not have a significant economic impact
on small entities in the Sanctuary under
the Regulatory Flexibility Act. These
regulations will impose no information
collection requirements of the type
covered by Pub. L. 95-551 on affected
State governments. Publication does not
constitute a major Federal action
significantly affecting the quality of the
human environment. Therefore, an
environmental impact statement is not
required.

List of Subjects in 5 CFR Part 929
Administrative practice and
due, Environmental protection,
resources, and Natural
resources.

(Department of Commerce
Number 1419 Coastal Zone Management
Program Administration)

Dated: November 1, 1982
William Matuszewski,
Acting Assistant Administrator for Coastal
Zone Management.

Accordingly, it is proposed to revise
Part 929 to read as follows:

PART 929—KEY LARGO NATIONAL
MARINE SANCTUARY PROPOSED
REGULATIONS

Sec. 929.1 Authority.
929.2 Purpose.
929.3 Boundaries.
929.4 Definitions.
929.5 Management and enforcement.
929.6 Allowed activities.
929.7 Activities prohibited or controlled.
929.8 Other authorities.
929.9 Penalties for commission of prohibited
acts.
929.10 Permit procedures and criteria.
929.11 Appeals of administrative action.

Authority: Secs. 302f, 302g, 302, Pub. L. 92-

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

§ 929.2 Purpose.
The purpose of designating the Key
Largo National Marine Sanctuary is to
protect and preserve the coral reef
ecosystem in its natural state and to
regulate uses within the Sanctuary to
insure the health and well-being of the
coral and associated flora and fauna.

§ 929.3 Boundaries.
The Sanctuary consists of a portion of
the Atlantic Ocean beginning at
approximately three miles east of Key
Largo, Florida adjacent to the John
Pennekamp Coral Reef State Park. The
coordinates for the Sanctuary are:
the point of beginning (POB) is at
geographic coordinates 25° 19.4' (degrees),
184.5' (minutes) north latitude, 80° 12.0'
west longitude, said point being the
northeastern boundary corner of John
Pennekamp Coral Reef State Park. From
said POB run thence southeasterly to
geographic coordinates 25° 16.2' north
latitude, 80° 13.5' west longitude, said
point also being on the 300 foot isobath,
thence in a southeasterly direction to
geographic coordinates 25° 07.5' north
latitude, 80° 12.5' west longitude, thence
again run in a southeasterly direction to
geographic coordinates 24° 58.3'
north latitude, 80° 19.8' west longitude,
thence leaving said 300 foot isobath run
northwesterly to geographic coordinates
25° 2.2' north latitude 80° 25.25' west
longitude, said point being the southeast
boundary corner of John Pennekamp
Coral Reef State Park, thence in a
northeasterly direction along said
easterly boundary of said State Park to the
POB.

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

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

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

(d) "The Sanctuary" means the Key
Largo National Marine Sanctuary.

(e) "Tropical fish" means fish and
invertebrates of minimal sport and food
value, usually brightly colored, often
used for aquaria purposes and which
live in a close interrelationship with
corals and coral reef substrates.

§ 929.5 Management and enforcement.
The National Oceanic and
Atmospheric Administration (NOAA)
have primary responsibility for the
management of the Sanctuary pursuant
to the Act. The Florida Department of
Natural Resources (FDNR), Division of
Recreation and Parks, assists NOAA in
the administration of the Sanctuary, and
acts as the onsite manager, in
conformance with a cooperative
agreement between the State of Florida
and NOAA. The U.S. Coast Guard and
Division of Recreation and Parks
(FDNR) shall conduct surveillance and
enforcement of these regulations
pursuant to 14 U.S.C. 89, 16 U.S.C.
3375(a), or other appropriate legal
authority.

§ 929.6 Allowed activities.
All activities except those specifically
prohibited by § 929.7 may be carried on
within the Sanctuary subject to all
prohibitions, restrictions, and
conditions imposed by other authorities.

§ 929.7 Activities prohibited or controlled.
(a) Unless permitted by the Assistant
Administrator in accordance with
§ 929.10, or as may be necessary for the
national defense, or to respond to an
(6) Use of harmful fishing methods. No person shall carry or possess, except while passing through the Sanctuary or for law enforcement purposes, the following firearms or weapons: pole spears, air rifles, bows and arrows, slings, Hawaiian slings, rubber-powered arbalests, pneumatic and spring loaded guns, explosive powered guns or similar devices known as spearguns. No person shall use within the Sanctuary:
   (i) Wire fish traps;
   (ii) Bottom trawls, dredges, fish sleds, or similar vessel-towed or anchored bottom fishing gear or net; or
   (iii) Poisons, electric charges, explosives or similar devices.

(7) Operation of watercraft and anchoring. All watercraft shall be operated in accordance with applicable Federal rules and regulations. The following additional regulations apply within the boundaries of the Sanctuary:
   (i) Watercraft shall be operated to avoid striking or otherwise causing damage to the natural features of the Sanctuary.
   (ii) No anchor shall be cast or dragged in such a way as to damage any coral reefs, or damage on the reefs and placed to avoid dragging into the coral formations.
   (iii) Watercraft must use mooring buoys, stations or anchoring arms when such facilities and areas have been designated and are available.
   (iv) Within 100 yards of divers, sightseeing boats or fisherman, no watercraft shall be operated at greater than 4 knots or in any manner to create a wake, except by law enforcement officials while in the performance of their official duties.

(8) Use of dangerous weapons. Except for law enforcement purposes, no person shall use or discharge explosives or weapons of any description within the Sanctuary boundaries. Distress signaling devices, necessary and proper for safe vessel operation, and knives generally used by fishermen and swimmers are not considered weapons for purposes of this Subsection.

(9) Penalties for commission of prohibited acts. The total closed area shall not exceed a size necessary to accomplish these purposes. Public notice of closures will be through the local news media and posting of placards at the John Pennekamp Coral Reef State Park, if deemed necessary.

(c) The regulation of activities within the Sanctuary shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be conducted consistently with all regulations to the maximum extent possible.

(d) The prohibitions in this Section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

§ 929.8 Other authorities.

No license, permit or other authorization issued pursuant to any other authority may validly authorize any activity prohibited by § 929.7 unless such activity meets the criteria stated in § 929.10 (c) and (d), and is specifically authorized by the Assistant Administrator.

§ 929.9 Permit procedures and criteria.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than $50,000 for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation. Procedures are set out in Subpart D of Chapter 15 CFR Part 922. Subpart D is applicable to any instance of a violation of these regulations.

§ 929.10 Permit procedures and criteria.

(a) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct the specific activity in the Sanctuary including any activity specifically prohibited under § 929.7, if such activity is: (1) Research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator, Attn: Sanctuary Programs Office, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, D.C. 20235. An application shall include a description of all activities proposed,
the equipment, methods, and personnel
(particularly describing relevant
test conditions) involved, and a timetable
for completion of the proposed activity.
Copies of all other required licenses or
permits shall be attached.
(c) In considering whether to grant a
permit, the Assistant Administrator
shall evaluate such matters as: (1) The
general professional and financial
responsibility of the applicant; (2) the
appropriateness of the methods being
proposed to the purpose(s) of the
activity; (3) the extent to which the
conduct of any permitted activity may
diminish or enhance the value of the
Sanctuary as a source of recreation,
education, or scientific information; and
(4) the end value of the activity.
(d) Permits may be issued by the
Assistant Administrator for activities
otherwise prohibited under § 929.7. In
addition to meeting the criteria in 929.10
(c), the applicant must also satisfactorily
demonstrate to the Assistant
Administrator: (1) That the activity shall
be conducted with adequate safeguards
for the environment, and (2) that the
environment shall not be returned to the
condition which existed before the
activity occurred. A permit issued
according to the provisions for an
otherwise prohibited activity shall be
appropriately conditioned, and the
activity monitored to ensure compliance.
(e) In considering an application
submitted pursuant to this section, the
Assistant Administrator may seek and
consider the views of Fishery
Management Councils and any other
person or entity, within or outside of the
Federal Government, and may hold a
public hearing, as he/she deems
appropriate.
(f) The Assistant Administrator may,
his/her discretion, grant a permit
which has been applied for pursuant to
this section, in whole or in part, and
subject to such conditions as deemed
necessary, and shall attach to any
permit granted for research related to
the Sanctuary stipulations to the effect
that: (1) The Assistant Administrator or
a designated representative may
observe any activity permitted by this
section; and (2) any information
obtained in the research shall be
made available to the public; and/or the
submission of one or more reports of the
status of progress of such activity may
be required.
(g) A permit granted pursuant to this
section is nontransferable.
(h) The Assistant Administrator may
suspend, postpone, or revoke a permit
granted pursuant to this section, in
whole or in part, temporarily or
indefinitely if, in his/her view, the
permit holder (the Holder) had acted in
violation of the terms of the permit or of
the applicable regulations; or the
Assistant Administrator may do so for
other good cause shown. Any such
action shall be communicated in writing
to the Holder, and shall set forth the
reason(s) for the action taken. The
Holder in relation to whom such action
has been taken may appeal the action as
provided for in § 929.11.

§ 929.11 Appeals of Administrative Action.
(a) The applicant for a permit, the
Holder, or any other interested person
(hereafter Appellant) may appeal the
granting, denial, conditioning or
suspension of any permit under § 929.10
to the Administrator of NOAA. In
order to be considered by the Administrator,
such appeal shall be in writing, shall
state the action appealed and the
reason(s) therefor, and shall be
submitted within 30 days of the action(s)
by the Assistant Administrator. The
Appellant may request an informal
hearing on the appeal.
(b) Upon receipt of an appeal
authorized by this section, the
Appellant may request the
Appellant, and the permit applicant or
Holder if other than the Appellant, to
submit additional information in
such form as will allow action upon
the appeal. The Administrator shall
decide the appeal using the criteria set
out in § 929.10(c), any information
relative to the application of any
information provided by the Appellant,
and such other consideration as is
determined appropriate. The Appellant
shall notify the Appellant of the final
decision and the reason(s) therefor,
writing normally within 30 days of the
date of the receipt of adequate
information required to make the
decision.
(c) If a hearing is requested or, if the
Appellant determines that one is
appropriate, the Administrator may
grant an informal hearing before a
Hearing Officer designated for that
purpose, after first giving notice of the
time, place, and subject matter of the
hearing in the Federal Register. Such
hearing shall normally be held no later
than 30 days following publication of the
notice in the Federal Register unless
the Hearing Officer extends the time for
reasons deemed equitable. The
Appellant, the applicant or permit
holder, if different, and, other interested
persons may appear personally or by
counsel at the hearing and submit such
material and present such arguments as
determined appropriate by the Hearing
Officer. Within 30 days of the last day of
the hearing, the Hearing Officer shall
recommend a decision in writing to the
Administrator.
(d) The Administrator may adopt
the Hearing Officer’s recommended
decision, in whole or in part, or may
reject or modify it. In any event, the
Administrator shall notify the interested
persons of his/her decision, and the
reason(s) therefor, in writing within 30
days of receipt of the recommended
decision of the Hearing Officer. The
Administrator’s decision shall constitute
final action for the Agency for the
purposes of the Administrative
Procedures Act.
(e) Any time limit prescribed in this
Section may be extended by the
Administrator for good cause for a
period not to exceed 30 days, either
upon his/her own motion or upon
written request from the Appellant.
permit applicant or Holder, stating the
reasons therefor.

SECURITIES AND EXCHANGE
COMMISSION

17 CFR Part 270

[Release No. IC-12868; 57-955]

Advance Notice and Request for
Comment on Mutual Fund Governance

AGENCY: Securities and Exchange
Commission.

ACTION: Advance notice and requests
for comments on mutual fund
governance.

SUMMARY: The Commission is
considering whether to propose rules or
recommend legislation to enable all or
certain types of registered open-end
investment companies to be organized
and operated without shareholder
voting, or without either shareholder
voting or boards of directors. The major
goal of such action would be to reduce
the expenses of fund operations without
sacrificing investor protections. In
addition to seeking guidance generally
on the advisability of such action, the
Commission is also requesting
commentators to focus on certain
specified questions. The comments
received will be considered in
connection with the development of any
rulemaking proposals or legislative
recommendations.

DATE: Comments must be received on or
before March 10, 1983.

ADDRESS: Persons wishing to submit
written comments on the matters
discussed in the release should file five
copies thereof with George A.
Fitzsimmons, Secretary, Securities and
Exchange Commission, 450 Fifth Street,
NW., Washington, D.C. 20549.