Commission, Washington, DC 20555.
Telephone: 301-492-7758.

SUPPLEMENTARY INFORMATION:
1. In the Federal Register of April 18, 1989, in the second column of page 15396, amendatory instruction number 11 is corrected to read as follows:

§ 2501 [Amended]
11. In the heading and paragraphs (a), (b)(1)(ii), and (b)(3), the references to Appendix M of part 50 are amended to refer to Appendix M of part 52.

2. In the Federal Register of October 18, 1989, in the second column of page 22286, amendatory instruction number 4 is corrected to read as follows:

§ 212 [Amended]
4. In footnote 1 to § 212, the commercial telephone number for the NRC Region III Office (Chicago) is changed from (312) 790-5500 to (708) 790-5500.

Dated at Bethesda, Maryland, this 15th day of December 1989.
For the Nuclear Regulatory Commission.

Donnie H. Grimsley,
Director, Division of Freedom of Information and Publications Services, Office of Administration.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act, as amended (43 U.S.C. 1431 et seq.) ("Act") authorizes the Secretary of Commerce ("Secretary") to designate discrete areas of the marine environment possessing conservation, recreational, ecological, historical, research, educational, or esthetic qualities that give them special national significance as National Marine Sanctuaries. The primary purpose of a designation is to promote comprehensive and coordinated conservation and management of the area.

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, § 3.01(2) [Jan. 11, 1988]. On May 19, 1988, the Under Secretary signed the designation document for the Cordell Bank National Marine Sanctuary. The notice of designation and the final regulations implementing the designation and regulating the conduct of certain activities were published in the Federal Register on May 24, 1989 (54 FR 22417-22425). While Congress attempted to disapprove the part of the designation authorizing but not requiring the Secretary to regulate oil and gas activities in the Sanctuary by passing H.J. Res. 281, the joint resolution was not presented by Congress to the President for approval until after the 45 day period of continuous session allowed by the Act. Thus, although the joint resolution was approved by the President on August 9, 1989 (Pub. L. No. 101-74, 103 Stat. 554), section 1, the disapproval provision, has no effect (President's Statement on Signing a Joint Resolution Concerning the Cordell Bank...
National Marine Sanctuary. 25 Weekly Comp. Pres. Doc., 1230 [Aug. 14, 1989]. Accordingly, the self-executing designation became final at the end of the 45-day period and the Sanctuary regulations became final. Section 2 of the Joint Resolution, however, which did take effect upon Presidential approval of the Joint Resolution, accomplished essentially the same objective of section 1. Section 2(a) prohibits the exploration for, or the development or production of, oil, gas, or minerals in any area of the Sanctuary and section 2(b) requires the Secretary to revise the Sanctuary regulations to conform within 120 days of enactment.

The regulatory amendment issued today revises section 424.8(a)(3) of the Sanctuary regulations to prohibit the exploration for, or the development or production of, oil, gas, or minerals in any area of the Sanctuary. This prohibition is identical to the one imposed statutorily by section 2(a) of H.J. Res 281 effective August 6, 1989 and is required by section 2(b) of H.J. Res. 281.

The authority for regulating oil and gas activities within the Sanctuary is Title III of the Act and paragraph (c) of section 1 of Article 4 of the Designation Document for the Cordell Bank National Marine Sanctuary, 54 FR 22417, 22420 (1989). Because the Designation Document did not authorize the regulation of mineral activities, the authority for regulating mineral activities is title III of the Act and section 2(a) of H.J. Res. 281, Public L. No. 101-74, 103 Stat. 554 (1989). The regulatory amendment issued today amends the authority section for 15 CFR part 424 accordingly.

Additional Information

Executive Order 12291

NOAA has concluded that this regulatory amendment is not a “major rule” within the meaning of section 1(b) of Executive Order 12291 because it will not result in

1. The annual effect on the economy of $100 million or more;
2. A major increase in costs or prices for consumers, individuals, 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.

Administrative Procedure Act

Section 2(a) of H.J. Res. 281 placed a ban on all activities related to the exploration for, or the development or production of, oil, gas, or minerals within the Sanctuary effective August 6, 1989. Section 2(b) is a directive to the Secretary to amend the Sanctuary regulations to conform to the ban. As stated by the Committee on Merchant Marine and Fisheries of the United States House of Representatives,

"This subsection does not provide the Secretary any discretion with regard to a prohibition and is intended simply as a directive to promulgate conforming regulations. Since the Secretary is afforded no discretion in this matter, the Committee believes that the notice and comment rulemaking procedures of section 553 of the Administrative Procedure Act will be waived. In addition, no Environmental Impact Statement or environmental assessment is necessary. The Committee expects the Secretary to proceed directly with promulgation of the rule within 120 days of enactment. H.R. Rep. No. 101-101st Cong., 1st Sess. 11 (1990)."

Since section 2(b) of H.J. Res. 281 affords the Secretary no discretion, regarding imposition of the ban, the Under Secretary of Commerce for Oceans and Atmosphere, pursuant to section 553(d)(3) of the Administrative Procedure Act (APA), for good cause, found that it is unnecessary to provide notice and opportunity for comment on this regulatory amendment. Since the ban imposed by this regulatory amendment has been imposed by statute since August 6, 1989, the Under Secretary, pursuant to section 553(d)(3) of the APA, found that good cause exists for making this regulatory amendment immediately effective.

Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this regulatory amendment because it was not required to be published as a proposed rule before issuance as a final rule by section 533 of the APA or by any other law. As a result, neither an initial nor final Regulatory Flexibility Analysis was prepared.

Paperwork Reduction Act

This amendment does not contain a collection of information requirement subject to the requirements of the Paperwork Reduction Act.

National Environmental Policy Act

Because the activities prohibited by this amendment are already prohibited by statute, the Department of Commerce has determined that this amendment will not significantly affect the quality of the human environment. (See discussion under Administrative Procedure Act above). Therefore, no draft or final Environmental Impact Statement was prepared for this amendment.

Executive Order 12612

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

Executive Order 12830

This rule does not have taking implications sufficient to require preparation of a takings implications assessment under Executive Order 12830.

List of Subjects in 15 CFR Part 942

Environmental protection, marine resources, natural resources.

Date: December 9, 1989.

Virginia K. Telles,
Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth in the preamble, 15 CFR part 942 is amended by:

PART 942—CORDEREL BANK NATIONAL MARINE SANCTUARY

1. Revising the authority section for 15 CFR part 942 to read as follows:


2. Revising § 942.8(a)(3) to read:

(a) . . .

(3) Exploring for, or developing or producing, oil, gas, or minerals. . .

[FR Doc. 90-25894 Filed 12-30-90; 8:45 am]
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