

(b) Modifying both the gascolator and cowl area and tailpipe and cowl area in accordance with Cessna Service Bulletin SB97-28-01, dated June 6, 1997, satisfies all the requirements of this AD, and may be accomplished in place of the check required by paragraph (a) of this AD.

(c) The check required by paragraph (a) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location to accomplish the modification requirements of this AD provided no evidence of rubbing is found during the check required by paragraph (a) of this AD.

(1) If evidence of rubbing is found in either the gascolator to cowl area or the tailpipe to cowl area during the check required by paragraph (a) of this AD, then no special flight permits will be granted.

(2) Prior to any flight granted through a special flight permit, the check required by paragraph (a) of this AD must be accomplished again to assure that no evidence of rubbing exists in either the gascolator to cowl area or the tailpipe to cowl area. If evidence of rubbing is found in either the gascolator to cowl area or the tailpipe to cowl area, then the special flight permit is not valid.

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(f) The modifications required by this AD (if evidence of rubbing is found) shall be done in accordance with Cessna Service Bulletin SB97-28-01, dated June 6, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, Kansas 67277. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment (39-10070) becomes effective on July 15, 1997, to all persons except those persons to whom it was made immediately effective by priority letter AD 97-12-06, issued June 6, 1997, which

contained the requirements of this amendment.

Issued in Kansas City, Missouri, on June 30, 1997.

**Michael Gallagher,**

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 97-17729 Filed 7-8-97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 922

[Docket No. 960712192-7160-02]

RIN 0648-AD85

### Florida Keys National Marine Sanctuary; Supplemental Final Regulatory Flexibility Analysis: Commercial Treasure Salvors

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

**ACTION:** Final rule; availability of Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA).

**SUMMARY:** Pursuant to the Florida Keys National Marine Sanctuary and Protection Act and the National Marine Sanctuaries Act, NOAA developed a comprehensive final management plan for the Florida Keys National Marine Sanctuary (FKNMS or the Sanctuary). NOAA issued final regulations on January 30, 1997, to implement that plan and govern the conduct of activities within the Sanctuary, and modified them on June 12, 1997.

A Final Regulatory Flexibility Analysis (FRFA) was prepared for the final regulations. The FRFA was summarized in the **Federal Register** document issuing the final Sanctuary regulations (62 FR 4578, January 30, 1997), and its availability announced. The Office of the Chief Counsel for Advocacy of the Small Business Administration (SBA) reviewed the FRFA and received several comments critical of certain portions of the FRFA, mainly with regard to the discussion of submerged cultural resources and the impacts on treasure salvors. The Office of the Chief Counsel for Advocacy informally suggested to NOAA that the portion of the FRFA on treasure salvage be supplemented. Consequently, prior to the effective date of the final

Sanctuary regulations (July 1, 1997) NOAA prepared a Supplemental FRFA covering commercial treasure salvage. The Assistant Administrator for Ocean Services and Coastal Zone Management upon reviewing the Supplemental FRFA concluded that it presented no information warranting modifications to the final regulations. Consequently, the Assistant Administrator has ratified the final regulations. This document summarizes and announces the availability of the Supplemental FRFA.

**ADDRESSES:** Requests for a copy of the Supplemental Final Regulatory Flexibility Analysis: Commercial Treasure Salvage, the Final Regulatory Flexibility Analysis, or the Final Management Plan/Environmental Impact Statement should be submitted to the Sanctuary Superintendent, Florida Keys National Marine Sanctuary, P.O. Box 500368, Marathon, Florida 33050.

**FOR FURTHER INFORMATION CONTACT:** Billy Causey, Sanctuary Superintendent, 305/743-2437 or Edward Lindelof, East Coast Branch Chief, Sanctuaries and Reserves Division, 301/713-3137 Extension 131.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The FKNMS was designated by an act of Congress entitled the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA, Pub. L. No. 101-605) which was signed into law on November 16, 1990. The FKNMSPA directed the Secretary of Commerce to develop a comprehensive management plan and regulations for the Sanctuary pursuant to sections 303 and 304 of the National Marine Sanctuaries Act (NMSA) (also known as Title III of the Marine Protection, Research, and Sanctuaries Act of 1972), as amended, 16 U.S.C. 1431 *et seq.* The NMSA authorizes the development of management plans and regulations for national marine sanctuaries to protect their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities.

The authority of the Secretary to designate national marine sanctuaries and implement designated sanctuaries was delegated to the Under Secretary of Commerce for Oceans and Atmosphere by the Department of Commerce, Organization Order 10-15, § 3.01(z) (Jan. 11, 1988). The authority to administer the other provisions of the NMSA was 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).

NOAA published final Sanctuary regulations to implement the management plan on January 30, 1997 (62 FR 4578), and modified them on June 12, 1997 (62 FR 32154). The effective date of the final Sanctuary regulations is July 1, 1997.

## **II. Regulatory Flexibility Act**

The economic impacts to commercial treasure salvors are addressed in the Draft and Final Environmental Impact Statements; the assessment conducted pursuant to E.O. 12866, the FRFA, as well as in the Supplemental FRFA.

The FRFA was summarized in the **Federal Register** document issuing the final Sanctuary regulations (62 FR 4578, 4605–4606), and its availability announced. The Office of the Chief Counsel for Advocacy of the Small Business Administration (SBA) reviewed the FRFA and received several comments critical of certain portions of the FRFA, mainly with regard to the treatment of submerged cultural resources and the impacts on treasure salvors. At SBA's suggestion, and because of the time provided by the forty-five day Congressional review period under the National Marine Sanctuaries Act, NOAA prepared a supplement to the FRFA to further address the comments received by the SBA regarding commercial treasure salvage. The following provides a summary of the Supplemental FRFA.

Section 604(a)(1) of the Regulatory Flexibility Act (RFA) requires that the FRFA contain a succinct statement of the need for, and objectives of, the rule. The FKNMSPA mandated the development of a final management plan and implementing regulations in order to protect and manage Sanctuary resources in a manner which facilitates multiple uses of the Sanctuary which are consistent with the primary objective of resource protection.

Prior to Sanctuary designation, the recovery of artifacts from historic shipwrecks by treasure hunters and commercial salvors was controlled by a contract system under Florida State law and the maritime admiralty law of finds and salvage outside State submerged lands and waters. The statutory designation of the FKNMS in 1990 made historic shipwreck public sanctuary resources, just like the coral, seagrass beds and other natural resources of the Sanctuary. Federal historic preservation law generally prohibits the unauthorized removal and privatization of public resources. Therefore, unless the recovery is conducted pursuant to some valid pre-existing Federal or State authorization or is expressly authorized by a Sanctuary permit, the salvage is

prohibited. The Sanctuary regulations include a permit system for recovery and privatization of public resources under certain circumstances. Without this permit system, no private recovery would be lawful under the existing Federal Archaeological Program (FAP), the underlying Federal Historic Preservation Laws and the NMSA.

Section 604(a)(2) of the RFA requires a summary of the significant issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis (IRFA), a summary of the assessment of the agency of such issues, and a statement of any changes to the proposed rule as a result of such comments. While an IRFA was determined not to be required for the Draft Management Plan/Draft Environmental Impact Statement (DMP/DEIS) and therefore was not prepared, a socioeconomic impact analysis was conducted and was summarized in the DMP/DEIS. The socioeconomic impact analysis stated that the adverse impacts were expected to be minimal for several reasons, including past and present salvage activities, the likelihood of new discoveries, enactment of the Abandoned Shipwreck Act and other Federal historic preservation laws, and the shift of the treasure salvage industry away from the Florida Keys to waters outside the United States, particularly in the Caribbean. NOAA received comments on its proposed management of submerged cultural resources (SCRs) from the public, and for the most part, treasure salvors, particularly the Historic Shipwreck Salvage Policy Council (HSSPC), throughout the development of the final regulations and management plan, as well as comments received by the SBA on the FRFA. NOAA's responses to these comments, and a description of what changes are made in the final regulations and management plan, are found in the Final Management Plan/Final Environmental Impact Statement, final regulations, FRFA and Supplemental FRFA. The issues raised in the comments received, and NOAA's responses thereto, address: (1) The ban on treasure salvage; (2) penalties; (3) prohibiting treasure hunting and not issuing permits for private profit; (4) SCR plan/permits and costs to treasure salvors' businesses; (5) Special Use Permits; fees/waiver in SCR Context; (6) public access to SCRs; (7) inventory of SCRs—responsibility & expense; and (8) survey/inventory permits.

Section 604(a)(3) requires a description of, and an estimate of, the number of small entities to which the rule will apply or an explanation of why no such estimate is available. The small

businesses that directly use the Sanctuary and its resources, and therefore will be subject to the Sanctuary regulations, include commercial treasure salvors. The Supplemental FRFA describes the creation and evolution of the treasure hunting-commercial salvage industry; the current commercial treasure salvage industry in Florida and the Florida Keys—professional treasure hunters, part-time treasure hunters, and amateur souvenir collectors/hobbyists. The Supplemental FRFA also describes other groups interested in historic sanctuary resources—recreational divers, archaeologists, historians, educators, fishermen, and the public.

Section 604(a)(4) requires that the FRFA contain a description of the reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record. As discussed in the FRFA, the Sanctuary regulations require that permittees submit status reports for activities conducted under Sanctuary permits. The reporting requirement for SCR permits may be more rigorous than the existing State contracts, but they are necessary to preserve historical and archaeological information consistent with existing Federal historic preservation laws. The number of small entities which must comply with this requirement will depend on the number of applicants; expected to be less than 20 per year. The Supplemental FRFA adds that as regards commercial treasure salvors, the reporting and recordkeeping requirements under this rule is limited to the SCR permit system which consists of: (1) A survey/inventory permit (phase 1); (2) a research/recovery permit (phase 2); and (3) a Special Use Permit for deaccession/transfer (phase 3). No permit is required for the search with non-intrusive remote sensing devices. However, a permit is required if there is even limited excavation for identification purposes because of the potential loss or injury to Sanctuary resources (natural and historic).

Section 604(a)(5) requires a description of the steps taken to minimize the significant economic impacts on small entities consistent with the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected. In the 25 year history of the National Marine

Sanctuary Program, and consistent with the FAP, commercial treasure salvage has never been permitted in any national marine sanctuary prior to the Sanctuary plan. The final Sanctuary regulations and management plan, as they pertain to SCRs and commercial treasure salvage, were based on the meetings with and comments from treasure salvors, comments from historic preservationists, and the public. In response to comments, the final regulations and plan reflect changes that were made in an effort to make the permit system more pragmatic from the perspective of the commercial treasure salvors without compromising the primary objectives of protecting significant natural and historic sanctuary resources. In particular, the final plan and regulations contain more detail on the criteria for NOAA/State decisions regarding the circumstances when SCRs may be recovered under the Sanctuary permit system. The regulations also establish a system by which a permittee may retain possession of the SCRs, make money off their display, and in certain circumstances, be able to privatize the public resource for sale, transfer or distribution to investors. Other changes to the regulations are further described in the Supplemental FRFA.

The SBA also received an E-mail from the Conch Coalition stating that the Florida Keys Marine Life Association had just become aware that the Sanctuary regulations would have significant adverse economic impacts on the Florida Keys marine life industry and that the FRFA did not properly deal with those impacts. The E-mail stated that detailed comments on this issue would be forthcoming from the Florida Keys Marine Life Association. Such comments were never received. Accordingly, the FRFA has not been supplemented with respect to the Florida Keys marine life industry.

A copy of the supplemental FRFA may be obtained upon request.

#### List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

Dated: June 30, 1997.

**Nancy Foster,**

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

[FR Doc. 97-17709 Filed 7-8-97; 8:45 am]

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### 18 CFR Part 35

[Docket Nos. RM95-8-004 and RM94-7-005]

#### Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Final rule; order denying motion for stay.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) denies Ontario Hydro's motion for stay pending judicial review of the reciprocity provision of Order No. 888 as it applies to transmission-owning foreign electric utilities. Based on the limited information provided by Ontario Hydro, the Commission could not conclude that Ontario Hydro has demonstrated on this record that justice requires a stay.

**FOR FURTHER INFORMATION CONTACT:** Lois D. Cashell, Secretary, (202) 208-0400.

**SUPPLEMENTARY INFORMATION:** In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202-208-1397 if dialing locally or 1-800-856-3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS user assistance is available at 202-208-2474.

CIPS is also available through the Fed World system. Telnet software is required. To access CIPS via the Internet, point your browser to the URL address: <http://www.fedworld.gov> and select the "Go to the FedWorld Telnet

Site" button. When your Telnet software connects you, log on to the FedWorld system, scroll down and select FedWorld by typing: 1 and at the command line then typing: /go FERC. FedWorld may also be accessed by Telnet at the address [fedworld.gov](http://fedworld.gov).

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is also located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, and Donald F. Santa, Jr.

#### Order Denying Motion for Stay

Issued June 20, 1997.

On May 2, 1997, Ontario Hydro filed a motion for stay pending judicial review of the provision of Order No. 888<sup>1</sup> "requiring transmission-owning foreign electric utilities to provide open-access transmission services as a condition to receiving transmission access from transmission-owning public utilities in the United States (the 'Open-Access Condition')." On May 16, 1997, the Commission, in response to Ontario Hydro's motion, issued an order clarifying the reciprocity condition of Order No. 888 and requesting additional information.<sup>3</sup> Ontario Hydro submitted its response on May 23, 1997. Based on the limited information provided by Ontario Hydro, as set forth below, we cannot conclude that Ontario Hydro has demonstrated on this record that justice requires a stay. We therefore deny Ontario Hydro's motion.

#### I. Background

##### A. Motion for Stay

Ontario Hydro is a Canadian utility that historically has sold electric power to U.S. purchasers. It claims that the Open-Access Condition will "disrupt" its entire "forecasted" \$235 million (Canadian) per year U.S. export business and that it will have no opportunity to recover any of its losses.

Ontario Hydro interprets the Open-Access Condition as applying "not only

<sup>1</sup> Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 FR 12274 (March 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *reh'g pending*.

<sup>2</sup> Motion for Stay at 1.

<sup>3</sup> Order Clarifying Order No. 888 Reciprocity Condition and Requesting Additional Information, 79 FERC ¶ 61,182 (May 16 Order).