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Establishment of Marine Reserves and a Marine Conservation Area Within the Channel Islands National Marine Sanctuary; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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[Docket No. 0612242956–7123–01]

RIN 0648–AT18

Establishment of Marine Reserves and a Marine Conservation Area Within the Channel Islands National Marine Sanctuary

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS) and National Marine Fisheries Service (NOAA Fisheries), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule.

SUMMARY: On August 11, 2006 NOAA issued a notice of proposed rulemaking to establish a network of marine zones within the state and federal waters of the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). State waters in the Sanctuary extend from the shoreline of the islands to approximately 3 nautical miles from shore. Federal waters of the Sanctuary extend from the offshore extent of state waters to the Sanctuary's outer boundary. In this final rule, NOAA is issuing final regulations for the federal-waters portion of the Sanctuary. NOAA has decided to defer a final decision and seeking additional comment on the state-waters portion of the Sanctuary pending action by the State of California to extend the boundaries of several existing state-waters zones to the three mile state-federal-waters boundary.

Marine zones are discrete areas that have special regulations differing from the regulations that apply throughout or above the Sanctuary as a whole. The purpose of these zones within the federal waters of the Sanctuary is to further the protection of Sanctuary biodiversity and complement an existing network established by the State of California in October 2002, and implemented in April 2003, under its authorities. Two types of zones are being established by this action: Marine reserves and marine conservation areas. All extractive activities (e.g., removal of any Sanctuary resource) and injury to Sanctuary resources are prohibited in all marine reserves. Commercial and recreational lobster fishing and recreational fishing for pelagic species are allowed within the marine conservation area, while all other extraction and injury are prohibited. This action establishes approximately 110.5 square nautical miles of marine reserves and 1.7 square nautical miles of marine conservation area in the federal waters of the Sanctuary. As part of this action, NOAA is also modifying the terms of designation for the Sanctuary, which were originally published on October 2, 1980 (45 FR 65198), to allow for the regulation of extractive activities, including fishing, in marine reserves and marine conservation areas, and a slight modification to the outer boundary of the CINMS.

DATES: Pursuant to section 304(b) of the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1434(b), the revised terms of designation and this final rule shall take effect and become final after the close of a review period of 45 days of continuous session of Congress, beginning on the day on which this document is published in the **Federal Register**. Announcement of the effective date of this final rule will be published in the **Federal Register** at a later date.

Public comments on the state-waters portion of this rulemaking must be received by July 23, 2007.

ADDRESSES: Copies of the final environmental impact statement, regulatory impact review, and final regulatory flexibility analyses may be obtained from NOAA's Channel Islands National Marine Sanctuary Web site at *http://channelislands.noaa.gov/* or by writing to Sean Hastings, Resource Protection Coordinator, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109; e-mail: *Sean.Hastings@noaa.gov*.

You may submit comments on the state-waters portion of this rulemaking by any of the following methods:

- *E-mail: CINMSReserves.FEIS@noaa.gov.* Include in the subject line the following document identifier: Marine reserves in CINMS.
- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Sean Hastings, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, CA 93109.

FOR FURTHER INFORMATION CONTACT: Sean Hastings, (805) 884–1472; e-mail: *Sean.Hastings@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Channel Islands National Marine Sanctuary

The CINMS area is approximately 1,113 square nautical miles adjacent to the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock (collectively the Channel Islands), extending seaward to a distance of approximately 6 nautical miles. NOAA designated the CINMS in 1980 to protect the area's rich and diverse range of marine life and habitats, unique and productive oceanographic processes and ecosystems, and culturally significant resources (see 45 FR 65198). The Sanctuary was designated pursuant to NOAA's authority under the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 1431 *et seq.*). There are significant human uses in the Sanctuary as well, including commercial and recreational fishing, marine wildlife viewing, boating and other recreational activities, research and monitoring activities, numerous educational activities, and maritime shipping.

The waters surrounding California's Channel Islands represent a globally unique and diverse assemblage of habitats and species. This region is a subset of the larger ecosystem of the Southern California Bight, an area bounded by Point Conception in the north and Punta Banda, Mexico in the south. In the area between Santa Barbara Island in the south and San Miguel Island in the northwest, the colder waters of the Oregonian oceanic province in the north converge and mix with the warmer waters of the Californian oceanic province. Each of these two provinces has unique oceanic conditions and species assemblages, which in turn are parts of distinct biogeographic regions. The mixing of these two provinces in the vicinity of the Channel Islands creates a transition zone within the island chain. Upwelling and ocean currents in the area create a nutrient rich environment that supports high species and habitat diversity.

In the Southern California Bight, marine resources have declined under pressure from a variety of factors, including commercial and recreational fishing, changes in oceanographic conditions associated with El Niño and other large-scale oceanographic cycles, introduction of disease, and increased levels of pollutants. The urbanization of southern California has significantly increased the number of people visiting the coastal zone. The burgeoning coastal population has greatly increased the influx of human, industrial, and agricultural wastes to California coastal waters. Population growth has also increased human demands on the ocean, including commercial and recreational fishing, wildlife viewing

and other activities. New technologies have increased the yield of sport and commercial fisheries. Many former natural refuges for targeted species, such as submarine canyons, submerged pinnacles, deep waters, and waters distant from harbors, can now be accessed due to advancements in fishing technology and increased fishing effort.

The significant changes in ecological conditions resulting from the array of human activities in the Channel Islands region are just beginning to be understood. For example, many kelp beds have converted to urchin barrens, where urchins and coralline algae have replaced kelp as the dominant feature. Deep canyon and rock areas that were formerly rich rockfishing grounds have significantly reduced populations of larger rockfish such as cowcod and bocaccio.

In the Southern California Bight, commercial and recreational fisheries target more than 100 fish species and more than 20 invertebrate species. Targeted species have exhibited high variability in landings from year to year (*e.g.*, squid) and in several cases have declined to the point that the fishery has had to be shut down (*e.g.*, abalone). Many targeted species are considered overfished and one previously targeted species (white abalone) is listed as endangered. Excessive bycatch has caused declines of some non-targeted species. The removal of species that play key ecological roles, such as predatory fish, has altered ecosystem structure. Some types of fishing gear have caused temporary or permanent damage to marine habitats. The combination of direct take, bycatch, indirect effects, and habitat damage and destruction has contributed to a negative transformation of the marine environment around the Channel Islands.

B. Marine Zoning

For over twenty years, NOAA has used marine zoning as a tool in specific national marine sanctuaries to address a wide array of resource protection and user conflict issues. Marine zones are discrete areas within or above a national marine sanctuary that have special regulations that differ from the regulations that apply throughout or above the sanctuary as a whole. For example, marine zones are used to regulate the use of motorized personal watercraft in the Monterey Bay National Marine Sanctuary. Marine zones, including areas where all extraction is prohibited, have also been established in the Florida Keys National Marine Sanctuary to provide for varying levels of resource protection.

NOAA has used zoning within the CINMS since its original designation in 1980. For example, the CINMS regulations prohibit:

1. Cargo vessels from coming within 1 nautical mile of any island in the CINMS;

2. disturbance of marine mammals or seabirds by flying aircraft below 1,000 feet within 1 nautical mile of any island within the CINMS; and

3. construction upon or drilling into the seabed within 2 nautical miles of any island in the CINMS.

In addition to NOAA, other federal and state agencies have also established marine zones wholly or partially within the Sanctuary (e.g., California Department of Fish and Game, National Park Service). In 1978, commercial and recreational fishing was prohibited by the State of California in one small marine protected area of the Channel Islands, the Anacapa Island Ecological Reserve. The International Maritime Organization has designated a voluntary vessel traffic separation scheme to guide large vessel traffic running through the Santa Barbara Channel. The National Park Service (NPS) has established several zoned areas within the Channel Islands National Park for different public uses, principally to protect seabird colonies and marine mammal haul outs. More recently, the NPS is instituting a new zoning approach to managing park lands, coasts, and adjacent waters.

Due to historic lows in the stocks of certain rockfish (e.g., cowcod and bocaccio), in 2001 the Pacific Fishery Management Council (PFMC) took emergency action and established large bottom closures to rebuild these stocks. NOAA implemented the Cowcod Conservation Area regulations on January 1, 2001 (66 FR 2338) and the Rockfish Conservation Area emergency regulations on September 13, 2002 (67 FR 57973). The Cowcod Conservation Area and the California Rockfish Conservation Area partially overlay Sanctuary waters. Finally, in 2002, the California Fish and Game Commission (FGC) authorized the establishment of marine reserves and marine conservation areas within the state waters of the Sanctuary that prohibit or limit the take of living, geological or cultural marine resources.

C. Marine Reserves

The number of documented successful examples of no-take marine reserves is growing, providing substantial evidence that rapid increases in biomass, biodiversity, abundance and size of organisms usually result from their designation. Increased biodiversity, abundance, and habitat quality within closed areas generally improve the resiliency and ability of marine ecosystems to adapt to ongoing human-caused or natural disturbance, such as climate shifts, major storm damage, and pollution.

The designation of marine reserves can also reinforce traditional fish management approaches to substantially reduce overall fishery impacts to the ecosystem. Traditional management, like controls on fishery catch and effort, may fail due to factors such as stock assessment errors, inadequate institutional frameworks, and uncertainty. Marine reserves can help to rebuild depleted populations, reduce bycatch and discards, and reduce known and as-yet-unknown ecosystem effects of fishing. In addition, marine reserves offer scientists and resource managers a controlled opportunity to study the influence of change on marine ecosystems in the absence of direct human disturbance.

D. Channel Islands Marine Reserves Process, Community Phase 1999–2001

The NMSA requires NOAA to periodically review the management plan and regulations for each national marine sanctuary and to revise them, as necessary, to fulfill the purposes and policies of the NMSA (16 U.S.C. 1434(e)). NOAA began the process to review the CINMS management plan and regulations in 1999. Through the scoping process, many members of the public voiced concern over the state of biodiversity in the CINMS and called for fully protected (i.e., no-take) zones to be established.

In 1998, the Commission received a recommendation from a local recreational fishing group to create marine reserves around the northern Channel Islands as a response to declining fish populations. In response to concerns about changes in the ecosystem and comments raised to the Commission and during the CINMS management plan scoping process, NOAA and the California Department of Fish and Game (CDFG) developed a Federal-state partnership to consider the establishment of marine reserves in the Sanctuary.

Since the marine reserves process is inherently complex, and is a stand-alone action that is programmatically independent of and severable from the more general suite of actions contemplated in the management plan review process, NOAA decided to separate the process to consider marine reserves from the larger CINMS management plan review process. The draft management plan and DEIS for the

management plan review were released for public comment on May 19, 2006 (71 FR 29148). NOAA also published a proposed rule to implement the management plan on May 19, 2006 (71 FR 29096). Please see *http://channelislands.noaa.gov* for more information.

The CINMS Advisory Council, a federal advisory board of local community representatives and federal, state and local government agency representatives, created a multi-stakeholder Marine Reserves Working Group (MRWG) to seek agreement on a recommendation regarding the potential establishment of marine reserves within the Sanctuary. The CINMS Advisory Council also designated a Science Advisory Panel of recognized experts and a NOAA-led Socio-economic Team to support the MRWG in its deliberations.

Extensive scientific, social, and economic data were collected in support of the marine reserves assessment process. From July 1999 to May 2001, the MRWG met monthly to receive, weigh, and integrate advice from technical advisors and the public. The MRWG reached consensus on a set of ground rules, a mission statement, a problem statement, a list of species of interest, and a comprehensive suite of implementation recommendations. The MRWG found that in order to protect, maintain, restore, and enhance living marine resources, it is necessary to develop new management strategies that encompass an ecosystem perspective and promote collaboration between competing interests. A set of goals were also agreed upon by the MRWG:

1. To protect representative and unique marine habitats, ecological processes, and populations of interest.
2. To maintain long-term socioeconomic viability while minimizing short-term socioeconomic losses to all users and dependent parties.
3. To achieve sustainable fisheries by integrating marine reserves into fisheries management.
4. To maintain areas for visitor, spiritual, and recreational opportunities which include cultural and ecological features and their associated values.
5. To foster stewardship of the marine environment by providing educational opportunities to increase awareness and encourage responsible use of resources.

The MRWG developed over 40 different designs for potential marine reserves and evaluated the ecological value and potential economic impact of each design. To do so, members of the MRWG contributed their own expertise to modify designs or generate alternatives and utilized a geospatial tool, known as the Channel Islands Spatial Support and Analysis Tool (CI-SSAT). CI-SSAT provided opportunities for visualization, manipulation, and analysis of data for the purpose of designing marine reserves.

After months of deliberation, a consensus design could not be reached and the MRWG selected two designs to represent the diverse views of the group. These designs depict the best effort that each MRWG representative could propose. Ultimately, the CINMS Advisory Council provided the MRWG's two designs, as well as all of the supporting information developed during the process, including background scientific and economic information, to NOAA and the CDFG for consideration and action.

Based on this information and additional internal agency analysis, NOAA and the CDFG crafted a draft reserve network and sent it to the CINMS Advisory Council and the former MRWG, Science Panel and Socio-Economic Team members seeking further input. The draft reserve network was also published in local papers and on the CINMS Web site to solicit input from the general public. Several meetings were held with constituent groups, including the CINMS Advisory Council's Conservation Working Group, Fishing Working Group and Ports and Harbors Working Group, to discuss the draft network. Following this period of input, the CDFG and NOAA prepared a recommendation for establishing a network of marine reserves and marine conservation areas. The recommendation proposed a network of marine reserves and marine conservation areas in the same general locations as the MRWG Composite Map. The composite map was forwarded to the CINMS Advisory Council and represented two versions of a reserve and conservation area network, one version from consumptive interests and the other from non-consumptive interests. These two versions were overlaid on one map, and depicted a number of areas that the constituent groups agreed upon. This recommendation became the basis for the preferred alternative in the State's California Environmental Quality Act (CEQA) environmental review process.

E. Establishment of State Reserves in the CINMS, 2001 to 2003

Due to the fact that the proposed network spanned both state and federal waters, NOAA and the CDFG determined the implementation of the recommendation would need to be divided into a state phase and a federal phase. State waters extend from the shore to a distance of three nautical miles. Federal waters extend beyond the limit of state waters to the extent of the exclusive economic zone, with the outer boundary of the CINMS at a distance of approximately six nautical miles from shore. The state phase was to be considered by the Commission under its authorities.

The CDFG completed an environmental review under the requirements of CEQA resulting in the publication of an environmental document. The draft environmental document (ED) was released for public comment on May 30, 2002. Comments were accepted for an extended period until September 1, 2002. The Commission and CDFG received 2,492 letters, e-mails and oral comments. Of this total, 2,445 were form letters that made identical comments.

The Commission certified the final ED on October 23, 2002. At this same meeting, the Commission approved the CDFG's preferred alternative. The CDFG published final regulations for its action in January 2003. As part of its implementation, the FGC acknowledged the need for NOAA to complete the network by extending the marine zones into the deeper and federal waters of the CINMS.

F. Federal Marine Reserves Process, 2003–2007

Following the publication of the CDFG's final regulations in 2003, NOAA's NMSP initiated the federal marine reserves process, and hosted scoping meetings with the general public, the CINMS Advisory Council, and PFMC. In 2004, the NMSP released a preliminary environmental document with a range of alternatives for public review. In 2005, the NMSP consulted with local, state, and federal agencies and the PFMC on possible amendments to the CINMS designation document pursuant to section 303(b)(2) of the NMSA (16 U.S.C. 1433(b)(2)). In addition, in 2005 the NMSP provided the PFMC with the opportunity to prepare draft NMSA fishing regulations pursuant to section 304(a)(5) of the NMSA (16 U.S.C. 1434(a)(5)) for the potential establishment of marine reserves and marine conservation areas.

In its response to NOAA's letter regarding draft NMSA fishing regulations, the PFMC stated its support for NOAA's goals and objectives for marine zones in the CINMS but recommended that NOAA issue fishing regulations under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the relevant authorities of the states of

California, Oregon, and Washington rather than under the NMSA. To that end, and in accordance with advice from the NOAA Administrator in his October 19, 2005 letter to the PFMC, the PFMC recommended the Channel Islands marine zones in federal waters be designated as Essential Fish Habitat and Habitat Areas of Particular Concern with corresponding management measures to prohibit the use of bottom contact gear under Amendment 19 of the Groundfish Fishery Management Plan. To complete the process of addressing closure of the remaining aspect of the marine zones (i.e., in the water column) the PFMC stated its intent to pursue those closures through other fishery management plan authorities and complementary state laws.

NOAA reviewed the PFMC's recommendations and determined that they did not have the specificity or record to support the use of the MSA or state laws to establish limited take or no-take zones in the water column and thereby did not fulfill NOAA's goals and objectives for these marine zones in the CINMS. However, Amendment 19 to the Groundfish Fishery Management Plan implemented, in part, the proposed marine zones by prohibiting all bottom contact gear in the proposed zones. Accordingly, the NMSA regulations issued in this rule prohibit the take of resources from the zones not prohibited by the Amendment 19 regulations. Thus, along with the regulations implementing Amendment 19, the NMSA regulations establish comprehensive limited-take and no-take zones in the CINMS in a manner that fulfills NOAA's goals and objectives for these marine zones in the CINMS.

As stated in the summary, the purpose of these zones is to further the protection of Sanctuary biodiversity and complement an existing network established by the State of California in October 2002, and implemented in April, 2003, under its authorities. The goals of the zones are:

- To ensure the long-term protection of Sanctuary resources by restoring and enhancing the abundance, density, population age structure, and diversity of the natural biological communities.
- To protect, restore, and maintain functional and intact portions of natural habitats (including deeper water habitats), populations, and ecological processes in the Sanctuary.
- To provide, for research and education, undisturbed reference areas that include the full spectrum of habitats within the CINMS where local populations exhibit a more natural abundance, density, diversity, and age structure.
- To set aside, for intrinsic and heritage value, representative habitats and natural biological communities.
- To complement the protection of CINMS resources and habitats afforded by the State of California's marine reserves and marine conservation areas.
- To create models of and incentives for ways to conserve and manage the resources of CINMS.

On August 11, 2006 NOAA issued a notice of proposed rulemaking (71 FR 46134) to prohibit the take of resources from the zones not prohibited by the Amendment 19 regulations. NOAA subsequently issued a correction to this notice on October 5, 2006 (71 FR 58767) to correct certain figures presented on the size of the Sanctuary.

Between August and October of 2006, NOAA received public comments and held two hearings on the proposed rule. Over 30,000 individuals submitted written comments and/or presented oral testimony on NOAA's proposal. 99% of these individuals supported the establishment of marine zones in some form, particularly Alternatives 1A and 2 as described in NOAA's DEIS. During the public comment period, the State of California also submitted comments on NOAA's proposal. In its October 2006 letter, the CDFG stated that it could only support Alternative 1C as described in NOAA's draft environmental impact statement (DEIS). Under Alternative 1C, NOAA would establish marine reserves only in federal waters. NOAA's preferred alternative in the DEIS, identified as Alternative 1A, would have established marine zones in both federal and state waters with federal regulations overlaying the entire network (i.e., from the outer boundary of the federal waters reserves to the shore of the Channel Islands). As indicated in the DEIS, Alternative 1C would leave gaps in protection between the offshore extent of some of the state waters marine zones established by the State of California in 2003 and the marine zones proposed by NOAA (refer to figure 1 for an illustration of these gaps).

On March 16, 2007, the California Coastal Commission (Coastal Commission) held a public meeting on NOAA's proposal pursuant to its authorities under section 307 of the Coastal Zone Management Act (16 U.S.C. 1456). See *http://www.coastal.ca.gov/meetings/mtg-mm7-3.html* for more information about this meeting. At that meeting, the Coastal Commission passed a motion as follows: ''In the event NOAA elects not to implement Alternative 1a, NOAA will implement Alternative 1c, with the following additional provisions: Until such time as the Resources Agency and the Fish and Game Commission designate the areas in between the existing State-designated MPAs and the 3 mile limit (i.e., the ''gaps'' between the existing state MPAs and the federal MPAs depicted in Alternative 1c [and shown on Exhibit 9]), or the Fish and Game Commission/DFG and NOAA enter into an interagency agreement that establishes MPA protection for these ''gap'' areas, NOAA will expand Alternative 1c to include in its MPA designation these ''gaps'' between the outer boundaries of the existing state MPAs and the state-federal waters boundary (3nm from shore).'' At this meeting, the CDFG representative also stated that the FGC could close these gaps in protection using state laws by August 2007.

Based on the record, including comments received during the public comment period and the record of the Coastal Commission, NOAA has determined that there is sufficient information and rationale to establish marine zones in the federal waters of the Sanctuary (i.e., implement NOAA's Alternative 1C). With regard to state waters of the Sanctuary, NOAA has decided to defer action on establishing marine zones until the FGC has had an opportunity to close those gaps in a manner consistent with the Coastal Commission's motion and the CDFG representative's statement. The State of California has already begun this process by placing it on the agenda for a decision at the August 2007 meeting of the FGC. Also, the CDFG has begun preparing the necessary documentation to support the FGC's decision. NOAA is, therefore, leaving the record open with regard to a decision to establish marine zones in state waters of the Sanctuary, and will be accepting additional public comment on this specific issue.

NOAA will make a final decision with regard to its action in state waters in fall, 2007. If the FGC is able to take sufficient action before this time, NOAA proposes to take no further action under the NMSA. If the FGC is not able to take sufficient action before this time, NOAA would finalize regulations under the NMSA that would effectively close the gaps associated with alternative 1C by extending federal protections into state waters to meet the boundaries of the marine zones established by the FGC in 2003. In either case, NOAA will provide public notice of this action through issuance of a **Federal Register** document at the appropriate time.

II. Summary of Final Environmental Impact Statement and Record of Decision

NOAA prepared a draft environmental impact statement (DEIS) for the proposed rule to establish marine reserves and marine conservation areas within the Sanctuary (71 FR 46220; August 11, 2006). The DEIS was prepared in accordance with the NMSA and National Environmental Policy Act of 1969 (NEPA) requirements. The DEIS was distributed for public comments in early August 2006. The public comment period, which closed on October 10, 2006, yielded many comments on NOAA's proposed action and suggestions for improving the DEIS. NOAA has prepared a final environmental impact statement (FEIS) to address these comments and make appropriate changes to its environmental analysis. The FEIS contains a statement of the purpose and need for the project, description of proposed alternatives including the no action alternative, description of the affected environment, and evaluation and comparison of environmental consequences including cumulative impacts. The preferred alternative incorporates the network of marine reserves and marine conservation areas originally identified for the federal phase in the Commission's CEQA document.

NOAA's record of decision for this action, prepared pursuant to 40 CFR 1505.2, is set forth below:

Record of Decision

Introduction

Designated in 1980, the Channel Islands National Marine Sanctuary (CINMS or Sanctuary) consists of an area of approximately 1,113 square nautical miles (nmi2) off the southern coast of California. The Sanctuary boundary begins at the mean high water line and extends seaward to a distance of approximately six nautical miles (nmi) from the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock (collectively the Islands). Located offshore from Santa Barbara and Ventura counties, the Sanctuary supports a rich and diverse range of marine life and habitats, unique and productive oceanographic processes and ecosystems, and culturally significant resources. More than 27 species of cetaceans (whales and dolphins) use the Sanctuary during at least part of the year. There are also 5 species of pinnipeds (seals and sea lions) that occur in the area. More than 60 species of birds feed in the sanctuary and more than 23 species of sharks occur here. In addition, a wealth of Chumash Native American artifacts as well as the remains of over 100 historic shipwrecks line the ocean floor of the Sanctuary.

The primary objective of the CINMS is to protect Sanctuary resources. In meeting this objective, NOAA is establishing federal marine zones in the CINMS to further the protection of Sanctuary biodiversity, and to complement the existing network of marine zones established by the State of California in October 2002 (and implemented under its authorities in April 2003). The regulations implementing this action add nine new federal marine zones to the Sanctuary (eight no-take marine reserves and one limited-take marine conservation area).

These zones total 110.5 nmi^2 as marine reserves and 1.7 nmi^2 as marine conservation areas. The area of the total network, including the existing state marine zones, is 214.1 nmi^2. All extractive activities (e.g., removal of any sanctuary resource) and injury to Sanctuary resources are prohibited in marine reserves. Lobster harvest and recreational fishing for pelagic finfish (with hook and line only) are allowed within the marine conservation area, while all other extraction or injury to Sanctuary resources is prohibited.

NOAA has prepared this record of decision (ROD) in accordance with regulations published by the Council on Environmental Quality (40 CFR 1505.2) implementing the National Environmental Policy Act (NEPA).

Decision

NOAA is issuing new regulations for the CINMS. These new regulations prohibit take of all Sanctuary resources in marine reserves and limit take of all Sanctuary resources in a marine conservation area.

Alternatives Considered

In its final environmental impact statement, NOAA considered three alternatives for this action: A no action (or status quo) alternative, Alternative 1, and Alternative 2.[1]

No Action Alternative

The no action alternative would have maintained the status quo in the Sanctuary (i.e., no new marine zones would be designated). Under this alternative, the NMSP would not have taken any new regulatory action under the NMSA. Existing Sanctuary regulations (e.g., no discharge) would continue to apply throughout the CINMS. Existing state marine reserves and marine conservation areas and existing state and federal management of commercial and recreational activities, including fishing, would remain in place.

Alternative 1

Under Alternative 1, the NMSP will establish a series of marine zones. The spatial extent of the overall marine zoning network alternative was developed by the CDFG and NMSP in 2001, based on the extensive work of the MRWG and its advisory panels, and is the original proposed project in the CDFG (2002). The portions of the marine zones within state waters were established by the FGC and CDFG in 2003.

Alternative 1 contained three sub-alternatives: 1A, 1B, and 1C. In Alternative 1A, the boundaries of the marine zones (and their corresponding NMSA regulations) completely overlay the existing state marine zones and terminate at the mean high water line of the northern Channel Islands. In Alternative 1B, the boundaries of the marine zones (and their corresponding NMSA regulations) abut the existing state marine zone boundaries, thereby including a small portion of state waters. In Alternative 1C, the boundaries of the proposed marine zones terminate at the boundary between state and federal waters (3 nmi from shore), thereby including no state waters. Alternative 1C was NOAA's preferred alternative.

Alternative 2

Alternative 2 is based on a larger network of marine reserves developed during the MRWG process with slight modifications to conform to the boundaries of the existing state marine reserves and conservation areas. Alternative 2 is the largest of the alternatives proposed, thereby increasing protection of various habitats and species of interest, as compared to Alternative 1A. When compared to the no-action alternative, Alternative 2 adds 11 new marine reserves and one new marine conservation area. Alternative 2 has a total of 276.9 nmi^2 as marine reserves and 12.1 nmi^2 as marine conservation areas for a total of 289.0 nmi^2. Alternative 2 would have had the same regulations as Alternative 1.

Environmentally Preferred Alternative

All alternatives, aside from the no action alternative, would result in

[1] In addition, NOAA and the State of California considered and analyzed dozens of other spatial designs. See section 3 of the FEIS for more information about the process used to develop the range of alternatives.

environmental benefits in the form of protection of sensitive marine habitats and species. Alternative 2 is the largest of the alternatives proposed and includes a network of existing state marine zones and new federal zones, and would increase protection of various habitats and species of interest, as compared to the sub-alternatives under Alternative 1. Therefore, this alternative is considered to be the environmentally preferred. It was not selected because Alternative 1 better met NOAA's purpose and need.

Mitigation Measures

Because the action would not result in any environmental harm, there are no specific mitigation measures needed to avoid, minimize, or compensate for environmental harm.

Decision Making Process

Collectively referred to as the ''Channel Islands marine reserves process,'' the consideration of marine zones within the CINMS occurred in three distinct phases: (1) A community-based phase; (2) a State of California (State) regulatory phase; and (3) a federal regulatory phase. These three phases are described in detail in the Final Environmental Impact Statement for this action (see **ADDRESSES**).

In summary, the alternatives described evolved as a result of the Channel Islands marine reserves process. Comprehensive marine zoning network options were originally developed by NOAA and the CDFG following a comprehensive stakeholder process conducted from 1999 through 2002. In 2002, the FGC supported establishment of state marine zones in the state waters of the Sanctuary (0–3 nmi) [2].

Following the publication of the State's final regulations in 2003, NOAA hosted scoping meetings to consider the extension of the State's zones into deeper waters of the Sanctuary. In 2004, NOAA released a preliminary environmental document with a range of alternatives for public review. NOAA then consulted with local, state, and federal agencies and the Pacific Fishery Management Council (PFMC) on possible amendments to the CINMS designation document pursuant to section 303(b)(2) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1433(b)(2)). In addition, in 2005 NOAA provided the PFMC with the opportunity to prepare draft NMSA fishing regulations pursuant to section 304(a)(5) of the NMSA (16 U.S.C. 1434(a)(5)) for the potential establishment of marine reserves and marine conservation areas.

The PFMC response to NOAA's letter regarding draft fishing regulations stated its support for NOAA's goals and objectives for marine zones in the CINMS, but recommended that, rather than utilizing the NMSA, NOAA issue fishing regulations under the Magnuson-Steven Fishery Conservation and Management Act (MSA) and the relevant authorities of the states of California, Oregon, and Washington. To that end, and in accordance with advice from the NOAA Administrator in his October 19, 2005 letter to the PFMC, the PFMC recommended the northern Channel Islands federal marine zones be designated as Essential Fish Habitat (EFH) and Habitat Areas of Particular Concern (HAPC) under Amendment 19 of the Groundfish Fishery Management Plan (FMP). The water column in the marine zones would be closed under other fishery management plan authorities and complementary state laws.

NOAA reviewed the PFMC's recommendations and determined that PFMC did not have the specificity or record to support the use of the MSA or state laws to establish limited take or no-take zones in the water column and thereby did not fulfill NOAA's goals and objectives for these marine zones in the CINMS. Amendment 19 to the Groundfish FMP implemented, in part, the proposed marine zones by prohibiting all bottom contact gear in those proposed zones. Accordingly, NOAA's NMSA regulations prohibit the take of resources from the zones not prohibited by the Amendment 19 regulations. Thus, along with the regulations implementing Amendment 19, the NMSA regulations establish comprehensive marine reserves and a marine conservation area in the federal waters part of the CINMS in a manner that fulfills NOAA's goals and objectives for the marine zones in the CINMS.

In August 2006, NOAA published proposed regulations for this action and released the related draft environmental impact statement (DEIS) for public review and comment. Between August and October of 2006, NOAA received public comment and held two hearings on the proposed rule and DEIS. Over 30,000 individuals submitted written comments and/or presented oral testimony on NOAA's proposal. Approximately 99% of these individuals supported the establishment of Alternative 1A or Alternative 2.

During the public comment period, the State of California also submitted comments on NOAA's proposal. In its October 2006 letter, the CDFG stated that it could only support Alternative 1C (NMSA regulations in federal waters only) as described in the DEIS. In subsequent consultations with State representatives and in a letter from the Secretary of Resources dated January 2, 2007, the State reiterated that it could only support Alternative 1C at this time. Under Alternative 1C, NOAA would establish marine reserves and a marine conservation area only in federal waters. NOAA's preferred alternative, identified as Alternative 1A in the DEIS, would have established marine zones in both federal and state waters with federal regulations overlaying the entire network (*i.e.*, from the outer boundary of the federal waters reserves to the mean high water line of the Channel Islands). As indicated in the DEIS, Alternative 1C leaves small gaps in protection between the offshore extent of some of the state waters marine zones established by the State of California in 2003 and the federal waters marine zones proposed by NOAA.

On March 16, 2007, the Coastal Commission held a public meeting on NOAA's consistency determination with California's Coastal Zone Management Plan under section 307 of the Coastal Zone Management Act (see *http://www.coastal.ca.gov/meetings/mtg-mm7-3.html*). At that meeting, the Coastal Commission passed a motion as follows:

In the event NOAA elects not to implement Alternative 1a, NOAA will implement Alternative 1c, with the following additional provisions: Until such time as the Resources Agency and the Fish and Game Commission designate the areas in between the existing State-designated MPAs and the 3 mile limit (i.e., the ''gaps'' between the existing state MPAs and the federal MPAs depicted in Alternative 1c [and shown on Exhibit 9]), or the Fish and Game Commission/DFG and NOAA enter into an interagency agreement that establishes MPA protection for these ''gap'' areas, NOAA will expand Alternative 1c to include in its MPA designation these ''gaps'' between the outer boundaries of the existing state MPAs and the State-federal waters boundary (3nm from shore).

At this meeting, the CDFG representative also stated that the FGC could close these gaps in protection using state laws by August 2007.

Based on the record, including comments received during the public comment period and the record of the Coastal Commission, NOAA determined that at this time there is sufficient information and rationale to establish marine zones in the federal waters of the Sanctuary (*i.e.*, implement NOAA's alternative 1C). This Record of Decision

[2] Refer to the Environmental Impact Report prepared by the State of California for its 2002 action. This document is available for download on NOAA's CINMS Web site at *http://channelislands.noaa.gov/marineres/main.html.*

supports that determination and represents NOAA's final decision to implement the regulations in the federal waters of the Sanctuary associated with Alternative 1C.

With regard to state waters of the Sanctuary, NOAA has decided to defer action on establishing federal marine zones until the FGC has had an opportunity to close the gaps between the federal marine zones and the state marine zones in a manner consistent with the Coastal Commission's resolution and the CDFG representative's statement.[3] The State of California has already begun this process by placing it on the agenda for a decision at the August 2007 meeting of the FGC. Also, the CDFG has begun preparing the necessary documentation to support the FGC's decision. If the FGC is able to take sufficient action in a timely manner, NOAA would take no further action under the NMSA. If the FGC is not able to take sufficient action in a timely manner, NOAA would issue regulations under the NMSA that would effectively close the gaps associated with Alternative 1C by extending federal protections into state waters to meet the boundaries of the marine zones established by the FGC in 2003. In that instance, a second record of decision for that subsequent action would be issued to finalize such action.

Conclusion

The new regulations identified above apply to all users of the Sanctuary. Based on socioeconomic information gathered by NOAA and identified in the FEIS, the socioeconomic impacts of these regulations can be characterized as:

- Having a small impact on existing consumptive activities (commercial fishing and consumptive recreational activities).
- Beneficial to non-consumptive recreational users. These increased benefits take the form of increases in diversity and abundance of wildlife for viewing and photography opportunities. Benefits may also be derived from the decrease in the density of users or in the reduction in conflicts with consumptive users.
- Beneficial to management, research, and education because relatively undisturbed areas (i.e., reference areas) will be available for comparison with areas outside the marine zones; and
- Beneficial for intrinsic and heritage purposes.

NOAA expects, therefore, that this rule will have no significant socioeconomic impacts and that the implementation of marine zones in the CINMS will have beneficial ecological impacts on marine communities and habitats.

[3] Closing the gaps would also be consistent with the public record supporting the 2002 decision of the California Fish and Game Commission to establish marine zones in the Sanctuary.

III. Revised Designation Document

Section 304(a)(4) of the NMSA requires that the terms of designation include the geographic area included within the Sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or aesthetic value; and the types of activities subject to regulation by the Secretary to protect these characteristics. Section 304(a)(4) also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made. To implement this action, the CINMS Designation Document, originally published in the **Federal Register** on October 2, 1980 (45 FR 65198), is modified to read as follows (new text in bold and deleted text in brackets and italics):

Preamble

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92–532, (the Act) the waters surrounding the northern Channel Islands and Santa Barbara Island are hereby designated a Marine Sanctuary for the purposes of preserving and protecting this unique and fragile ecological community.

Article 1. Effect of Designation

Within the area designated as the Channel Islands National Marine Sanctuary (the Sanctuary), described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of this Designation lists those activities which may require regulation but the listing of any activity does not by itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through regulation, and additional activities may be regulated only by amending Article 4.

Article 2. Description of the Area

The Sanctuary consists of an area of the waters off the coast of California, of approximately [*1252.5*] 1,128 square nautical miles (nm**i**) adjacent to the northern Channel Islands and Santa Barbara Island seaward to a distance of **approximately** 6 nmi. The precise boundaries are defined by regulation.

Article 3. Characteristics of the Area That Give It Particular Value

The Sanctuary is located in an area of upwelling and in a transition zone between the cold waters of the California Current and the warmer Southern California Countercurrent. Consequently, the Sanctuary contains an exceptionally rich and diverse biota, including 30 species of marine mammals and several endangered species of marine mammals and sea birds. The Sanctuary will provide recreational experiences and scientific research opportunities and generally will have special value as an ecological, recreational, and esthetic resource.

Article 4. Scope of Regulation

Section 1. Activities Subject to Regulation

In order to protect the distinctive values of the Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of its marine features and the ecological, recreational, and esthetic value of the area:

a. Hydrocarbon operations.

b. Discharging or depositing any substance.

c. Dredging or alteration of, or construction on, the seabed.

d. Navigation of vessels except fishing vessels or vessels [travelling] traveling within a Vessel Traffic Separation Scheme or Port Access Route designated by the Coast Guard outside of 1 nmi from any island.

e. Disturbing marine mammals or birds by overflights below 1000 feet.

f. Removing or otherwise deliberately harming cultural or historical resources.

g. Within a marine reserve, marine park, or marine conservation area, harvesting, removing, taking, injuring, destroying, possessing, collecting, moving, or causing the loss of any Sanctuary resource, including living or dead organisms or historical resources, or attempting any of these activities.

h. Within a marine reserve, marine park, or marine conservation area, possessing fishing gear.

Section 2. Consistency With International Law

The regulations governing the activities listed in Section 1 of this article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law including treaties and international agreements to which the United States is signatory.

Section 3. Emergency Regulations

Where essential to prevent immediate, serious and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this article would be proposed in accordance with the procedures specified in Article 6.

Article 5. Relation to Other Regulatory Programs

Section 1. Fishing

The regulation of fishing is not authorized under Article 4, except within portions of the Sanctuary designated as marine reserves, marine parks, or marine conservation areas established pursuant to the goals and objectives of the Sanctuary and within the scope of the State of California's Final Environmental Document ''Marine Protected Areas in NOAA's Channel Islands National Marine Sanctuary'' (California Department of Fish and Game, October 2002), certified by the California Fish and Game Commission. However, fishing vessels may be regulated with respect to discharges in accordance with Article 4, Section 1, paragraph (b) and aircraft conducting kelp bed surveys below 1000 feet can be regulated in accordance with Article 4, Section 1, paragraph (e). All regulatory programs pertaining to fishing, including particularly regulations promulgated under the California Fish and Game Code and Fishery Management Plans promulgated under the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., shall remain in effect. All permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. Fishing as used in this article and in Article 4 includes kelp harvesting.

Section 2. Defense Activities

The regulation of those activities listed in Article 4 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 consistent with the regulations to the maximum extent practicable.

Section 3. Other Programs

All applicable regulatory programs shall remain in effect and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. The Sanctuary regulations shall set forth any necessary certification procedures.

Article 6. Alterations to This Designation

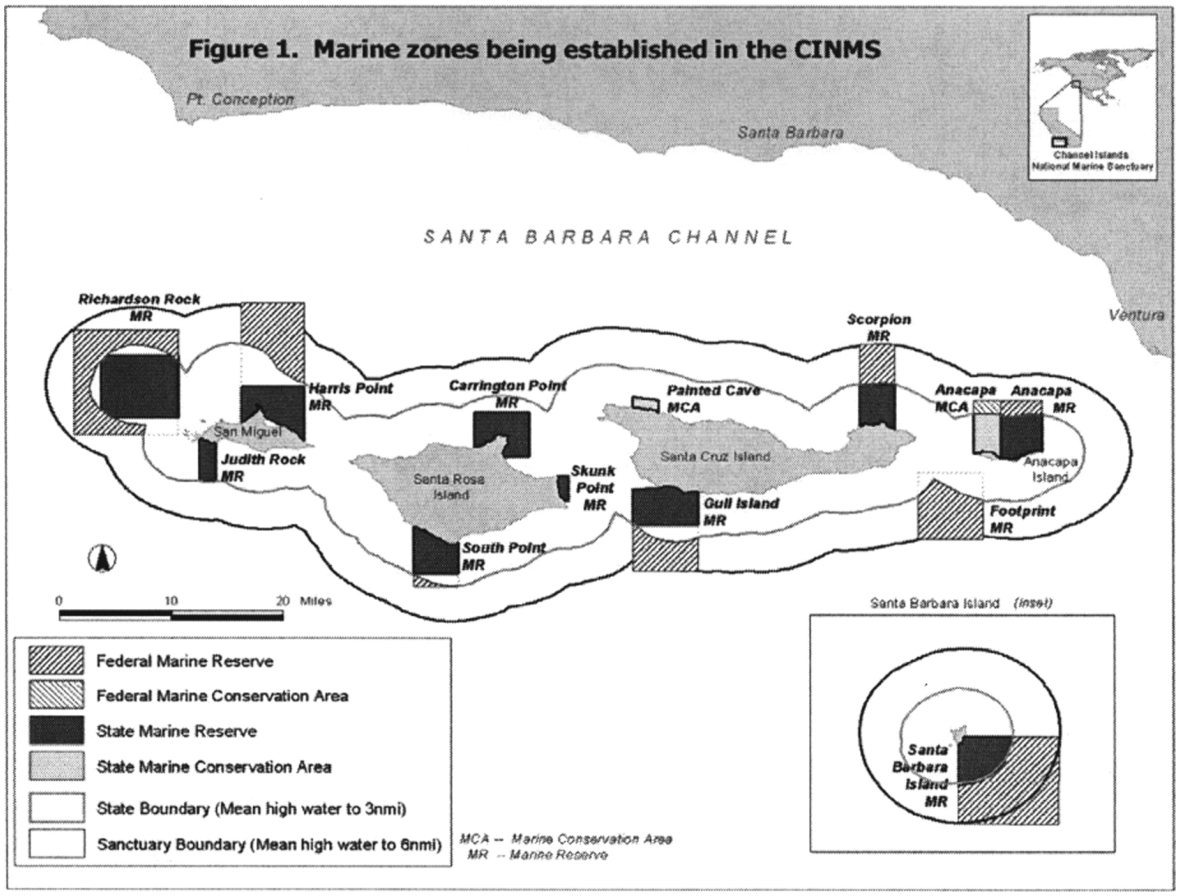
This Designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested federal and state agencies and the Pacific Regional Fishery Management Council, and approval by the President of the United States.

IV. Summary of Regulations

These final regulations implement NOAA's preferred alternative by establishing marine reserves and a marine conservation area within the federal waters of CINMS. The regulations define two new terms (*pelagic finfish* and *stowed and not available for immediate use*), prohibit all extractive activities and injury to Sanctuary resources within the marine reserves, and prohibit all extractive activities and injury to Sanctuary resources within the marine conservation area except recreational fishing for pelagic finfish and commercial and recreational lobster fishing (Anacapa Island Marine Conservation Area). These regulations also add two new appendices that list the boundary coordinates for the marine reserves and marine conservation area. These regulations modify subpart G of the National Marine Sanctuary Program Regulations (15 CFR part 922), the regulations for the Channel Islands National Marine Sanctuary.

A. Establishment of Marine Reserves and Marine Conservation Areas

These regulations establish under the NMSA eight marine reserves and one marine conservation area within the CINMS. Refer to figure 1 for a map depicting the locations of the marine reserves and marine conservation area. The marine reserves are distributed throughout the CINMS and extend slightly beyond the current boundaries of the CINMS in four locations, increasing the geographic area of the Sanctuary by about 15 square nautical miles. This action increases the overall size of the Sanctuary from approximately 1,113 square nautical miles to approximately 1,128 square nautical miles, an approximately 15 square nautical mile increase. This small amount added allows the boundary of four of the marine reserves to be defined by straight lines projecting outside the current CINMS boundary, allowing for better enforcement of the marine reserves. The boundaries of the marine reserves and marine conservation area are consistent with the marine reserves and marine conservation areas established by the Commission in 2002 in state waters-essentially extending most of them into federal waters of the Sanctuary. NOAA is changing the number identifying the total area of the CINMS from approximately 1,252.5 square nautical miles to approximately 1,128 square nautical miles. This change is based on North American Datum of 1983 (NAD 83) and adjusts for technical corrections using updated technologies. The legal description of the CINMS is updated to reflect this change. This update does not constitute a change in the geographic area of the Sanctuary (other than the approximately 15 square nautical miles referred to above) but rather an improvement in the estimate of its size.



Under these final regulations, NOAA establishes two marine reserves in the area around San Miguel Island, one around Santa Rosa Island, two around Santa Cruz Island, two around Anacapa Island, and one around Santa Barbara Island. The marine conservation area is established off of Anacapa Island.

The total area designated marine reserves under these final regulations is 110.5 square nautical miles. The marine conservation area encompasses an additional 1.7 square nautical miles.

Based on the record, including comments received during the public comment period and the record of the Coastal Commission, NOAA has determined that there is sufficient information and rationale to establish marine zones in the federal waters of the Sanctuary (i.e., implement NOAA's Alternative 1C). With regard to state waters of the Sanctuary, NOAA has decided to defer action on establishing marine zones until the FGC has had an opportunity to close those gaps in a manner consistent with the Coastal Commission's motion and the CDFG representative's statement. The State of California has already begun this process by placing it on the agenda for a decision at the August 2007 meeting of the FGC. Also, the CDFG has begun preparing the necessary documentation to support the FGC's decision. NOAA is, therefore, leaving the record open with regard to a decision to establish marine zones in state waters of the Sanctuary, and is requesting additional public comment on this specific issue.

B. Activities Prohibited Within the Marine Reserves

Under the final regulations, NOAA prohibits any harvesting, removing, taking, injuring, destroying, collecting, moving, or causing the loss of any Sanctuary resource, including living or dead organisms or historical resources, or attempting to do so, within any of the marine reserves. The term ''sanctuary resource'' is broadly defined in the NMSP regulations at 15 CFR 922.3 and means any living or non-living resource that contributes to the conservation, recreational, ecological, historical, scientific, educational, or aesthetic value of the Sanctuary. For the CINMS, the term ''Sanctuary resource'' includes, for example, the seafloor and all animals and plants of the Sanctuary. It also includes historical resources (which, pursuant to 15 CFR 922.3, include cultural and archeological resources), such as shipwrecks and Native American remains. In addition, to enhance compliance and aid in enforcement, these final regulations also prohibit possessing fishing gear and Sanctuary resources inside a marine reserve, except in certain circumstances. These final regulations allow possession of legally harvested fish stowed on a vessel at anchor in or transiting through a marine reserve and also allow the possession of stowed fishing gear, provided the gear is not available for immediate use.

These final regulations prohibit only those extractive activities within marine reserves that are not prohibited by 50 CFR part 660, the NOAA regulations that govern ''Fisheries off West Coast States'' (MSA regulations). Therefore, if an extractive activity is prohibited by MSA regulations, it is not prohibited by these final NMSA regulations. Conversely, all extractive activities not prohibited by MSA regulations are prohibited by these final NMSA regulations within marine reserves. In the future, if NOAA were to amend the MSA regulations to prohibit additional extractive activities within marine reserves, these NMSA regulations would correspondingly narrow in scope. If, for MSA purposes, NOAA were to amend the MSA regulations to allow additional extractive activities, these NMSA

regulations would correspondingly expand in scope to ensure all forms of extraction are prohibited within marine reserves. In either case, the MSA rulemaking making such change would provide the public with notice of the corresponding change in applicability of the NMSA regulation.

Regardless of the specific regulatory mechanism, the intended result of this final rule is for all extractive activities to be prohibited within the marine reserves.

C. Activities Prohibited Within the Marine Conservation Areas

These final regulations prohibit the same activities within the marine conservation area as within the marine reserves except that commercial and recreational lobster fishing and recreational fishing for pelagic finfish are allowed in the marine conservation area at Anacapa Island. Commercial fishing for pelagic finfish is prohibited within the marine conservation area.

Like the final regulations for marine reserves, the final regulations for the marine conservation area only prohibit activities that are not prohibited by applicable MSA regulations codified at 50 CFR part 660. Any changes to the applicable MSA regulations would result in a corresponding change in the applicability of the NMSA regulations, as discussed above.

D. Enforcement

The final regulations will be enforced by NOAA and other authorized agencies (e.g., the California Department of Fish and Game, United States Coast Guard, and National Park Service) in a coordinated and comprehensive way. Enforcement actions for an infraction will be prosecuted under the appropriate statutes or regulations governing that infraction. The result is that enforcement actions may be taken under State of California authorities, the NMSA, the MSA, or other relevant legal authority.

E. Permitting

The NMSP regulations, including the regulations for the CINMS, allow NOAA to issue permits to conduct activities that would otherwise be prohibited by the regulations. Most permits are issued by the Superintendent of the CINMS. Requirements for filing permit applications are specified in NMSP regulations and the Office of Management and Budget-approved application guidelines (OMB control number 0648–0141). Criteria for reviewing permit applications are contained in the CINMS and NMSP regulations at 15 CFR 922.77 and 922.48, respectively. In general, permits may be issued for activities related to scientific research, education, and management. Permits may also be issued for activities associated with the salvage and recovery efforts for a recent air or marine casualty. (Emergency activities would not require a permit.)

Nationwide, NOAA issues approximately 200 national marine sanctuary permits each year. Of this amount, two or three are for activities within the CINMS. The majority of permits issued for activities within the CINMS are for activities related to scientific research. NOAA expects this trend to continue with the final regulations. Although there may be an increase in the number of permits requested for activities within the CINMS, NOAA does not expect this increase to appreciably raise the average number of permits issued nationwide. Therefore, NOAA has determined that these final regulations do not necessitate a modification to its information collection approval by the Office of Management and Budget under the Paperwork Reduction Act.

V. Summary of Comments and Responses

This section contains NOAA's responses to the substantive comments received on the proposed rule and DEIS. NOAA has summarized the comments according to the content of the statement or question put forward in the letters, e-mails, and written and oral testimony at the public hearings on this action. Many commenters submitted similar enough questions or statements that they could be addressed by one response. NOAA also made several changes in the FEIS in response to the public comments, e.g., updating the socioeconomic and ecological impact analyses. Several technical or editorial comments on the DEIS and proposed rule were taken under consideration by NOAA and, where appropriate, applied to the FEIS and this final rule. These comments are not, however, included in the substantive list below.

NOAA's FEIS contains these comments and responses, but also includes a table listing the names of the individuals that submitted comments on the DEIS and proposed rule and an index indicating which comments were submitted by each person and NOAA's response to those particular comments.

1. *Comment:* Collectively, the following five reasons were identified by commenters in support of NOAA's Alternative 2:

- It provides the greatest amount of ecosystem protection, habitat representation, and opportunities for species recovery/restoration.
- It best recognizes the intrinsic values associated with biodiversity and ecosystem-based protection.
- It contains zones of sufficient size, space, and connectivity to maximize larval production and recruitment.
- It best fulfills the mandates of the National Marine Sanctuaries Act (NMSA) and the goals of the proposed network.
- It best achieves recommendations in the 2004 report from the Pew Oceans Commission and U.S. Ocean Commission.

Response: Alternative 2 would provide the greatest amount of ecosystem protection as it is the largest spatial alternative. However, Alternative 1 (and its sub-alternatives) provides not only a robust level of ecosystem protection, habitat representation, and opportunity for species recovery and restoration, but is consistent with the existing network established by the State of California (State) in state waters of the Sanctuary and aligned with the offshore marine zones envisioned by the State's preferred alternative in its CEQA document. Also, Alternative 1 (and its three subalternatives) is consistent with the benthic habitat protections adopted by the PFMC and NOAA Fisheries through the EFH conservation areas established by NOAA under MSA regulations (see NOAA's final rule at 71 FR 27408; May 11, 2006). Further, implementation of Alternative 1 would fulfill the mandates of the NMSA, achieve the goals of the CINMS zoning network, and meet several of the recommendations put forward by the Pew Oceans and U.S. Ocean Commissions.

Designation of Alternative 2 under the envisioned regulatory structure may require additional administrative actions that may delay implementation. This regulatory structure, which uses a combination of the MSA and NMSA, may require that the current EFH designation in the Sanctuary, which corresponds to the zone boundaries under Alternative 1, be re-designated to incorporate the larger zone boundaries proposed under Alternative 2. Alternative 1 is the most prudent course of action for the marine zoning network in the Sanctuary.

2. *Comment:* Approximately 30,000 commenters supported NOAA's preferred alternative in the DEIS (Alternative 1A) as the most efficient and coherent zone network for protecting Channel Islands wildlife.

Response: In the DEIS, the three sub-alternatives analyzed under Alternative 1 (1A, 1B, and 1C) provide different

boundary configurations for the marine zoning network based on the extent of federal regulatory overlap in state waters. During the public comment period, the CDFG submitted a letter to NOAA stating that Alternative 1C was the only acceptable alternative. In a January 2, 2007 letter to NOAA, the Secretary of the California Resources Agency reiterated this position again stating that Alternative 1C was the only alternative acceptable to the State of California and that overlap by federal regulations in state waters was never contemplated by the State.

The NMSA allows the Governor of a state for which the NMSP is making changes to a sanctuary's terms of designation to review and reject those changes with regard to state waters. Because implementation of Alternative 1A requires a change to the CINMS terms of designation (to allow regulation of fishing and other resource extraction in State, as well as Federal, waters), NOAA conducted a thorough re-evaluation of Alternatives 1A and 1C, given the Secretary of Resources' opposition to all NOAA alternatives but 1C.

As identified in the DEIS, Alternative 1C leaves small gaps between some of the state designated marine reserves and the proposed federal marine reserves (see section 3.2.4 of the FEIS). The January 2, 2007 letter also stated that the CDFG and the FGC would as soon as possible initiate the process to close the gaps associated with Alternative 1C by bringing the boundaries of a number of the existing state marine zones up to the State-Federal jurisdictional line; that process has commenced. NOAA's analysis identifies that, if these gaps are closed, the differences among the three sub-alternatives are distinguished by management considerations, not ecological and socioeconomic impacts. As such, because the CDFG and the FGC are closing the gaps associated with Alternative 1C, the net ecological benefits and socioeconomic impacts between Alternatives 1A (NOAA's original preferred alternative) and 1C (the State of California's recommended alternative) will be the same. NOAA has determined, therefore, that Alternative 1C will accomplish the goals of the zoning network while respecting the position of the State. If NOAA implements Alternative 1C and the State does not act to close the gaps in a timely manner, NOAA envisions closing the gaps via NMSA regulations.

Furthermore, NOAA and the State strongly support a close, collaborative working relationship to implement the CINMS zoning network and will sign a formal agreement to ensure that management of the network (e.g., enforcement, education and outreach, and monitoring) is implemented in a collaborative, efficient, and effective manner.

3. *Comment:* Several commenters support the no action alternative because they believe existing regulations are sufficient to meet the goals of NOAA's action.

Response: NOAA has determined existing regulations are not sufficient to meet the goals of this action. The State of California has reached the same conclusion in adopting the state waters portions of the network and is asking NOAA for prompt action in the federal waters zones. NOAA's analysis discusses the relationship of the action with other existing management regimes in the region (see sections 3.1 and 5.1.2 of the FEIS) and the effectiveness they have on achieving NOAA's goals for this action.

Marine zones and sound fishery management are complementary components of a comprehensive effort to sustain marine habitats and fisheries. Marine zones are considered one of many tools available to ocean managers and are not the only tool used in the project area for this action. However, certain ecosystem functions cannot be protected as well by other management measures. For example, size, season, and bag limits do not prevent bycatch of non-target species or undersized individuals nor do they fully provide for natural predator and prey interactions. Traditional single species-based management measures alone have not been sufficient to protect groundfish and other populations in the CINMS region and other parts of the world. Incidental impacts of various fishing practices may also have unintended effects that would not occur in a marine zone, particularly in a no-take reserve. This includes both direct impacts to the environment (e.g., habitat damage from trawling) and indirect ecosystem impacts (e.g., removing all large, old fish and altering the species size composition). Marine zones of the type proposed here by their nature provide relatively undisturbed habitats and act as ''natural hatcheries'', which leads to benefits in total production and export of young.

NOAA's action is intended to address a suite of ecological goals, including providing special protection of habitats and species for their intrinsic values. Marine zones of the type proposed here provide insurance for management uncertainty by providing areas where species can interact in a relatively undisturbed ecosystem. Furthermore, NOAA's action under the NMSA does not duplicate existing NOAA regulations promulgated under the MSA. The regulations being issued under this action have been carefully crafted in such a way so that the regulations being issued here under the NMSA are subject to NOAA's regulations under the MSA. This applies to the current regime and any future changes, so that if NOAA were to amend the MSA regulations, the applicability of the NMSA regulations would expand or contract automatically to ensure complete protection with no duplication. See the final regulations for how this is achieved.

The specific integration of marine zones into fisheries management, including reductions in overall fleet capacity, total allowable catch, and allocation between user groups is more appropriately dealt with through the PFMC and FGC processes, which is used to establish these limits.

4. *Comment:* Several commenters support the no action alternative because they believe that any additional zones can and should be designated by the PFMC via the MSA and the State of California via State statutes.

Response: In May 2005, NOAA presented the PFMC, per section 304(a)(5) of the NMSA, with the opportunity to prepare draft NMSA fishing regulations to meet the goals of the CINMS marine zones. Section 304(a)(5) requires that the relevant Fishery Management Council be given the opportunity to prepare draft fishing regulations within the Exclusive Economic Zone (EEZ) portion of the given sanctuary. The EEZ portion of the CINMS is from 3 to 6 nmi offshore the northern Channel Islands. The PFMC responded and recommended that fishing regulations for the CINMS marine zones in federal waters be implemented through the existing authorities of the MSA and the states of California, Oregon, and Washington.

Based on its review of the existing factual and scientific evidence, NOAA determined that there was a credible basis for regulations prohibiting the use of bottom-contact gear in the CINMS marine zones under the MSA. With respect to fishing throughout the remainder of the water column, however, NOAA determined that there was an insufficient factual and scientific basis to support pursuit of this aspect of the PFMC's proposal under the MSA. NOAA determined that the PFMC's recommendations did not have the specificity or record to support the use of the MSA or state laws to establish limited take or no-take zones in the water column and thereby did not fulfill the goals and objectives of the CINMS.

Further, MSA regulations cannot legally address other extractive activities that could be addressed under the NMSA, such as certain scientific research activities. In response, the PFMC changed its recommendation under Amendment 19 to the Pacific Coast Groundfish Management Plan (see next paragraph) to close the existing and proposed CINMS marine zones to only bottom-contact gear.

In 2006, the PFMC submitted and NOAA approved Amendment 19 to the Pacific Coast Groundfish Fishery Management Plan, which, among other things, identified and described EFH within the CINMS for groundfish species and designated the existing and proposed CINMS marine zones as Habitat Areas of Particular Concern (HAPC). Amendment 19 also prohibited the use of bottom-contact gear in the CINMS HAPCs.

The final NMSA regulations for this marine zones action prohibit those extractive activities within the marine zones that are not prohibited by 50 CFR part 660, the NOAA regulations that govern ''Fisheries off West Coast States,'' which includes the Amendment 19 regulations. Therefore, if an extractive activity is prohibited by those MSA regulations, it is not prohibited by the NMSA regulations. Conversely, all extractive activities not prohibited by those MSA regulations in the marine reserves are prohibited by these NMSA regulations. In the future, if NOAA were to amend the MSA regulations to prohibit additional extractive activities in the marine zones, notice and opportunity for public comment would be provided regarding those activities no longer being prohibited by regulations under the NMSA. Likewise, if NOAA were to amend the MSA regulations to allow currently prohibited extractive activities in the marine zones, notice and opportunity for public comment would be provided regarding those additional activities being prohibited under these NMSA regulations.

5. *Comment:* Ecosystem-based management should be favored over traditional fisheries management in this action, because it is more effective at meeting NOAA's purpose and need.

Response: This action to complete the CINMS marine zoning network is a form of ecosystem-based management that is being applied to meet NOAA's responsibility to protect Sanctuary resources. Sanctuary resources are defined at 15 CFR 922.3 as follows:

''*Sanctuary resource means any living or non-living resource of a National Marine Sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the Sanctuary, including, but not limited to, the substratum of the area of the Sanctuary, other submerged features and the surrounding seabed, carbonate rock, corals and other bottom formations, coralline algae and other marine plants and algae, marine invertebrates, brineseep biota, phytoplankton, zooplankton, fish, seabirds, sea turtles and other marine reptiles, marine mammals and historical resources.*''

6. *Comment:* Limit the proposed designation document changes and regulations to prohibit non-fishing activities and fishing in the water column only.

Response: Under the NMSA, when a national marine sanctuary is designated, NOAA must specify the new sanctuary's ''terms of designation.'' The terms of designation include the boundaries of the sanctuary, the characteristics that give it value, and ''the types of activities that will be subject to regulation'' by NOAA. Terms of designation may only be modified by following the same procedures by which the sanctuary was designated. The types of activities subject to regulation are usually expressed in fairly general terms. This is necessary to allow NOAA to make appropriate modifications to the regulations in the future, e.g., to allow for adaptive management. However, even minor changes must be made through a full public process, including an opportunity for the public to review the change and provide comment before it is finalized. Furthermore, NOAA must prepare all legally required analysis for such regulatory changes, including appropriate environmental and economic impact analyses (under the National Environmental Policy Act and Regulatory Flexibility Act).

The designation document amendment has been carefully crafted and comments were solicited from NOAA Fisheries, other relevant resource management agencies, and the PFMC. It is also crafted to be consistent with the deliberations made throughout this process, including the community and state phases (see the Executive Summary of NOAA's FEIS for a summary of the process). As indicated above, the scope of authority defined in designation documents for all national marine sanctuaries is typically general, and the implementing regulations are more specific. NOAA believes this provides sufficient parameters to its authority while allowing flexibility to manage the network adaptively in the future in response to biological, ecological, and economic indicators of the network's effectiveness. Any proposed regulatory adjustment to the current network would undergo rigorous environmental review, analysis, and public input.

As indicated above, in contrast to the general scope of the terms of designation, sanctuary regulations are often very specific and are developed to implement the terms of designation by defining the human activities that are prohibited or otherwise restricted. The final regulations for this NOAA action prohibit those extractive activities within marine reserves that are not prohibited by 50 CFR part 660, the NOAA regulations that govern ''Fisheries off West Coast States'' (MSA regulations). Therefore, if an extractive activity is prohibited by MSA regulations, it is not prohibited by these final NMSA regulations. Conversely, all extractive activities not prohibited by MSA regulations are prohibited by these final NMSA regulations within marine reserves.

Furthermore, NOAA has determined that limiting the scope of the regulations and terms of designation to prohibiting activities only within the water column would leave unacceptable gaps in the cover of the regulations. Certain activities, such as scientific research, would not be covered by other regulations (either State or MSA regulations) thus preventing total closure of the zones. Given this, NOAA has determined that limiting the scope of the regulations and terms of designation would not meet its purpose and need for this action.

7. *Comment:* The geographic scope of the proposed authority to regulate fishing under the NMSA, as described in the DEIS, is too broad.

Response: The designation document amendment has been carefully crafted and comments solicited from NOAA Fisheries, other relevant resource management agencies, and the PFMC. It is also crafted to be consistent with the deliberations made throughout this process, including the community and state phases (see the Executive Summary of NOAA's FEIS for a summary of the process). The scope of authority defined in designation documents for all national marine sanctuaries is typically general, and the implementing regulations are more specific. NOAA believes this provides sufficient parameters to its authority while allowing flexibility to manage the network adaptively in the future in response to biological, ecological, and economic indicators of the network's effectiveness. Any proposed regulatory adjustment to the current network would undergo rigorous environmental review, analysis, and public input.

8. *Comment:* CINMS lacks a fisheries manager position, expert fisheries

advisory bodies, an extensive stakeholder input process, and overall adequate organization for fisheries management, which will complicate existing fisheries management coordination.

Response: The CINMS marine zoning process has required close coordination among staff from the PFMC, NOAA Fisheries, CDFG, FGC and NMSP, and the constituents involved in the respective public policy forums. See Appendix D of the FEIS for a meeting history among these organizations during the CINMS marine zoning process.

In addition, the CINMS Advisory Council has provided, and will continue to provide, a robust, open, and transparent community based public forum to provide advice to NOAA on resource protection, education, and research issues, including fishing issues within the Sanctuary. The Advisory Council has representatives from all major sectors that utilize the CINMS, including commercial and recreational fishermen and the region's primary fisheries regulators, NOAA Fisheries and the CDFG. In addition, the Advisory Council's recreational fishing working group has representatives from local, regional, and national fishing organizations, including United Anglers of Southern California and the Recreational Fishing Alliance. The commercial fishing working group includes representatives from the Santa Barbara and Ventura fishing communities and fishing organizations such as the Sea Urchin Harvesters Association.

9. *Comment:* Commenter requests funding for collaborative research involving the fishing community.

Response: NOAA continues to support and fund the Channel Islands Collaborative Marine Research Program (CMRP), managed by the Channel Islands Marine Sanctuary Foundation, which involves the commercial and recreational fishing communities. To date the CMRP has funded close to $200,000 in research projects involving commercial and recreational fishermen and the scientific community. If future CINMS budgets are stable, funding for this program would continue.

10. *Comment:* NMSA fishery regulations need to be enforceable, clearly understood by the public, and meet the goals and objectives of the PFMC and NOAA.

Response: NOAA has utilized and continues to seek guidance on enforcement of NMSA regulations provided by the PFMC Enforcement Sub-committee, CDFG wardens, National Park Service (NPS) Park Rangers, the NOAA Office of Law Enforcement, and U.S. Coast Guard (USCG) officials. These enforcement experts have provided extensive input on the regulations, and this input is reflected in the final rule. Further, this NOAA action is intended to achieve goals established for the CINMS marine zones under the NMSA, not specific PFMC fishery goals.

11. *Comment:* The various agencies are under-funded and there are not enough staff members to monitor and enforce the existing or proposed project.

Response: NOAA believes that adequate resources exist to manage, monitor, and report on the CINMS marine zones. The Channel Islands region benefits from the resources and coordinated efforts of multiple state and federal agencies and institutions. Through formal and informal agreements, the CDFG, NOAA, the USCG, and the NPS will continue to work collaboratively to monitor, enforce, and manage the marine reserves network.

In addition to research by these agencies, other research organizations and institutions (e.g., University of California, California State Universities, and California Sea Grant Extension Program) have provided research, monitoring and evaluation programs and opportunities. Existing monitoring projects will continue to provide data on changes in the abundance of various species in the region (see *http://www.dfg.ca.gov/mrd/channel_islands/monitoring.html*).

Interagency coordination will result in more efficient use of NOAA and State resources. CDFG enforcement staff cooperates with other public agencies through existing agreements and there are several enforcement agreements and funding mechanisms among the CDFG, the NPS NOAA, and the USCG.

12. *Comment:* Commenter believes there is currently not enough research for NOAA to choose Alternatives 1 or 2 and therefore supports the no action alternative.

Response: NOAA's analysis contained in the proposed rule, DEIS and FEIS presents detailed information on the projected biological and socioeconomic impacts of its alternatives for this action and believes this adequately supports the final action.

13. *Comment:* Commenter requests installation of artificial reefs and rigs-to-reefs programs to create replacement fishing opportunities to mitigate the loss of fishing grounds.

Response: Under NOAA's action, fishing would continue to be allowed in 81% of the Sanctuary (over 800 square nmi), subject to existing state and federal fishery regulations. NOAA expects displacement impacts resulting from its action will be minimal (see section 5.1 of the FEIS). NOAA does not believe there will be any significant loss of fishing grounds and, therefore, no need to develop any mitigation measures at this time. The CINMS social science program calls for monitoring displacement of fishing effort to determine if any mitigation efforts are warranted. Should displacement impacts prove to be significant in the future, NOAA and the State have the ability to take appropriate action under their respective authorities.

14. *Comment:* The action will displace fishing effort and increase impacts in other areas.

Response: Displacement from NOAA's action is expected to be minimal and less than significant (see section 5.1 of the FEIS). Ongoing monitoring, research, and evaluation after implementation will provide additional information on this issue. Should displacement impacts prove to be significant in the future, NOAA and the State have the ability to take appropriate action under their respective authorities.

15. *Comment:* There is no dedicated source of funding at CINMS for education and outreach programs that explain fishery management measures, marine zoning, and marine access programs.

Response: A significant amount of funding from the CINMS budget is dedicated to extensive education and outreach efforts on the CINMS marine zones. Since 2000, the CINMS education and outreach program has been helping the public understand what and where the state marine reserves and marine conservation areas are within the Sanctuary, why they were established, and what we can learn from them (see the Public Awareness and Understanding action plan in section III of the CINMS draft management plan at *http://www.cinms.nos.noaa.gov/manplan/overview.html*). The CINMS also works closely with CDFG to match funding for marine zoning education and outreach. Education and outreach on regional fishery management measures is addressed by NOAA Fisheries, the PFMC, and the CDFG.

16. *Comment:* NOAA should consider more stringent restrictions for commercial lobster fishing and more lenient restrictions for recreational lobster fishing.

Response: Lobster fishing is regulated by the FGC. The existing marine zoning network adopted by the State of California includes two marine conservation areas (Anacapa Island

MCA and Painted Cave MCA) that permit recreational lobster harvest. Commercial lobster fishing is allowed in the Anacapa MCA, but not in the Painted Cave MCA.

17. *Comment:* The FEIS should discuss the effectiveness of other agency management actions.

Response: NOAA's DEIS included a detailed discussion the relationship of NOAA's preferred action with other existing management regimes in the region (see, e.g., sections 2.2 and 3.1.2.1). The effectiveness of these regulatory regimes in achieving NOAA's goals for this action is also discussed. These sections are included in the FEIS.

18. *Comment:* The Channel Islands National Marine Sanctuary (CINMS) Advisory Council (SAC) should be reformed to better address fisheries issues. Specifically, the SAC lacks any members with expertise in fisheries economics, anthropology, geography, etc.

Response: The SAC has representatives from the CDFG and NOAA Fisheries. Representatives from these two entities, in addition to the representatives from commercial and recreational fishing interests and their associated community-based fishing working groups, provide NOAA with significant insight into fisheries issues. In addition, NOAA Fisheries and the CDFG representatives also serve as a conduit to the PFMC and FGC, respectively, which brings NOAA additional perspective on fisheries issues. Moreover, the vast majority of issues faced by the CINMS and its SAC are not related to fisheries and, therefore, require a broad and diverse SAC membership.

19. *Comment:* The ''effective date'' provision in the proposed regulation is unclear, burdensome, and inconsistent with the model language previously presented to the PFMC by NOAA for inclusion under the NMSA 304(a)(5) process, and therefore should not be used.

Response: The effective date clause has been omitted from the final rule.

20. *Comment:* Do not remove the Marine Reserve Working Group's (MRWG) sustainable fisheries goal of integrating marine reserves with existing fisheries management.

Response: The goals for NOAA's action are based on the NMSA. NOAA's goals for this action do attempt to address the goals put forward by the MRWG where appropriate.

21. *Comment:* The CINMS should be an ''experimental station'' for holistic management.

Response: NOAA manages the National Marine Sanctuary System on the principles of ecosystem-based management. This ''holistic'' approach attempts to incorporate all functions of the marine environment into the decision-making process at all sanctuaries, including the CINMS.

22. *Comment:* NOAA should expand its assessment of the action's economic impacts to better account for non-monetary benefits.

Response: NOAA believes the analysis of the passive (non-use) value of the marine zones is sufficient to inform its decision making on this action (see Section 5.2.6 of the FEIS for an evaluation of the passive values associated with NOAA's action).

23. *Comment:* Marine reserves are superior to marine conservation areas in meeting NOAA's purpose and need and are more consistent with the MRWG's recommendations.

Response: See section 3.1.2.2 of the FEIS for a discussion of the differences between marine reserves and marine conservation areas.

24. *Comment:* Many commenters state NOAA should implement the offshore waters of the CINMS marine zone network as the final phase of the CINMS marine reserves process that began in 1999.

Response: See section 2.0 of the FEIS for a description of the purpose of this action, which identifies complementing the existing state network as one of the goals.

25. *Comment:* NOAA should consider fishing as an important cultural resource and protect it as such.

Response: NOAA has carefully evaluated the impacts of the action on fishing communities and has determined the impacts to be minimal. See section 5.2 of the FEIS.

26. *Comment:* Commenter is concerned about the impacts of bottom trawl and long line fishing, bycatch, harvest of bait fish, pesticides and pollution in the ocean, and impacts to kelp and coastal ecosystems.

Response: Marine zones provide reference sites in which to gauge the impacts of many of the commenters' concerns relative to fished areas.

27. *Comment:* Commenter recommends increasing the number of regional field game wardens and their wages, increasing fines, and making sure catch limits are enforced.

Response: NOAA recognizes the critical role enforcement officials play in management of the marine zoning network. This recommendation, however, is outside the scope of NOAA's immediate action.

28. *Comment:* NMSA fishing regulations and designation document amendments for the CINMS marine zones should automatically expire (''sunset'') at the time MSA regulations are promulgated.

Response: NOAA has determined that provision a sunset date is not appropriate because it would not provide NOAA with the flexibility to adaptively manage and respond to unforeseen circumstances.

29. *Comment:* The proposed closures don't greatly affect commercial fishermen, but the previous closures have been devastating.

Response: NOAA's analysis takes existing fishery closures into account and acknowledges their socioeconomic and biological impacts. For this particular CINMS action, NOAA's analysis has determined that the socioeconomic impacts of new closures in the federal waters of the network will be minimal (see section 5.2 of the FEIS for more details).

30. *Comment:* If sea urchin fishermen were offered money for their urchin permits, they might move on to a different career, but they can't transfer or sell their permits.

Response: The issue of permit transferability is beyond the scope of this action and would be handled by the CDFG and FGC, who both issue and manage these types of permits.

31. *Comment:* Pollution has a huge impact on water conditions and the resources in southern California.

Response: Marine resources in the Southern California Bight, such as kelp forest ecosystems, have declined under pressure from a variety of factors, including commercial and recreational fishing, changes in oceanographic conditions associated with El Niño and other large-scale oceanographic cycles, introduction of disease, and increased levels of pollutants. Marine reserves offer scientists and resource managers a controlled opportunity to study the influence of change (e.g., pollution) on marine ecosystems in the absence of direct human disturbance (e.g., fishing pressure).

32. *Comment:* The regional seal population negatively impacts the regional halibut population.

Response: The management of seals and halibut as individual species falls under the purview of NOAA Fisheries and the PFMC and is outside the scope of this rule.

33. *Comment:* The DEIS was not distributed to the United Anglers of Southern California.

Response: NOAA records indicate the President of United Anglers of Southern California was sent a copy of the DEIS on Aug. 11, 2006, and was notified electronically via e-mail of the availability of the document on the

CINMS Web site or by requesting a copy from the CINMS.

34. *Comment:* NOAA's aerial monitoring program data does not account for existing regulations (such as the Rockfish Conservation Area) displacing fishing vessels. NOAA has, therefore, erroneously concluded that there is little fishing activity in the proposed zones.

Response: NOAA's aerial monitoring program, which has been collecting data since prior to the establishment of the Rockfish Conservation Area, confirms that there is little fishing activity in the geographic area associated with NOAA's action. See section 5.2.6.4 of the FEIS for NOAA's analysis of this issue.

35. *Comment:* There are too many marine reserves and not enough marine conservation areas in NOAA's proposed action.

Response: Marine conservation areas will not achieve the purpose and goals of the action as well as marine reserves. However, NOAA has decided to establish one marine conservation area off of Anacapa Island to ensure consistency with the State of California's marine zone network, which also established a marine conservation area in that location. See sections 3.1.2.2 and 5.1.1.1 of the FEIS for more discussion on the ecological value of marine reserves compared to marine conservation areas.

36. *Comment:* NOAA should implement marine parks where pelagic fishing is allowed, especially in the Footprint area.

Response: Allowing the take of pelagic species does not fully meet the goals of NOAA's action. See section 3.1.2.2 of the FEIS for a discussion on the impacts of limited take.

37. *Comment:* NOAA's action will negatively impact uses prioritized in the Local Coastal Plan, such as commercial fishing, tourism, and residential sectors, and therefore the commenter supports the no action alternative.

Response: NOAA supports healthy fisheries, economies, and harbors and believes the zoning network is likely to support Sanctuary-dependent and coastal dependent uses. The proposed marine zones are expected to promote visitation and may assist, over the long term, in the sustainability of local fisheries.

On March 16, 2007, the Coastal Commission held a public meeting on NOAA's proposal pursuant to its authorities under section 307 of the Coastal Zone Management Act (16 U.S.C. § 1456). At that meeting, the Coastal Commission issued a conditional concurrence for the consistency determination by NOAA on the grounds that, if modified as described in the Commission's conditional concurrence below, the project would be fully consistent, and thus consistent to the maximum extent practicable, with the policies of Chapter 3 of the Coastal Act. The conditional concurrence is: ''In the event NOAA elects not to implement Alternative 1a, NOAA will implement Alternative 1c, with the following additional provisions: until such time as the Resources Agency and the Fish and Game Commission designate the areas in between the existing State-designated MPAs and the 3 mile limit (*i.e.*, the ''gaps'' between the existing state MPAs and the federal MPAs depicted in Alternative 1c), or the Fish and Game Commission/DFG and NOAA enter into an interagency agreement that establishes MPA protection for these ''gap'' areas, NOAA will expand Alternative 1c to include in its MPA designation these ''gaps'' between the outer boundaries of the existing state MPAs and the State-federal waters boundary (3nm from shore).'' NOAA is, therefore, leaving the record open with regard to a decision to establish marine zones in state waters of the Sanctuary, and is requesting additional public comment on this specific issue.

38. *Comment:* NOAA should not reject the zone options put forward by local fishermen.

Response: NOAA conducted a preliminary analysis on all of the fishermen options and determined that they did not adequately or completely protect a full range of habitats and populations in the Sanctuary and thus do not satisfy the purpose and goals of NOAA's action. For more, see section 3.2.5 of the FEIS.

39. *Comment:* Incorporate into the FEIS all of the PFMC Science and Statistical Committee's (SSC) critique of the CINMS marine zoning process and Sanctuary documentation.

Response: The input from the SSC has been addressed in NOAA's analysis in the FEIS. The SSC's input can be found at *http://pcouncil.org/*

40. *Comment:* Include a verbatim copy of the original designation document in the FEIS and proposed rule so the public can compare the proposed amendments.

Response: The original designation document, in its entirety, and the amendments being made by this action are included in this preamble to the final rule.

41. *Comment:* NOAA's environmental review process is not a robust stake-holder process like the PFMC process, because CDFG and the PFMC are not represented.

Response: The CDFG, PFMC, and NOAA Fisheries have been integral partners in the process to date. CDFG and NOAA Fisheries, which both have membership on the PFMC, also hold seats on the CINMS SAC.

42. *Comment:* Include discussions and consultations with the State of California, other agencies within NOAA, and the other agencies within the government in the public record.

Response: All official correspondence related to this action and all comment letters NOAA has received on this action are available on the CINMS Web site at *http://www.cinms.nos.noaa.gov/marineres/main.html.*

43. *Comment:* Include in the FEIS the journal article written by NOAA employee Mark Helvey that critiques the community-based phase of the CINMS marine zoning project.

Response: NOAA has determined this article is not integral to the decision making process for this action and should not, therefore, be included in the FEIS.

44. *Comment:* Recreational fishermen have a relatively minimal impact on the resources and should not be excluded from the CINMS marine zones.

Response: NOAA has determined that any take of marine resources within the marine reserves would compromise the goals for this action. Limited take is allowed in the Anacapa Marine Conservation areas Area in order to be consistent with the State's action, which in turn determined that the overall benefits of limited take status in the marine conservation areas (areas off Anacapa Island and Santa Cruz Island, the latter area totally in state waters) might be studied in comparison to the overall benefits of no-take status in marine reserves. Fishing is allowed throughout the rest of the Sanctuary, subject to other existing federal and state restrictions where applicable.

45. *Comment:* Restrict sea lion populations in the CINMS region because they may be contributing to the demise of fishing.

Response: Sea lions are protected under the Marine Mammal Protection Act, which is administered by NOAA Fisheries.

46. *Comment:* The decline in many species, like abalone, is due to natural cycles and the reintroduction of sea otters, not over-fishing or excessive take by sport divers.

Response: Abalone decline has been linked to a combination of human and natural caused influences. For more see Karpov *et al.* 2000 and Moore *et al.* 2002. Karpov, K. A., P. L. Haaker, I. K. Taniguchi, and L. Rogers-Bennett. 2000. Serial depletion and the collapse of the

California abalone (/Haliotis/ spp.) fishery. /In/ Workshop on rebuilding abalone stocks in British Columbia, A. Campbell, ed. Can. Spec. Publ. Fish. Aquat. Sci. 130: 11–24. Moore, J.D., C. A. Finley, T. T. Robbins, and C. S. Friedman. 2002. Withering syndrome and restoration of southern California abalone populations. CalCOFI Report. 43: 112–117.

47. *Comment:* The Gull Island and Footprint closures will greatly affect harpoon sword fishermen, who have limited access to these two areas due to weather, fishing seasons, and migration patterns of the fish.

Response: While any impact may seem significant for those who experience it, NOAA's economic analysis has determined that the socioeconomic impact to fisheries from NOAA's action will be minimal.

48. *Comment:* How will enforcement work with a harpooned fish that swims into a closed area?

Response: Each situation is evaluated on a case by case basis to determine whether an enforcement response is warranted, and if so, the appropriate course of action.

49. *Comment:* Commenter acknowledges the usefulness of creating an MPA for scientific study purposes, but believes there is no urgent need to do so in CINMS.

Response: For more on the need for this action, see section 2.0 of the FEIS.

50. The Pacific Fishery Management Council process is a fair, public and scientifically based process to deal with conservation and/or fishery management questions.

Response: NOAA recognizes and supports the PFMC's role in addressing fishery management issues.

51. *Comment:* The proposed closures will affect the supply of seafood locally and nationally.

Response: On page 25 of Leeworthy, Wiley, and Stone (2005), the potential impacts on supply and prices of various seafoods are assessed for potential losses as measured by consumer surplus (i.e., losses to consumers from restrictions in supply of commercial seafood). Per this analysis, none of the alternatives considered would change the amount of supply enough to have any effects on prices and thus, no loss in consumer surplus. Leeworthy, Vernon R., Peter C. Wiley and Edward A. Stone, 2005. Socioeconomic Impact Analysis of Marine Reserves for the Channel Islands National Marine Sanctuary. U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Special Projects, Silver Spring, Maryland, May 2005.

52. *Comment:* If an area is closed to commercial fishing it should also be closed to recreational fishing because recreational fishing has an impact on the resource too.

Response: All fishing (both commercial and recreational) in the marine reserves is prohibited. See Response 44 for information about the Anacapa Marine Conservation Area.

53. *Comment:* The simultaneous rule changes to both the CINMS management plan and designation document indicate that the NMSP intended to create the marine zones well in advance of it having the authority to do so, indicating the process has been designed simply to justify the preconceived conclusion.

Response: This action and the CINMS management plan review process are distinct processes with separate and distinct rules and amendments to the CINMS designation document. With regard to the designation document changes and regulations for this action, NOAA has followed the processes to prepare NMSA regulations for fishing (and other activities) and to amend the CINMS designation document in compliance with the requirements of the NMSA. A history of the NMSA process for preparing fishing regulations and amending the Sanctuary's designation document for this action can be found on the CINMS Web site at *http://channelislands.noaa.gov/marineres/main.html.*

54. *Comment:* NOAA fails to provide scientific support for the need to impose the severe restrictions on recreational fishing.

Response: The need for NOAA's action is detailed in general in section 2.0 and specifically as it pertains to recreational fishing in section 5.1.1.1 of the FEIS.

55. *Comment:* NOAA fails to adequately address the proposals of the Pacific Fishery Management Council with regard to management under the Magnuson-Stevens Act.

Response: The PFMC's proposal that was submitted through formal consultation did not fulfill the purpose and goals of this action (see, for example, section 3.1.2.1 of the FEIS for more details on this process). See also, for example, the responses to #4 and #17 above.

56. *Comment:* NOAA fails to consider the economic impacts on recreational fishing beyond the charter sector.

Response: In addition to the charter sector, NOAA's economic impact analysis on recreational fishing included evaluation of impacts to private boat fishing and consumptive diving (see section 5.2.3 of the FEIS).

57. *Comment:* The DEIS justifies a preconceived outcome, rather than providing the analysis of a full range of options as required by the National Environmental Policy Act.

Response: The range of alternatives and analysis of them is sufficient under the requirements of NEPA (see section 3.1 of the FEIS).

58. *Comment:* NOAA fails to properly follow the requirements of the NMSA in preparing regulations for fishing and modifying the CINMS terms of designation.

Response: NOAA has followed the processes to prepare NMSA regulations for fishing and to amend the CINMS designation document in compliance with the requirements of the NMSA. A history of the NMSA process for preparing fishing regulations and amending the Sanctuary's designation document for this action can be found on the CINMS Web site at *http://channelislands.noaa.gov/marineres/main.html.* See also, for example, memorandum for the record from Daniel J. Basta, Director, National Marine Sanctuary Program, re: Reiteration of Rational for the Decision to Issue Fishing Regulations for the Channel Islands National Marine Sanctuary under the National Marine Sanctuaries Act.

59. *Comment:* Acknowledge in the FEIS and final rule that fishing regulations are being developed by the PFMC that relate to this action.

Response: See section 3.1.2.1 of the FEIS for a description of the correlation between the PFMC's actions and this action. See also the response to #17 above.

60. *Comment:* Does quantifying the difference between the biological benefits of marine reserves versus the biological benefits of limited take marine conservation areas advance the process of evaluating the cost benefit analysis of the project under the NEPA?

Response: NOAA has determined that marine reserves provide greater biological benefit than marine conservation areas. In addition, prohibition of all take is necessary to achieve the goals for this action. (See Response 44 regarding the one marine conservation area.) With regard to economic evaluation, NOAA's analysis has determined that the potential impacts are expected to be minimal.

61. *Comment:* Ecological response in areas that are not currently fished or lightly fished will likely be less than that response predicted for protection of more heavily fished areas in state reserves.

Response: Final outcomes of the marine zones will be subject to a variety

of ecological and economic responses that are challenging to predict. As discussed, NOAA will monitor the impact of the reserves to determine the actual responses.

62. *Comment:* Conduct an analysis of alternatives for the scale of no-take reserves that could mitigate mandatory stock rebuilding timelines and examine alternatives to the size of CINMS reserves that would mitigate the size of the California Rockfish Conservation zone in the Sanctuary as an explicit trade off in stock rebuilding tactics.

Response: As stated in the FEIS, the purpose of NOAA's proposed action is to further the protection of CINMS biodiversity and to complement the existing network of marine zones established by the State. This action is not being proposed as a stock rebuilding measure.

The scale of marine zones in the Sanctuary is expected to primarily affect local populations of fish, rather than stocks that range along the entire west coast. Marine reserves that incorporate locations where overfished groundfish can be found may protect a portion of the population from fishing mortality as well as protect habitats from disturbance by fishing and other gear.

NOAA's action also addresses ecological goals that do not relate to fisheries management. The NOAA Fisheries and State groundfish closures are directed at rebuilding specific species of groundfish, not at a wide range of other species. In addition, the groundfish closures are based on annual assessments and could be removed if assessments improve.

63. *Comment:* Assess stock rebuilding goals and an adaptive management approach to the MPAs in the event of an oceanographic regime change that results in more stable recruitment of depleted fisheries.

Response: One of the benefits of complete no-take zones is that they provide research and reference areas. Monitoring of the CINMS zones is expected to provide information on a wide variety of ecosystem parameters (including oceanographic effects) and the effectiveness of closing these areas on Sanctuary biodiversity and habitat protection. In addition, as stated above, this action is to further the protection of biodiversity of the CINMS and to complement the existing network of marine zones established by the State and is not being proposed as a stock rebuilding measure. Any changes to groundfish conservation measures would require action by the implementing authorities, the PFMC and NOAA Fisheries.

64. *Comment:* Consider habitats that are important to overfished groundfish, including shelf and slope habitats outside the CINMS boundary as a trade off in relaxing regulations in the Cow Cod Conservation zone.

Response: NOAA's action was developed through analysis of network design based on ecological criteria within the boundaries of the CINMS. Further, NOAA's action is to further the protection of biodiversity and to complement the existing network of marine zones established by the State and is not being done as a stock rebuilding measure for an individual species of fish. Any changes to the Cow Cod Conservation zone would require action by the implementing authorities, the Pacific Fishery Management Council and NOAA Fisheries.

65. *Comment:* NOAA should not take on any more administrative capacity until it develops performance criteria for synthesizing and managing marine reserves monitoring data.

Response: CDFG and NOAA have a State/Federal partnership to monitor the biological and socioeconomic changes occurring inside and outside of the CINMS marine zoning network. NOAA works with a multitude of partners, such as the National Park Service and UCSB, to analyze data from a variety of research projects. The Sanctuary Advisory Council's Research Activities Panel (RAP) reviews research priorities and activities related to the marine zones and assists NOAA and the CDFG with determining the effectiveness of the zoning network. Performance criteria are included in the monitoring plans (see *http://www.dfg.ca.gov/mrd/channel_islands/monitoring.html*).

66. *Comment:* The Species of Interest list in the DEIS states that species at the edge of their range are excluded from the list. However, eight species on the list, including Pacific ocean perch, dark blotch rockfish, widow rockfish, black rockfish, canary rockfish, yelloweye rockfish, Pacific cod and Pacific herring, have never been caught at the Channel Islands.

Response: The CINMS occurs at a biogeographic boundary between the colder water Oregonian province to the north and the warmer water Californian province to the south. The western portion of the Sanctuary typically lies in the colder waters of the Oregonian Province. San Miguel Island, with its influence of Oregonian province waters, may offer suitable habitat for species that are more common in central and northern California. For instance, yelloweye rockfish and widow rockfish, which are common between Alaska and northern California, have been documented to occasionally occur at San Miguel Island (Love *et al.* 2002).

67. *Comment:* A discrepancy exists between the fishing regulations reported in Appendix F of the DEIS and the notes regarding the status of fishing for certain species in Appendix G. For example, Appendix G lists pink, red and white abalone as fished species, while Appendix F states that abalone may not be taken.

Response: Footnote 1 in Appendix G intends to identify species that have either been historically fished and/or currently fished in the CINMS. The language has been clarified to highlight that species denoted with the footnote could indicate either a historical or current fishery.

68. *Comment:* The Sanctuary is only providing 1.7 square miles for pelagic fishing, while prohibiting fishing in approximately 130 square miles.

Response: Under NOAA's action, pelagic fishing would continue to be allowed in 81% of the Sanctuary (over 800 square nmi), subject to existing state and federal fishery regulations.

69. *Comment:* When reserves network experiments are designed to sustain fisheries, the monitoring programs must be designed to measure the species they are designed to manage. The commenter provides several specific recommendations for such a monitoring program.

Response: Although NOAA's action is not being implemented to sustain fisheries, the zone monitoring program for the CINMS network is guided by the CDFG's Channel Islands Marine Protected Area Monitoring Plan and the Channel Islands Deep Water Monitoring Plan Development Workshop Report. The monitoring programs involve a variety of partners collecting data on species, communities and habitats that occur in the Sanctuary. Performance of the zone network will be based on analysis of trends in biological parameters, such as abundance, mean size and reproductive potential of various species. Performance may be determined by either examining biological parameters at an individual site before and after the designation of the zone or comparing biological parameters at sites inside and outside of the zones.

A multitude of partners work with NOAA and CDFG conducting monitoring activities and collecting information on a variety of species and habitats. The data collected on a comprehensive suite of species inhabiting the Sanctuary allows for an assessment of zone effectiveness on both targeted and non-targeted species as well as community-level changes as a

result of prohibited activities. NOAA and the CDFG plan a major review of the monitoring program's results in spring of 2008. For more information on the monitoring program, go to *http://www.dfg.ca.gov/mrd/channel_islands/monitoring.html*.

70. *Comment:* There is no scientific validity of identifying the transition zone as a unique region between the Californian and Oregonian bioregions and therefore the recommendations on the number and spacing of individual zones and total size of the preferred alternative is flawed.

Response: The transition zone was identified as a unique region by the Science Advisory Panel during the MRWG process. The zone is delineated by steep persistent isotherms from satellite sea surface temperature images. It is a region with its own dynamics relative to the Oregonian and Californian subregions within CINMS. Unique species interactions occur in the transition zone because of mixing of two groups of species from the adjoining bioregions.

Marine reserves in the transition zone provide several ecological benefits. First, they may function as replicate sites that provide insurance that a single catastrophic event would most likely not impact all zones at the same time. Second, establishment of marine reserves in the transition zone enhances three of the criteria that contribute to biodiversity conservation: habitat representation, habitat replication, and connectivity between individual reserves that contribute to meeting the action goals (as discussed in Section 3.3 of the FEIS). Finally, protection of habitats and species in the transition zone is also valuable to scientists because it allows them to utilize the unique species' interactions to study marine evolution and ecology.

71. *Comment:* The DEIS describes Sanctuary resources as in decline, which is flawed and inaccurate.

Response: Section 4 of the FEIS, Affected Environment, has been updated vis-á-vis the DEIS to include a discussion of the current status and trends of those species that were historically in decline and are now showing some signs of recovery. For example, giant kelp distribution and productivity in California has increased since the 1998 El Niño event, potentially as a result of a decadal shift in climatic conditions, although not to historical levels preceding the 1980s. However, a general declining trend in the density and abundance of kelp canopy over the past 40 years has been documented in the scientific literature, particularly in southern California. The decline has been attributed to a variety of both natural and human caused disturbances. Natural disturbances include a corresponding warming trend in sea surface temperatures and the frequency of severe El Niño events. Human caused disturbances include increased turbidity, siltation, pollution and commercial and recreational fishing activities that remove animals such as California sheephead and California spiny lobster that affect species grazing on kelp.

Over the past few years, oceanographic conditions have been characterized by relatively cool summer sea temperatures and winters with relatively few large swell events. Such conditions are generally favorable for kelp resulting in stronger recruitment and an increase in canopy area of some beds in southern California. It is unknown if the increase in kelp productivity over the last few years will be sustained given the inherent inter-annual variability of the oceanographic environment. Furthermore, the effect of oceanographic conditions on kelp productivity is not uniform across all kelp beds. Certain beds in the Sanctuary that historically had an abundance of kelp remain mostly devoid of kelp and are dominated by echinoderms when studied during summer 2006. In these locations, kelp did not respond to a change in oceanographic conditions, indicating that other factors drive productivity.

Some marine mammal populations, such as gray whales and humpback whales, appear to have increased due to additional protection under the Marine Mammal Protection Act. Also refer to section 2.2 of the FEIS, Need for Action, for further details on the need for this action.

72. *Comment:* Many highly migratory and epipelagic species that traverse through the Sanctuary receive no benefit from site specific MPAs.

Response: Highly migratory and pelagic species may receive benefits from marine reserves even if they spend more time outside than inside marine reserves. Highly migratory and pelagic species fulfill an ecosystem role within marine reserves as predators on and forage for other species. Such species may benefit from fully protected zones if their prey is concentrated in a given area or if the zones include breeding, aggregating or resting grounds. Scientific research suggests that pelagic species gather in certain spots (usually banks or ridges), particularly during critical life cycle stages. Establishment of marine reserves in these areas is crucial, as the number and size of pelagic animals in the food web dictates what other organisms thrive or decline. In other words, direct pressure on pelagic species causes indirect pressure on other species present in the ecosystem.

73. *Comment:* The DEIS has not addressed the ecosystem benefits of existing fishery management to achieve the Sanctuary's biodiversity goals.

Response: Section 2.2 (Need for Action) of the DEIS and FEIS generally discusses the ecosystem impacts of existing fishery management measures, while section 5.1 addresses this issue in more detail.

74. *Comment:* Deepwater sponges and corals should be included as species of interest.

Response: NOAA recognizes that there are other important species, such as deepwater sponges and corals, that are not included in the Species of Interest list. This section of the DEIS was written in 2000, preceding the discovery of these deepwater species sponges and corals. As such, there remains the possibility of other species and communities yet to be discovered.

75. *Comment:* NOAA should use the best available substrate information to update Figure 11.

Response: NOAA has updated the substrate information using United States Geological Survey (USGS) high resolution data to refine description of each individual marine zone where data is available. The USGS data could not be used to re-analyze the percentage of each habitat type included in each alternative because it is not available for the entire Sanctuary. Currently, 20% of the Sanctuary has been mapped with high resolution technology.

76. *Comment:* There is a lack of information on marine zone benefits in temperate waters. Based on data from tropical reef ecosystems, marine reserves may only benefit a small group of west coast nearshore resident species.

Response: Over the last five years, many peer-reviewed research articles have highlighted the effects of marine reserves on temperate marine ecosystems. A meta-analysis of temperate water marine reserves shows that many species tend to benefit from the establishment of marine reserves as measured by biomass, density and size of individuals as well as diversity of communities within their bounds. See Section 5.1.1 of the FEIS for a discussion of marine reserve benefits in temperate marine ecosystems.

77. *Comment:* The FEIS should address the benefits of the proposed marine reserves to southern sea otter recovery.

Response: There are no formal studies on the benefits of marine reserves to

southern sea otter recovery. Sea otter sightings in the zones are rare at this time. However, marine reserves are generally expected to increase the biomass of apex species within their bounds and could potentially benefit sea otters by increasing the populations of their prey, such as abalone, urchins, clams, and crabs.

78. *Comment:* Provide a detailed discussion of habitat patch replication for Alternative 1A.

Response: A discussion on habitat patch replication of Alternative 1 has been added to Section 3.3 in the FEIS.

79. *Comment:* Provide an analysis and discussion that describes the actual distances between protected habitats within an MPA for each alternative rather than the average distance.

Response: A discussion on connectivity has been added to Section 3.3, specifically, by providing a figure and discussion on the distances between individual marine zones for each alternative.

80. *Comment:* Provide more detailed information on the number and distances between patches of rocky substrate included in the MPA network.

Response: The discussion on connectivity has been updated to include distances between patches of rocky substrate.

81. *Comment:* Include Alternative 2 in the analysis of management considerations and in the table summarizing the alternatives' management considerations.

Response: As stated in the DEIS, the same management considerations for Alternative 1A apply to Alternative 2. A column has been added to Table 52 of the FEIS.

82. *Comment:* In Section 5.1 of the DEIS, NOAA claims adverse ecological impacts are ''unlikely.'' If adverse ecological impacts are defined as declines in abundance, then this term should be redefined.

Response: NOAA considers ''adverse impacts'' as those impacts that are counter to the goals identified for this action, such as ensuring the long-term protection of Sanctuary resources by restoring and enhancing the abundance, density, population age structure, and diversity of the natural biological communities. NOAA recognizes that declines in abundance of certain species are an expected outcome of zone designation, but does not consider this in all cases to be an adverse ecological impact. For example, certain commercially targeted species may increase in abundance (e.g., spiny lobsters) due to reduced fishing pressure while their prey items decrease (e.g., purple urchin) because of an increase in lobster predation.

83. *Comment:* Language in Section 5.1 indicates that relatively little fishing activity occurs in the proposed marine zones. The statement does not account for the fact that other regulations currently restrict fishing in these areas. The discussion should clarify this point by adding ''currently'' before ''relatively little activity.''

Response: This recommendation has been added to the FEIS.

84. *Comment:* Provide references for assertions regarding the ecological impacts of the no-action alternative made in section 5.1.2 of the DEIS.

Response: Section 5.1.2 provides references regarding current and future anthropogenic stresses on California's coastal environment.

85. *Comment:* Add a reference for the recommended distances between marine zones.

Response: References for recommended distances between marine zones have been added.

86. *Comment:* The statement in the DEIS (section 5.1.6) that the spot prawn trawling prohibition is a response to declining catch and bycatch of bocaccio is incomplete and needs clarification. The trawl closure for spot prawns was implemented primarily due to concerns of potential damage to high relief habitat from roller gear and from overall levels of bycatch, particularly finfishes, relative to spot prawn catch.

Response: As the commenter states, the trawl closure for spot prawns was implemented primarily due to concerns of potential damage to high relief habitat from roller gear and from overall levels of bycatch, particularly finfishes, relative to spot prawn catch. The FEIS has been revised accordingly (see page 102 of the FEIS).

87. *Comment:* It is illogical to include potential impacts from the existing Channel Islands state marine zones as this impact should have already occurred.

Response: Under NEPA guidelines NOAA is required to consider cumulative impacts which include the impacts of the state MPAs in the analysis. Please see Table 25 of the FEIS, (Commercial Fishing and Kelp—Summary of Impacts by Alternative Step 1 Analysis), which clearly distinguishes the cumulative impact of the ''Total New Proposal.''

88. *Comment:* The kelp fishery should not be included in the analysis, since no kelp beds occur in the proposed MPAs.

Response: NOAA agrees there is no impact to kelp harvesting in the federal water marine zones (see Table 26 of the FEIS, which indicates the ex-vessel value of kelp at 0% in the additional state and federal water areas). However, under its NEPA guidelines (NOAA Administrative Order 216–6), NOAA is required to consider cumulative impacts, which include the impacts to kelp harvesting in the existing state marine zones (Table 26 indicates the ex-vessel value for these areas is 5.48%).

89. *Comment:* Table 26 and Table 31 are confusing because the column headers say ''value'' but what the tables depict is actually ''impact'' to the fisheries. It would help to add another column just before the last one that lists the total value of each fishery.

Response: Ex vessel value is what the fishermen receive as revenue for their catch and only represents one category or portion of the total impact, i.e., the impact to fishermen. Other categories include income, employment, etc. To use the word ''impact'' in the table would be misleading, because the tables contain ''maximum potential loss'', i.e., all ex vessel value associated with the alternative, which is not expected as the final impact, as one would expect fishers to engage in mitigating behavior. The total value of each fishery is provided in Table 18 of the FEIS.

90. *Comment:* If $24,233,406 is used as the total value of all fisheries (Table 24, Column 2), and $3,012,974 is the total potential impact (Table 26 bottom of next to last column), then the percent total impact should be 12.43, and not 12.50 as listed at the bottom of the last column in Table 26. For Table 31, a similar problem occurs.

Response: The commenter's calculations are incorrect because they used the total baseline kelp and commercial fishing as the numerator, not the total of species for which the analysts have spatial data.

91. *Comment:* In 2003 to 2005, the landings for the port of Santa Barbara for the nearshore, shelf, and slope rockfish fisheries should not be considered as having ''steep'' declines. Shelf rockfish landings actually increased during this period.

Response: The commenter's estimate of what is sustainable for rockfish, and therefore the baseline for assessing socioeconomic impact, is still most likely an overstatement given the generally strong downward trend of the entire species group.

92. *Comment:* There isn't much fishing pressure in the proposed reserve areas, thus the economic impact of reserve establishment will be minimal.

Response: NOAA's analysis shows that the fishing activity in the marine zones is indeed minimal.

93. *Comment:* Further closures, particularly in the Smugglers' Cove/

Yellow Banks area, would result in economic harm to the sportfishing industry.

Response: There are no marine zones proposed for the Smugglers' Cove/Yellow Banks area. Furthermore, the economic analysis associated with this action predicts the overall impacts to the sportfishing industry will be minimal. See section 5.2.3 of the FEIS.

94. *Comment:* The data used in NOAA's economic analysis are dated and there are additional sources now available that should be used to update the document.

Response: The estimates from Leeworthy, Wiley, and Stone (2005) are based on the best available information. Adding one or two years of recent data does not necessarily provide a better estimate. In statistics, this would be recognized as an ''outlier'' influencing the estimate of the mean.

More recent trends show that for some species the 2000–2003 averages are better measures of what could be sustainable than the 1996–1999 average used in prior analyses. Economic impacts were updated based on these new assessments of what is sustainable and can be found in Leeworthy, Wiley, and Stone (2005).

Although some of the information is several years old, it is the only spatially distributed data available. The distributions represent a historical average of areas fished over four to five year time periods and were provided by fishermen. For a more detailed socioeconomic impact analysis, see Leeworthy, Wiley, and Stone (2005).

95. *Comment:* The socioeconomic analysis underestimates the impacts of the preferred alternative to commercial fishing.

Response: It can be expected that there will be short-term losses to the commercial fisheries from Alternative 1. However, overall the impacts are small and the net cost or benefits to commercial fisheries are likely to be negligible. See also response #29 above.

96. *Comment:* Please clarify how the ''Baseline person days of recreation activity'' were determined and re-evaluate these statistics. Discrepancies between the ratio of private and charter boat dives, and consumptive vs. non-consumptive divers seem inaccurate. Commenter questions whether trips in Santa Barbara are less expensive than in Los Angeles.

Response: Baseline person-days of recreation activity were determined by a survey of all charter and party boat operations active in the CINMS. Private boat fishing and consumptive diving data were compiled from a variety of sources (see Leeworthy, Wiley and Stone, 2005, Appendix B).

The data does not show discrepancies or relative price differences among geographic areas.

97. *Comment:* Clarify the meaning of ''employment'' in private boat diving.

Response: Employment related to private boat fishing and diving occurs through the expenditures paid by those engaged in the activity. This includes fuel, food, beverages, lodging, transportation, launch fees, etc. For each industry, there is an assumed ratio of sales and employment. Additionally, there is a multiplier effect, which accounts for additional employment of businesses supplying these businesses. For a complete explanation, see Leeworthy, Wiley, and Stone (2005).

98. *Comment:* The kayaking statistics seem inaccurate. Commenter claims that last year, for example, there were 7,000 kayaking days at Scorpion Anchorage, Santa Cruz Island.

Response: The kayaking statistics only include that activity associated with charter/party operations. The analysis does not include non-consumptive activity undertaken with private household boats. No institution estimates this activity. A project currently underway in the Socioeconomic Research & Monitoring Program for the CINMS is tracking the amount of this activity.

99. *Comment:* Make the tables easier to understand, and if appropriate presented as figures instead. If the numbers are estimates, add confidence intervals. If differences are significant, that should be noted with the level of significance. Clarify the time period and area in which the data was gathered.

Response: Figures would not provide the level of detail required to provide all of the necessary information. None of the estimates were derived through a stochastic process and therefore confidence intervals are not calculable. The time period is stated clearly in the text.

100. *Comment:* Commenter states that the negative perception toward Channel Islands MPAs by recreational fishermen has resulted in diminished recreational fishing effort and, consequently, lower revenues for businesses that serve recreational fishing interests in Santa Barbara and Ventura Counties.

Response: Scientifically credible and verifiable data regarding the statements made was not provided by the commenter and NOAA is not aware of any such data.

101. *Comment:* Add an expenditure that represents guiding fees for kayaking, e.g., a day kayaking trip is approximately $180.00 (including boat fee).

Response: Kayaking fees are included in the analysis. See page 31 of Leeworthy, Wiley, and Stone (2005) for all recreation expenditure information.

102. *Comment:* Add data from the National Economics Project, National Park Service, and Chris LaFranchi.

Response: The commenter did not provide NOAA with sufficient information to provide a response.

103. *Comment:* The impacts shown are partially an artifact of the proposed zoned areas being temporarily closed by fisheries management measures. Recommend noting that current EFH rules may change.

Response: In the Step 2 analysis in the FEIS, other regulations are discussed and how they might impact the estimates presented in the Step 1 analysis, which includes ''maximum potential loss''.

104. *Comment:* To protect the fisheries dependent infrastructure of Ventura Harbor, integrate into the NOAA action goals for sustainable fisheries, maintenance of long-term socioeconomic viability, and minimization of short-term socioeconomic loses to all uses and dependent parties.

Response: The goals for NOAA's action are guided by the NMSA and are clearly stated in section 2.0 of the FEIS as well as earlier in this preamble to the final rule.

105. *Comment:* Regulatory agencies should promote collaboration between competing interests to accomplish mutual fisheries goals.

Response: The SAC/MRWG process and State/Federal partnership and coordination with the PFMC have promoted collaboration between all interested parties. NOAA's goals for this action are not fisheries-specific.

106. *Comment:* Multiplier effects for the local community and the state economy must be factored into socioeconomic data for a fisheries management plan to be effective.

Response: NOAA's socioeconomic analysis includes indirect impacts to fisheries-related support services and businesses (multiplier effects). This methodology is detailed in Leeworthy, Wiley, and Stone (2005) on pages 13–16 for commercial fishing and 28–29 for the recreation industry. The analysis utilized multipliers created specifically for the commercial fishing industry. The multipliers were obtained from the Fishery Economic Assessment Model (FEAM). The FEAM was developed under contract to the PFMC, and is based on input-output models detailing inter-industry relationships. The FEAM

was designed for regional economic analysis and processing of the commercial fishery landings taking place within the county where the port is located.

107. *Comment:* Ex-Vessel value reported in Table 19 of the DEIS suggests that current regulations have effectively reduced the number of commercial fishing operators and show lower catch volumes. These trends translate into less fish harvested in the region. The percentage of vessels reporting catch from CINMS has declined from 79% in 2000 to an average of 47% in subsequent years.

Response: Table 19 shows a decline in vessels reporting catch from CINMS from 79 percent in 2000 down to 34 percent in 2002, followed by an increase between 2002 and 2003.

108. *Comment:* Commenter indicates there is a decrease of 86% in the cumulative ex-vessel value for the Ventura Harbor when comparing the study area totals for ex-vessel value by port in Table 17 (Commercial Fishing: Study Area Totals Ex Vessel Value by Port) to Table 27 (Commercial Fishing—Alternative 1 Study Area Totals, Ex Vessel Value by Port)

Response: The two tables are not showing the same estimate. Table 17 shows the study area total, while Table 27 shows the total in Alternative 1. The estimate in Table 17 did not ''decrease'' to the estimate in Table 27.

109. *Comment:* Ventura County has the highest economic dependency on activities in the CINMS, relative to all counties in the study area, as shown in Table 11 (Local/Regional Economic Dependence on CINMS Baseline Personal Income).

Response: While any impact may seem significant for those who experience it, the table also shows that the baseline personal income associated with all activities in CINMS for Ventura County is less than one quarter of one percent of personal income for the county.

110. *Comment:* Ensure that non-consumptive activities are sustainable in the CINMS by balancing and promoting collaboration between competing interests.

Response: NOAA believes that the CINMS Advisory Council provides an ideal forum for ''competing'' interests to discuss their respective issues regarding use of the Sanctuary and to provide input and advice on such matters to the CINMS superintendent.

111. *Comment:* Provide the sources of data for analysis of charter/party and private boating impacts.

Response: The source of the information is Leeworthy, Wiley, and Stone (2005) and is cited at the beginning of sections 4.3.1 and 5.2 of the FEIS. In Leeworthy, Wiley, and Stone (2005), Appendix C documents all data used in the assessment for the recreation industry. A cumulative analysis of impacts, including the state areas of closure, is provided.

112. *Comment:* The socioeconomic analysis fails to adequately address displacement and impacts on recreational access, ignores the cumulative impact of existing state and federal closures, and projects unverified supply benefits.

Response: In the Step 2 analysis in the FEIS, the potential short- and long-term impacts to a fisherman's ability to relocate fishing activity to areas outside marine zones is noted in qualitative terms using an ecological-economic model. It is not possible to estimate the net outcomes of how the ecological and economic processes will play out. For example, replenishment effects from the closed areas could offset the impacts of displacement or vice versa. The possibility of long-term losses to the recreational fishing industry by restricted access is acknowledged. Several ecological and socioeconomic monitoring efforts are underway, while others are planned. Monitoring will help determine what actual outcomes will occur, and the major stakeholders were involved in developing the priority monitoring items.

113. *Comment:* Please update Table 11 (Local/Regional Economic Dependence on CINMS: Baseline Personal Income) and Table 12 (Local/Regional Economic Dependence on CINMS—Baseline Employment) and the text explanations to reflect socioeconomic impacts to all direct and indirect incomes related to commercial and recreational fishing.

Response: The estimates in Tables 11 and 12 do reflect socioeconomic impacts to all direct, indirect, and induced incomes related to commercial and recreational fishing. This methodology is detailed in Leeworthy, Wiley and Stone (2005) on pages 13–16 for commercial fishing and 28–29 for the recreation industry.

114. *Comment:* Include Leeworthy, Wiley, and Stone (2005) as an appendix to the Final EIS.

Response: Leeworthy, Wiley, and Stone (2005) includes the sources of all the economic data used in determining the economic impacts. This report is available at *http://channelislands.noaa.gov/marineres/main.html*. As such, to avoid bulk, it was not added to the FEIS as an appendix.

115. *Comment:* The references and data that analyze the value and employment associated with ''Total Consumptive Activities'' (Table 1.3 and 1.4) ignore the additional value of businesses and services dedicated to supporting commercial and recreational fishing; recommend that the FEIS include the value of these businesses and support services in order to assess overall economic impact.

Response: The additional businesses and services dedicated to supporting commercial and recreational fishing are included in the estimates in Leeworthy, Wiley and Stone (2005) on Tables 1.3 and 1.4 through the multiplier process. This methodology is detailed on pages 13–16 for commercial fishing and 28–29 for the recreation industry.

116. *Comment:* The potential impact on ports and the potential economic costs of the percentage reductions in catch landings should be included.

Response: Throughout the analyses the percentage impacts on ex vessel value of the catch is presented. Ex vessel value of the catch is just pounds of catch times the price per pound and reflects both effects on supply and demand. There is no added value of listing percentage of pounds of catch separately.

117. *Comment:* The overall potential reductions in annual income and full and part time employment should include the values as percentages of the regional and local commercial fishing industries as well as the overall regional economy.

Response: The suggested percentages are in Table 25 of the FEIS.

118. *Comment:* Tables 27, 28, 29, 32, 33, and 34 (Commercial Fishing Impact) do not include the values of support services and businesses associated with commercial and recreational fishing.

Response: The impacts on ex value of the commercial fisheries are shown in Tables 27 and 32. The impacts on support services and businesses associated with commercial fisheries are included in Tables 33 and 34. Table 35 includes multiplier impacts for income and employment for recreational fishing as noted in footnotes 3 and 4 of Table 35.

119. *Comment:* Provide additional details on the socioeconomic, education, and outreach options that minimize or mitigate potential increased social costs and lawsuits, and increased costs of enforcement.

Response: The State of California and NOAA have developed ecological and socioeconomic monitoring plans to gauge the effects of the marine zones. In addition, the agencies have developed interpretive enforcement education

materials (e.g., brochures, signage) with affected stakeholders to better inform users of the marine zones. Effective communication of monitoring results through education and outreach and the application of interpretive enforcement tools may defray or avoid these social costs.

120. *Comment:* Partnering with the Sanctuary to manage the zoning network is very important.

Response: During the community phase and establishment of state marine zones, NOAA has relied on partners such as State of California, National Park Service, and U.S. Coast Guard, to implement the zone network. See the response to comment #2 for more information on this issue.

121. *Comment:* The CDFG supports Alternative 1C. It will work with FGC to fill any spatial gaps between the existing zones and the federal water zones.

Response: NOAA acknowledges the CDFG's position on the alternatives analyzed in the DEIS. See the response to comment #2 for more information on this issue.

122. *Comment:* The CDFG supports the proposed CINMS designation document amendments.

Response: NOAA acknowledges the CDFG's support for the proposed changes to the CINMS designation document.

123. *Comment:* NOAA's action may reduce conflicts between seabirds and fisheries, thus complementing NOAA's Office of Spill Prevention and Response seabird restoration efforts.

Response: Although this outcome is not a direct intent of this action, NOAA supports the Office of Spill Prevention and Response's seabird restoration efforts. Seabirds may become entangled or hooked on fishing gear and their feeding and breeding behaviors disrupted by fishing activity, such as fishing at night with bright lights.

124. *Comment:* Consultation with the State of California is required under Section 106 of the National Historic Preservation Act.

Response: NOAA has complied with all required consultations, including the National Historic Preservation Act.

125. *Comment:* A number of commenters expressed general support for marine reserves, marine conservation in general, and expanding the CINMS.

Response: NOAA acknowledges these comments.

126. *Comment:* The NOAA document should define short-term losses to both recreational and commercial fisheries, why losses will be short-term, and how the temporal nature of the impacts will be measured.

Response: As described in section 5.2.2.2 of the FEIS, short-term losses are defined as impacts over the next 1–5 years and long-term impacts are defined as 5–20 years. NOAA expects the projected maximum potential economic impacts to be primarily short-term because NOAA expects the affected community will be able to adapt to the new regulatory environment.

NOAA's socioeconomic monitoring plan calls for monitoring value of commercial fisheries catch (both inside and outside the CINMS and in state waters). Monitoring State-wide trends helps to separate out effects that have nothing to do with the CINMS marine reserves.

For the recreational fisheries, NOAA plans to monitor the following: (1) Spatial use patterns and intensity of use (total number of person-days of use); (2) charter/party boats using CDFG logbooks for Charter Passenger Fishing Vessels (CPFV); (3) private boats using the new California recreational fishing statistics data; (4) socioeconomic profiles of fishermen, including expenditure profiles; (5) net value or consumer's surplus; and (6) knowledge, attitudes and perceptions of management strategies and regulations.

For more information, see the Socioeconomic Monitoring Plan at *http://www.cinms.nos.noaa.gov/marineres/main.html*.

127. *Comment:* The expected socioeconomic impacts to the recreational and commercial fisheries and fishermen's income should be compared to that sector's total income by county and not to the total county income and regional data.

Response: The FEIS details how value of catch by each species/species group and the total across all species/species group are impacted as a percent of all commercial fishing catch from the CINMS. This is also done by port and the percentages present how the percent of the total ports value of catch is impacted by each alternative. See appendix tables in Leeworthy, Wiley and Stone (2005) for more information on the impacts by port and by county with the percents being the percents of the totals for each county.

For the recreation industry, greater detail is provided in Leeworthy, Wiley and Stone (2005) on the total impacts by county and percents of the total CINMS recreation impacted from the total CINMS recreation in the county.

128. *Comment:* As the focus of the action is Santa Barbara Channel, data relevant to this area, not the State as a whole, should be used. A statement is made that ''almost 20 percent of those who use California's coastal areas for recreation are interstate or international visitors * * *'' Does this figure also apply to the more geographically limited Channel Islands area? Another statement is made that as numbers of people increase (referring to coastal population growth), so do the number of CINMS users. Are there any data to support this statement? Does the increase in CINMS use parallel the rates of increase elsewhere?

Response: Recognizing there is a paucity of data specific to the CINMS or the specific local surrounding area of Santa Barbara, Ventura, and Los Angeles counties, NOAA used the best available data to estimate the amount of activity in the CINMS.

There were two sources of time series data for assessing trends: NOAA Fisheries' Marine Fishing Statistics Survey (MRFSS), which has now been replaced with the California Recreational Fishing Statistics Program, and the U.S. Fish and Wildlife Service's National Survey of Hunting, Fishing and Wildlife Associated Recreation. Both estimate use for Southern California. Leeworthy, Wiley, and Stone (2005) summarize trends from these two sources (page 27) and the trends from the two sources were not consistent. From 1993–1999, MRFSS shows a downward trend, while from 1991–1996 (survey is done every five years) it shows an upward trend. From 1999–2002, MRFSS shows an upward trend.

A 1997 California Resources Agency report estimated that for all coastal areas 20 percent of recreation is done by out of State visitors. A Santa Barbara County Conference & Visitors Bureau and Film Commission report included an estimate that 20 percent of the visitors to Santa Barbara County were foreign visitors. There are not any surveys of the visitors to the CINMS to know if the same would hold true for recreational users of the CINMS. The statement that ''as coastal population grows, so will number of CINMS users'' is an extrapolation from an assessment of national trends for ocean and coastal (marine) recreation from the National Survey on Recreation and the Environment (NSRE) 2000. Year 2000 data were analyzed for demographic factors related to participation in marine recreation activities and equations used to forecast future participation for years 2005 and 2010. Generally, national participation rates (the percent of the U.S. population doing an activity) are projected to decline. However, the total number of participants is projected to increase because the population growth more than compensates for the lower participation rates. The statement

presumes these same trends may hold for California or the CINMS.

129. *Comment:* There is no quantitative evidence to show that non-consumptive activities will increase in the new zones, especially because all of the non-consumptive use occurs nearshore.

Response: The establishment of the new marine zones is expected to result in benefits to nonconsumptive recreational users. While there is no data currently available to directly estimate the magnitude of these benefits, NOAA conducted a benefits transfer/policy analysis simulation to quantify potential benefits. In addition, a two year study is now underway to help quantify these benefits. Non-consumptive uses in the proposed new zones are a relatively small percentage of the total non-consumptive uses that are concentrated in the nearshore waters of the Sanctuary. See section 5.2.5 of the FEIS for further discussion.

130. *Comment:* It is not clear how closures will affect the marine zones or how they will benefit the intent of those closures. The DEIS indicates that the proposed action would supplement the closures by ''establishing temporally permanent zones,'' but no details are given and the statement is confusing.

Response: The action partially supplements the existing fishery closures, such as the Cowcod Conservation Area. The designation of marine reserves in or near areas protected by fishery closures adds another layer of protection, further ensuring that no fishing will occur on targeted species in the fishery closures and the adjacent areas protected by the marine reserves. Protection of the water column and all biophysical characteristics of marine reserves likely will enhance the recovery of targeted species protected by fishery closures by eliminating bycatch and further protection of habitats. Synergistic effects may result from protection by marine reserves of species and ecological processes consistent and adjacent to fishery closures.

131. *Comment:* Alternative 2 may cause negative financial impacts to coastal communities, recreational and commercial boating, and specifically, the ability of a local agency to repay existing state loans that are used for the construction and improvement of small craft harbors.

Response: The state marine zones have been in place for over three years and there is no evidence that the ability of local agencies to repay small harbor construction and improvement loans has been exacerbated due to impacts on recreational and commercial boating from the state zones. Furthermore, there is a marginal increase in the estimated ''maximum potential impact'' to recreational and commercial boating with the extension of marine zones from the existing state marine zones into deeper waters of the Sanctuary with either Alternative 1 or 2.

132. *Comment:* The DEIS should specifically address Environmental Justice. The Council on Environmental Quality requires this inclusion, and the counties under consideration differ in income and social structure.

Response: See Section 6.7 of the FEIS for a discussion on Environmental Justice and all other required consultations.

133. *Comment:* The commercial fishing sector developed five alternatives that have lower economic impacts to both recreational and commercial fishermen than the preferred alternative, because a balance of marine conservation areas and marine reserves was used instead of marine reserves only.

Response: Marine conservation areas, where certain fishing activity and impacts to habitat and species still occurs, would not achieve the purpose and goals of the proposed project as well as marine reserves. However, NOAA has decided to establish one marine conservation area off of Anacapa Island to ensure consistency with the State of California's marine zone network, which also established a marine conservation area in that location. See section 3.1.2.2 of the FEIS. Also, see response #44 for the reason the one marine conservation area is included.

VI. Changes From Proposed Rule

NOAA made changes to the proposed rule issued on August 11, 2006 to respond to public comments. The changes are as follows:

In paragraphs (a) and (b) of § 922.73, the reference to the effective date of the final rule has been removed. The purpose of this provision was to ensure that changes made to NOAA's MSA regulations after the effective date of the final NMSA regulations would not affect the applicability of the NMSA regulations without public notice. NOAA has decided (1) to insert a reference to these NMSA regulations in NOAA's MSA regulations at 50 CFR part 660 as part of this final rulemaking, and (2) in future notices proposing to amend 50 CFR part 660, to advise the public and seek comment on any consequences as it relates to the regulations at 15 CFR 922.73 (*e.g.*, that because 50 CFR part 660 is being amended to prohibit fishing in the water column of the marine reserves, these activities would no longer be prohibited under 15 CFR 922.73; or because 50 CFR part 660 is being amended to allow the use of bottom contact gear, that activity would be prohibited under 15 CFR 922.73).

In paragraph (b)(3) of § 922.73, the exception to the prohibition on possessing Sanctuary resources has been broadened somewhat to ensure fish that were harvested in the marine conservation area are allowed to be in a person's possession regardless of the status of the person's vessel.

In paragraph (a)(1), (a)(3), (b)(1), and (b)(3), the phrase ''any living or dead organism, historical resource, or other Sanctuary resource'' has been replaced with ''any Sanctuary resource, including living or dead organisms or historical resources'' in each place it appears to clarify the application of the regulation to all Sanctuary resources.

The reference to the Painted Cave Marine Conservation Area in paragraph (b) of § 922.73 been removed. The Painted Cave Marine Conservation Area is completely within state waters of the Sanctuary, and is therefore (as discussed in the preamble) not subject to this rulemaking.

The coordinates for the marine reserves and marine conservation area in appendices B and C, respectively, have been modified so that only federal waters are included in this final rule. As discussed in the preamble, should NOAA decide to extend these marine reserves and marine conservation area into state waters of the Sanctuary, another final rulemaking action will further modify these coordinates as appropriate.

VII. Miscellaneous Rulemaking Requirements

A. National Marine Sanctuaries Act

Section 304 of the NMSA (16 U.S.C. 1434) requires the Secretary of Commerce in designating a sanctuary to submit Sanctuary designation documents to the United States Congress (Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate) and Governor of each state in which any part of the Sanctuary would be located. The designation documents are to be submitted on the same date the notice is published and must include the proposed terms of the designation, the proposed regulations, a draft environmental impact statement, and a draft management plan. The terms of designation may only be modified by the same procedures by which the original designation is made. In

accordance with Section 304, the appropriate documents have been submitted to the specified Congressional Committees and the Governor of California.

B. National Environmental Policy Act

In accordance with Section 304(a)(2) of the NMSA (16 U.S.C. 1434(a)(2)), and the provisions of NEPA (42 U.S.C. 4321–4370(a)), an FEIS has been prepared for the proposed action. Copies of the FEIS are available upon request to NOAA at the address listed in the **ADDRESSES** section. The FEIS notice of availability was published on April 20, 2007 (72 FR 19928). The 30-day period for the FEIS ended on May 21, 2007.

C. Executive Order 12866: Regulatory Impact

This rule has been determined to be not significant within the meaning of Executive Order 12866.

D. Executive Order 13132: Federalism

The Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, has consulted with appropriate elected officials in the State of California, as appropriate. Since 1999, NOAA has partnered with and supported the State in this effort. During the federal phase, NOAA has continually briefed the Secretary of Resources and the Director of the California Department of Fish and Game. NOAA also held numerous consultations with all California resource management agencies as required under section 303(b)(2) of the NMSA.

E. Regulatory Flexibility Act

In accordance with the requirements of section 604(a) of the Regulatory Flexibility Act (5 U.S.C. 604(a)), NOAA has prepared a final regulatory flexibility analysis (FRFA) describing the impact of the proposed action on small businesses. Section 604(a) requires that each FRFA contain:

1. A succinct statement of the need for, and objectives of, the rule;

2. A summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

3. 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;

4. A description of the projected 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; and

5. A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of 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. The FRFA is available upon request to NOAA at the address listed in the **ADDRESSES** section above. A summary of the FRFA follows.

Summary of the Final Regulatory Flexibility Act Analysis

1. *Statement of need.* A statement of why action by NOAA is being considered and the objectives of, and legal basis for, this final rule is contained in the preamble section of this final rule and is not repeated here.

2. *Summary of public comments.* Section V. in the preamble of this final rule contains a summary of all of the comments submitted to NOAA and NOAA's responses thereto. Some comments about the economic impact of the proposed action were submitted. Refer, for example, to comment numbers 86 through 133 for summaries of these comments and NOAA's responses thereto.

3. *Number of small entities affected.* The Small Business Administration has established thresholds on the designation of businesses as ''small entities''. A fish-harvesting business is considered a ''small'' business if it has annual receipts not in excess of $3.5 million (13 CFR 121.201). Sports and recreation businesses and scenic and sightseeing transportation businesses are considered ''small'' businesses if they have annual receipts not in excess of $6 million (13 CFR 121.201). According to these limits, each of the businesses listed below are considered small entities. (All analyses are based on the most recently updated and best available information.)

a. *Number of commercial fishing operations.* In 2003, there were 441 commercial fishing operations that reported catches from the CINMS. Total commercial fishing revenue from the CINMS was $17.3 million in 2003.

b. *Number of consumptive recreational operations.* In 1999, there were 18 recreational fishing charter/party boats operating in the CINMS. In 1999, there were 10 consumptive diving charter/party boats operating in the CINMS. Total reported 1999 gross revenue from these consumptive recreational activities was $8.8 million. Total costs for 1999 were reported at $8.4 million. After all costs were paid, the consumptive recreational activities resulted in $420,000 in profit.

c. *Number of non-consumptive recreational operations.* In 1999, there were 8 whale watching operations, 7 non-consumptive diving operations, 4 operations that offered kayaking or island sightseeing activities, and 8 sailing operations, within the CINMS. Total reported 1999 gross revenue from these non-consumptive recreational activities was $2.6 million. Total costs for 1999 were reported at $2.5 million. After all costs were paid, the non-consumptive recreational activities resulted in $82,000 in profit.

4. There are no new reporting, recordkeeping, or other compliance requirements.

5. Two alternatives plus a no-action alternative were considered. The no action (status quo) alternative would not establish marine reserves and marine conservation areas in the Sanctuary. Therefore there is no economic impact.

Alternative 1C, the proposed alternative, including both the existing state network and proposed extensions, would include approximately 110.5 square nautical miles of marine reserves and 1.7 square nautical miles of marine conservation areas for a total of 214.1 square nautical miles of the CINMS when combined with the existing state zones. The new proposed federal areas of Alternative 1C potentially impact 0.51% (approximately $124,000) of ex vessel value of commercial catch in the CINMS. The total maximum potential loss to the income of commercial fishing businesses is 0.61% ($440,000) and to the employment of commercial fishing businesses is 0.66% (13 jobs). For consumptive recreation in the CINMS, the estimated maximum potential loss associated with alternative 1 is $935,000 (3.5%) in annual income and about 42 full and part-time jobs (3.7%) in the local county economies. For non-consumptive recreation in the CINMS, the estimated range of potential increases in income generated in the local county economies associated with alternative 1 is between $337 and about $380,000. The estimated range of potential increases in employment in the local county economies is between 0.02 and 19 full- and part-time jobs. Alternative 1C was chosen as NOAA's preferred alternative because it best accomplished the purpose and need of

furthering the protection of Sanctuary biodiversity while complementing the existing State-designated network. Alternatives 1A and 1B were rejected because they involved the establishment of federal marine reserves and marine conservation areas in state waters of the Sanctuary; which was opposed by the State of California.

Alternative 2, including both the existing state network and proposed extensions, would encompass approximately 275.8 square nautical miles of marine reserves and 12.1 square nautical miles of marine conservation areas for a total of 287.8 square nautical miles of the CINMS. Alternative 2 is larger than alternative 1, and proposes some different reserve areas not proposed in alternative 1. The new proposed federal areas of alternative 2 potentially impact 0.82% (approximately $197,000) of ex vessel value of commercial catch in the CINMS. The total maximum potential loss to the income of commercial fishing businesses is 0.91% ($650,000) and to the employment of commercial fishing businesses is 0.97% (19 jobs). For consumptive recreation in the CINMS, the estimated maximum potential loss associated with alternative 2 is $1,300,000 (5.0%) in annual income and about 59 full and part-time jobs (5.2%) in the local county economies. For non-consumptive recreation in the CINMS, the estimated range of potential increases in income generated in the local county economies associated with alternative 2 is between $748 and about $841,000. The estimated range of potential increases in employment in the local county economies is between 0.04 and 44 full- and part-time jobs. Please refer to comment/response #1 for the reasons alternative 2 was rejected.

F. Paperwork Reduction Act

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) which has been approved by OMB under control number 0648–0141. The public reporting burden for national marine sanctuary permits is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This rule would not modify the average annual number of respondents or the reporting burden for this information requirement, so a modification to this approval is not necessary. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NOAA (see **ADDRESSES**) and by e-mail to *David_Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

G. Unfunded Mandates Reform Act of 1995

This final rule contains no federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA)) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of UMRA.

List of Subjects

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.

50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: May 18, 2007

John H. Dunnigan,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Dated: May 17, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries.

■ For the reasons stated in the preamble, 15 CFR chapter IX and 50 CFR chapter VI are amended as follows:

15 CFR CHAPTER IX

PART 922—[AMENDED]

■ 1. The authority for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

■ 2. Revise § 922.70 to read as follows:

§ 922.70 Boundary.

The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of the waters off the coast of California of approximately 1,128 square nautical miles (nmi) adjacent to the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock (collectively the Islands) extending seaward to a distance of approximately six nmi. The boundary coordinates are listed in appendix A to this subpart.

■ 3. Redesignate §§ 922.71 and 922.72 as §§ 922.72 and 922.74, respectively.

■ 4. Add § 922.71 to subpart G of part 922 to read as follows:

§ 922.71 Definitions.

In addition to those definitions found at § 922.3, the following definitions apply to this subpart:

Pelagic finfish are defined as: northern anchovy (*Engraulis mordax*), barracudas (*Sphyraena spp.*), billfishes (family *Istiophoridae*), dolphinfish (*Coryphaena hippurus*), Pacific herring (*Clupea pallasi*), jack mackerel (*Trachurus symmetricus*), Pacific mackerel (*Scomber japonicus*), salmon (*Oncorhynchus spp.*), Pacific sardine (*Sardinops sagax*), blue shark (*Prionace glauca*), salmon shark (*Lamna ditropis*), shortfin mako shark (*Isurus oxyrinchus*), thresher sharks (*Alopias spp.*), swordfish (*Xiphias gladius*), tunas (family *Scombridae*), and yellowtail (*Seriola lalandi*).

Stowed and not available for immediate use means not readily accessible for immediate use, e.g., by being securely covered and lashed to a deck or bulkhead, tied down, unbaited, unloaded, or partially disassembled (such as spear shafts being kept separate from spear guns).

■ 5. Add § 922.73 to subpart G to read as follows:

§ 922.73 Marine reserves and marine conservation area.

(a) *Marine reserves.* Unless prohibited by 50 CFR part 660 (Fisheries off West Coast States), the following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted within a marine reserve described in Appendix B to this subpart:

(1) Harvesting, removing, taking, injuring, destroying, collecting, moving, or causing the loss of any Sanctuary resource, including living or dead organisms or historical resources, or attempting any of these activities.

(2) Possessing fishing gear on board a vessel unless such gear is stowed and not available for immediate use.

(3) Possessing any Sanctuary resource, including living or dead organisms or historical resources, except legally harvested fish on board a vessel at anchor or in transit.

(b) *Marine conservation area.* Unless prohibited by 50 CFR part 660 (Fisheries

off West Coast States), the following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted within the marine conservation area described in Appendix C to this subpart:

(1) Harvesting, removing, taking, injuring, destroying, collecting, moving, or causing the loss of any Sanctuary resource, including living or dead organisms or historical resources, or attempting any of these activities, except:

(i) Recreational fishing for pelagic finfish; or

(ii) Commercial and recreational fishing for lobster.

(2) Possessing fishing gear on board a vessel, except legal fishing gear used to fish for lobster or pelagic finfish, unless such gear is stowed and not available for immediate use.

(3) Possessing any Sanctuary resource, including living or dead organisms or historical resources, except legally harvested fish.

■ 6. In § 922.74, as redesignated, revise paragraph (a) introductory text to read as follows:

§ 922.74 Permit procedures and criteria.

(a) Any person in possession of a valid permit issued by the Director in accordance with this section and § 922.48 may conduct any activity within the Sanctuary prohibited under §§ 922.72 or 922.73 if such activity is either:

* * * * *

■ 7. Revise Appendix A to subpart G to read as follows:

Appendix A to Subpart G of Part 922—Channel Islands National Marine Sanctuary Boundary Coordinates

[Coordinates listed in this Appendix are unprojected (Geographic) and based on the North American Datum of 1983.]

Point	Latitude (N)	Longitude (W)
1	33.94138	−119.27422
2	33.96776	−119.25010
3	34.02607	−119.23642
4	34.07339	−119.25686
5	34.10185	−119.29178
6	34.11523	−119.33040
7	34.11611	−119.39120
8	34.11434	−119.40212
9	34.11712	−119.42896
10	34.11664	−119.44844
11	34.13389	−119.48081
12	34.13825	−119.49198
13	34.14784	−119.51194
14	34.15086	−119.54670
15	34.15450	−119.54670
16	34.15450	−119.59170
17	34.15142	−119.61254
18	34.13411	−119.66024
19	34.14635	−119.69780
20	34.15988	−119.76688
21	34.15906	−119.77800
22	34.15928	−119.79327
23	34.16213	−119.80347
24	34.16962	−119.83643
25	34.17266	−119.85240
26	34.17588	−119.88903
27	34.17682	−119.93357
28	34.17258	−119.95830
29	34.13535	−120.01964
30	34.13698	−120.04206
31	34.12994	−120.08582
32	34.12481	−120.11104
33	34.12519	−120.16076
34	34.11008	−120.21190
35	34.11128	−120.22707
36	34.13632	−120.25292
37	34.15341	−120.28627
38	34.16408	−120.29310
39	34.17704	−120.30670
40	34.20492	−120.30670
41	34.20492	−120.38830
42	34.20707	−120.41801
43	34.20520	−120.42859
44	34.19254	−120.46041
45	34.20540	−120.50728
46	34.20486	−120.53987
47	34.18182	−120.60041
48	34.10208	−120.64208
49	34.08151	−120.63894
50	34.05848	−120.62862
51	34.01940	−120.58567
52	34.01349	−120.57464
53	33.98698	−120.56582
54	33.95039	−120.53282
55	33.92694	−120.46132
56	33.92501	−120.42170
57	33.91403	−120.37585
58	33.91712	−120.32506
59	33.90956	−120.30857
60	33.88976	−120.29540
61	33.84444	−120.25482
62	33.83146	−120.22927
63	33.81763	−120.20284
64	33.81003	−120.18731
65	33.79425	−120.13422
66	33.79379	−120.10207
67	33.79983	−120.06995
68	33.81076	−120.04351
69	33.81450	−120.03158
70	33.84125	−119.96508
71	33.84865	−119.92316
72	33.86993	−119.88330
73	33.86195	−119.88330
74	33.86195	−119.80000
75	33.86110	−119.79017
76	33.86351	−119.77130
77	33.85995	−119.74390
78	33.86233	−119.68783
79	33.87330	−119.65504
80	33.88594	−119.62617
81	33.88688	−119.59423
82	33.88809	−119.58278
83	33.89414	−119.54861
84	33.90064	−119.51936
85	33.90198	−119.51609
86	33.90198	−119.43311
87	33.90584	−119.43311
88	33.90424	−119.42422
89	33.90219	−119.40730
90	33.90131	−119.38373
91	33.90398	−119.36333
92	33.90635	−119.35345
93	33.91304	−119.33280
94	33.91829	−119.32206
95	33.48250	−119.16874
96	33.44235	−119.16797
97	33.40555	−119.14878
98	33.39059	−119.13283
99	33.36804	−119.08891
100	33.36375	−119.06803
101	33.36241	−119.04812
102	33.36320	−119.03670
103	33.36320	−118.90879
104	33.47500	−118.90879
105	33.48414	−118.90712
106	33.52444	−118.91492
107	33.53834	−118.92271
108	33.58616	−118.99540
109	33.59018	−119.02374
110	33.58516	−119.06745
111	33.58011	−119.08521
112	33.54367	−119.14460
113	33.51161	−119.16367

■ 8. Add Appendix B to subpart G to read as follows:

Appendix B to Subpart G of Part 922—Marine Reserve Boundaries

[Coordinates listed in this Appendix are unprojected (Geographic) and based on the North American Datum of 1983.]

B.1. Richardson Rock (San Miguel Island) Marine Reserve

The Richardson Rock Marine Reserve (Richardson Rock) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–1, and the following textual description.

The Richardson Rock boundary extends from Point 1 to Point 2 along a straight line. It then extends from Point 2 to Point 3 along a straight line. The boundary then extends along a straight line from Point 3 to the 3 nmi State boundary established under the Submerged Lands Act (3 nmi State boundary) where a line defined by connecting Point 3 and Point 4 with a straight line intersects the 3 nmi State boundary. The boundary then extends northwestward and then eastward along the 3 nmi State boundary until it intersects the line defined by connecting Point 5 and Point 6 with a straight line. At that intersection, the boundary extends from the 3 nmi SLA boundary to Point 6 along a straight line.

TABLE B–1.—RICHARDSON ROCK (SAN MIGUEL ISLAND) MARINE RESERVE

Point	Latitude	Longitude
1	34.17333 °N	120.60483 °W
2	34.17333 °N	120.47000 °W
3	34.12900 °N	120.47000 °W
4	34.03685 °N	120.52120 °W
5	34.03685 °N	120.60483 °W
6	34.17333 °N	120.60483 °W

B.2. Harris Point (San Miguel Island) Marine Reserve

The Harris Point Marine Reserve (Harris Point) boundary is defined by the 3 nmi State

boundary, the coordinates provided in Table B–2, and the following textual description.

The Harris Point boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary then follows the 3 nmi State boundary northwestward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

TABLE B–2.—HARRIS POINT (SAN MIGUEL ISLAND) MARINE RESERVE

Point	Latitude	Longitude
1	34.20492 °N	120.38830 °W
2	34.20492 °N	120.30670 °W
3	34.10260 °N	120.30670 °W
4	34.15200 °N	120.38830 °W
5	34.20492 °N	120.38830 °W

B.3. South Point (Santa Rosa Island) Marine Reserve

The South Point Marine Reserve (South Point) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–3, and the following textual description.

The South Point boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary southeastward until it intersects the line defined by connecting Point 4 and Point 5 along a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

TABLE B–3.—SOUTH POINT (SANTA ROSA ISLAND) MARINE RESERVE

Point	Latitude	Longitude
1	33.84000 °N	120.10830 °W
2	33.84000 °N	120.16670 °W
3	33.86110 °N	120.16670 °W
4	33.84700 °N	120.10830 °W
5	33.84000 °N	120.10830 °W

B.4. Gull Island (Santa Cruz Island) Marine Reserve

The Gull Island Marine Reserve (Gull Island) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–4, and the following textual description.

The Gull Island boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary then follows the 3 nmi State boundary westward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

TABLE B–4.—GULL ISLAND (SANTA CRUZ ISLAND) MARINE RESERVE

Point	Latitude	Longitude
1	33.86195 °N	119.80000 °W
2	33.86195 °N	119.88330 °W
3	33.92690 °N	119.88330 °W
4	33.90700 °N	119.80000 °W
5	33.86195 °N	119.80000 °W

B.5. Scorpion (Santa Cruz Island) Marine Reserve

The Scorpion Marine Reserve (Scorpion) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–5, and the following textual description.

The Scorpion boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary then follows the 3 nmi State boundary westward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

TABLE B–5.—SCORPION (SANTA CRUZ ISLAND) MARINE RESERVE

Point	Latitude	Longitude
1	34.15450 °N	119.59170 °W
2	34.15450 °N	119.54670 °W
3	34.10140 °N	119.54670 °W
4	34.10060 °N	119.59170 °W
5	34.15450 °N	119.59170 °W

B.6. Footprint Marine Reserve

The Footprint Marine Reserve (Footprint) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–6, and the following textual description.

The Footprint boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary northeastward and then southeastward until it intersects the line defined by connecting Point 4 and Point 5 along a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

TABLE B–6.—FOOTPRINT MARINE RESERVE

Point	Latitude	Longitude
1	33.90198 °N	119.43311 °W
2	33.90198 °N	119.51609 °W
3	33.96120 °N	119.51609 °W

TABLE B–6.—FOOTPRINT MARINE RESERVE—Continued

Point	Latitude	Longitude
4	33.95710 °N	119.43311 °W
5	33.90198 °N	119.43311 °W

B.7. Anacapa Island Marine Reserve

The Anacapa Island Marine Reserve (Anacapa Island) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–7, and the following textual description.

The Anacapa Island boundary extends from Point 1 to Point 2 along a straight line. It then extends to the 3 nmi State boundary where a line defined by connecting Point 2 and Pont 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary westward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

TABLE B–7.—ANACAPA ISLAND MARINE RESERVE

Point	Latitude	Longitude
1	34.08330 °N	119.41000 °W
2	34.08330 °N	119.35670 °W
3	34.06450 °N	119.35670 °W
4	34.06210 °N	119.41000 °W
5	34.08330 °N	119.41000 °W

B.8. Santa Barbara Island Marine Reserve

The Santa Barbara Island Marine Reserve (Santa Barbara) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table B–8, and the following textual description.

The Santa Barbara boundary extends from Point 1 to Point 2 along a straight line. It then extends along a straight line from Point 2 to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary northeastward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line. The boundary then extends from Point 5 to Point 6 along a straight line.

TABLE B–8.—SANTA BARBARA ISLAND MARINE RESERVE

Point	Latitude	Longitude
1	33.36320 °N	118.90879 °W
2	33.36320 °N	119.03670 °W
3	33.41680 °N	119.03670 °W
4	33.47500 °N	118.97080 °W
5	33.47500 °N	118.90879 °W
6	33.36320 °N	118.90879 °W

Appendix C to Subpart G of Part 9222—Marine Conservation Area Boundary

C.1. Anacapa Island Marine Conservation Area

The Anacapa Island Marine Conservation Area (AIMCA) boundary is defined by the 3 nmi State boundary, the coordinates provided in Table C–1, and the following textual description.

The AIMCA boundary extends from Point 1 to Point 2 along a straight line. It then extends to the 3 nmi State boundary where a line defined by connecting Point 2 and Point 3 with a straight line intersects the 3 nmi State boundary. The boundary follows the 3 nmi State boundary westward until it intersects the line defined by connecting Point 4 and Point 5 with a straight line. At that intersection, the boundary extends from the 3 nmi State boundary to Point 5 along a straight line.

TABLE C–1.—ANACAPA ISLAND MARINE CONSERVATION AREA

Point	Latitude	Longitude
1	34.08330 °N	119.44500 °W
2	34.08330 °N	119.41000 °W
3	34.06210 °N	119.41000 °W
4	34.06300 °N	119.44500 °W
5	34.08330 °N	119.44500 °W

50 CFR CHAPTER VI

PART 660—[AMENDED]

■ 10. The authority for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 11. Revise § 660.2 to read as follows:

§ 660.2 Relation to other laws.

(a) NMFS recognizes that any state law pertaining to vessels registered under the laws of that state while operating in the fisheries regulated under this part, and that is consistent with this part and the FMPs implemented by this part, shall continue in effect with respect to fishing activities regulated under this part.

(b) Fishing activities addressed by this Part may also be subject to regulation under 15 CFR part 922, subpart G, if conducted in the Channel Islands National Marine Sanctuary

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