

steps have been taken or are in the process of being taken:

(1) NIST will continue to work with relevant industry associations (foreign and domestic) to make them aware of the requirements of the Act and the need for accreditation of laboratories; and

(2) NIST, by this announcement, is requesting a cutoff date of August 1, 1997, for accreditation bodies and laboratories to send their applications so that they can be given full and fair consideration for approval/accreditation prior to May 26, 1998. Applications received after August 1, 1997, will be considered only after completing work on the pre-August 1, 1997, submitted applications.

Dated: April 15, 1997.

**Elaine Buntin-Mines,**

*Director, Program Office, NIST.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902

#### 50 CFR Parts 660 and 662

[Docket No. 960614176-7081-02; I.D. 030797A]

RIN 0648-A119

### Fisheries off West Coast States and in the Western Pacific; Northern Anchovy Fishery

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS is consolidating 50 CFR part 662, the regulations implementing the management measures for the northern anchovy fishery, into 50 CFR part 660, the regulations governing federally managed fisheries in the exclusive economic zone (EEZ) off the West Coast States and in the Western Pacific. This final rule makes no substantive changes to the existing regulations for northern anchovy, and is intended to make Federal regulations better organized and easier for the public to use. This action is part of the President's Regulatory Reinvention Initiative.

**EFFECTIVE DATE:** These regulations are effective on April 18, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rod McInnis, NMFS, 562-980-4030.

**SUPPLEMENTARY INFORMATION:** In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reinvention Initiative. This initiative is part of the National Performance Review and calls for comprehensive regulatory reform. The President directed all agencies to review their regulations, with an emphasis on eliminating or modifying those that are obsolete, duplicative, or otherwise in need of reform.

Consistent with that directive, NMFS published a final rule to consolidate the regulations governing the fisheries off the West Coast States and in the Western Pacific (61 FR 34570, July 2, 1996). The final rule at 50 CFR part 660 combined the regulations formerly found at 50 CFR parts 661 (Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California); 663 (Pacific Coast Groundfish Fisheries); 680 (Western Pacific Precious Corals); 681 (Western Pacific Crustacean Fisheries); 683 (Western Pacific Bottomfish and Seamount Groundfish Fisheries); and 685 (Pelagic Fisheries of the Western Pacific Region).

Also consistent with the President's directive, NMFS published a proposed rule (61 FR 13148, March 26, 1996), to remove the regulations at 50 CFR part 662 that implement the Northern Anchovy Fishery Management Plan (FMP), which was prepared by the Pacific Fishery Management Council (Council). The proposed rule stated that the FMP was unnecessary, given the ability of the State of California to regulate the fishery. Since the regulations were proposed to be removed, they were not incorporated in 50 CFR part 660.

The Council and other commenters advocated retention of the FMP as a means to support California's management measures and coordination with Mexico. Also, the President, on October 11, 1996, signed into law S.39, the Sustainable Fisheries Act (SFA), which amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*). Section 109(i) of the SFA added a provision to the Magnuson-Stevens Act that states that the Secretary may repeal or revoke an FMP for a fishery under the authority of a fishery management council only if the appropriate council approves the repeal or revocation by a three-quarters majority of its voting members (NOAA considers this language advisory, not mandatory). After considering public comments and the amended language of the Magnuson-Stevens Act, NMFS withdrew the rule that proposed to

remove the Federal regulations governing the northern anchovy fishery. Since Federal management of the fishery still exists, the regulations governing the fishery at 50 CFR part 662 need to be consolidated with the other West Coast and Western Pacific regulations at 50 CFR part 660. This final rule so consolidates those regulations. Some minor changes to the regulations for northern anchovy have been made to make them consistent in style and format with 50 CFR part 660.

Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated, to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

#### Classification

This action has been determined to be not significant for purposes of E.O. 12866.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. This rule repeats an information collection under PRA that was previously approved by OMB under OMB control number 0648-0306. The estimated response time is 45 minutes per vessel (30 hours in the fishery).

Because this rule makes only nonsubstantive changes to existing regulations, no useful purpose would be served by providing advance notice and opportunity for public comment. Accordingly, the Assistant Administrator for Fisheries, NOAA under 5 U.S.C. 553(b)(B), for good cause finds that providing notice and opportunity for public comment is unnecessary. Because this rule is not substantive, it is not subject to a 30-day delay in effective date under 5 U.S.C. 553(d).

#### List of Subjects

##### 15 CFR Part 902

Reporting and recordkeeping requirements.

##### 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

##### 50 CFR Part 662

Fisheries.

Dated: April 14, 1997.

**Rolland A. Schmitt**,  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR Chapter IX and 50 CFR Chapter VI are amended as follows:

**15 CFR CHAPTER IX**

**PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

2. In § 902.1, in paragraph (b) the table is amended by removing in the left column under 50 CFR, the entry "662.5", and in the right column, in corresponding position, the control number "-0306", and by adding in numerical order, the following entries to read as follows:

**§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.**

\* \* \* \* \*

(b) \* \* \*

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
* * * * *	*
50 CFR	
* * * * *	
§ 660.505 .....	-0306
* * * * *	*

**50 CFR CHAPTER VI**

**PART 660—FISHERIES OFF WEST COAST STATES AND WESTERN PACIFIC STATES**

3. The authority citation for part 660 continues to read as follows:

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

4. Subpart I is added to read as follows:

**Subpart I—Northern Anchovy Fishery**

- 660.501 Purpose and scope.
- 660.502 Definitions.
- 660.503 Relation to other laws.
- 660.504 Recordkeeping and reporting.
- 660.505 Vessel identification.
- 660.506 Prohibitions.
- 660.507 Facilitation of enforcement.
- 660.508 Penalties.
- 660.509 Harvest quota.

- 660.510 Closures.
- 660.511 Fishing seasons.
- 660.512 Closed areas.
- 660.513 Gear limitations.

**Subpart I—Northern Anchovy Fishery**

**§ 660.501 Purpose and scope.**

This subpart governs fishing for northern anchovy by vessels of the United States in the Pacific anchovy fishery area (PAFA). This subpart implements the Northern Anchovy Fishery Management Plan (FMP) developed by the Pacific Fishery Management Council under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended.

**§ 660.502 Definitions.**

In addition to the definitions in the Magnuson-Stevens Act and in § 600.10 of this chapter, the terms used in this subpart have the following meanings:

**Anchovy** means fish of the species *Engraulis mordax*, or parts or products thereof.

**Council** means the Pacific Fishery Management Council.

**Fishing year** means a 12-month period beginning August 1 and extending through July 31 of the following year.

**Live bait fishery** means fishing for northern anchovies for use as live bait in other fisheries.

**Nonreduction fishery** means fishing for northern anchovies for use as dead bait or providing fish for human consumption.

**Northern anchovy** means fish of the species *Engraulis mordax*, or parts or products thereof.

**PAFA** means the Pacific anchovy fishery area, which is the EEZ seaward of California, and between 38° N. lat. (Point Reyes) and the United States-Mexico International Boundary, which is a line connecting the following coordinates:

- 32°35'22" N. lat., 117°27'49" W. long.
- 32°37'37" N. lat., 117°49'31" W. long.
- 31°07'58" N. lat., 118°36'18" W. long.
- 30°32'31" N. lat., 121°51'58" W. long.

**Reduction fishery** means fishing for northern anchovies for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, or other fishery products or byproducts for purposes other than direct human consumption.

**Reduction harvest quota** means the amount of anchovies, by weight, which may be harvested during a fishing year for reduction purposes.

**Regional Administrator** means the Administrator, Southwest Region, NMFS (see Table 1 of § 600.502 for address).

**Spawning biomass** means the estimated amount, by weight, of all sexually mature northern anchovies in the central subpopulation (defined as) from 38° N. lat. (Point Reyes) south to approximately 30° N. lat. at Punta Baja, Baja California.

**Special allocations** means that part of the total harvest quota reserved for non-reduction fishing, reduction fishing in subarea A, and any conservation purpose.

**Subarea A** means the northern portion of the PAFA between 38° N. lat. (Point Reyes), and a southern limit at 35°14' N. lat. (Point Buchon).

**Subarea B** means the southern portion of the PAFA between 35°14' N. lat. (Point Buchon), and the United States-Mexico International Boundary described in this section.

**Subarea B harvest quota** means the amount of anchovies, by weight, which may be harvested during a fishing year for reduction purposes in Subarea B.

**Total harvest quota** means the total amount of anchovies, by weight, which may be harvested during a fishing year by the reduction and non-reduction fisheries.

**§ 660.503 Relation to other laws.**

(a) Any state law that pertains to vessels registered under the laws of that state while fishing in the EEZ, and which is consistent with the Federal regulations, will continue to have force and effect on fishing activities addressed in this subpart.

(b) If a vessel has filed with the State of California a declaration of intent to take anchovies for reduction purposes, any fishing for anchovies by that vessel will be conclusively presumed to be for reduction purposes unless an exemption to the declaration has been filed with the State of California.

**§ 660.504 Recordkeeping and reporting.**

Data regarding fishing vessels, fishing activities, landings and processing activities required by the FMP for the reduction and non-reduction fisheries are collected by the State of California under existing data collection provisions. No additional reports will be required of fishermen or processors as long as the data collection and reporting systems operated by the State of California continue to provide the Secretary of Commerce (Secretary) with statistical information adequate for management. Reporting requirements may be implemented by emergency regulations if this reporting system becomes inadequate for management purposes.

**§ 660.505 Vessel identification.**

(a) *Official number.* Each fishing vessel in the reduction fishery must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft. The official number is the anchovy reduction registration number issued by the State of California.

(b) *Numerals.* The official number must be affixed to each vessel subject to this subpart in block Arabic numerals at least 14 inches (35.56 cm) in height. Markings must be legible and of a color that contrasts with the background.

**§ 660.506 Prohibitions.**

In addition to the general prohibitions specified in § 600.725, it is unlawful for any person to do any of the following:

(a) Fish for anchovies in the PAFA:

(1) During any applicable closed season or in any applicable closed area specified in this subpart;

(2) During any applicable closure specified in this subpart; or

(3) Aboard a fishing vessel that has not filed an applicable declaration of intent with the State of California.

(b) Take or retain anchovies for reduction purposes in the PAFA unless they are taken with authorized fishing gear as specified in § 660.513.

**§ 660.507 Facilitation of enforcement.**

See § 600.730 of this chapter.

**§ 660.508 Penalties.**

See § 600.735 of this chapter.

**§ 660.509 Harvest quota.**

(a) *Announcement of harvest quotas.* The total harvest quota, reduction harvest quota, subarea B harvest quota, and special allocations will be determined by the Regional Administrator from the estimated spawning biomass according to the formulas in paragraph (b) of this section, and will be announced on or about August 1 as interim final quotas. The quotas will be announced according to the following procedure:

(1) No less than 14 calendar days before the meeting of the Council's Anchovy Planning team and Advisory Subpanel, a document will be published in the **Federal Register** notifying the public when the estimate of the annual spawning biomass will be available. The document also will announce the date and location of a meeting of the Council's Anchovy Planning team and Advisory Subpanel, where the estimated spawning biomass and the annual quotas will be reviewed and public comments received. This meeting is

expected to convene during the second week of June.

(2) All materials relating to the annual quotas will be forwarded to the Council and its Scientific and Statistical Committee and will be available for public inspection at the Office of the Regional Administrator.

(3) On or about August 1, the interim final quotas will be published in the **Federal Register** with an opportunity for public comment.

(4) At a regular meeting of the Council, the Council will review the estimated spawning biomass and harvest quotas and offer time for public comment. The Council will either accept the harvest quotas as published or recommend to the Regional Administrator that the numbers be revised. If a revision is requested, a justification for the revision must be provided. An annual quota may be adjusted only if inaccurate data were used or if errors were made in the calculations.

(5) If the Regional Administrator determines that a change in a harvest quota is justified, NMFS will publish a document in the **Federal Register** notifying the public of the change and the reasons for the change. If no changes are necessary, the interim final quotas will become final quotas, and no notice will be published.

(b) *Determination of harvest quotas.* The total harvest quota in the PAFA will be determined by adding the non-reduction fishery allocation in the PAFA and the reduction harvest quota in the PAFA, and they will be separately determined by the following formulas.

(1) When the estimated spawning biomass is less than 300,000 mt, there will be no reduction harvest quota, and the non-reduction allocation in the PAFA will be 4,900 mt.

(2) When the estimated spawning biomass is equal to or greater than 300,000 mt, the reduction harvest quota in the PAFA will be 70 percent of the estimated spawning biomass in excess of 300,000 mt or 140,000 mt, whichever is less, and the non-reduction fishery allocation in the PAFA will be 4,900 mt except as specified in § 660.510(b).

(3) When the estimated spawning biomass is less than 50,000 mt for 2 consecutive fishing years, there will be no reduction quota and no non-reduction allocation until the spawning biomass reaches or exceeds 50,000 mt.

(4) There is no limit on the harvest of anchovy for live bait, except that when the spawning biomass is less than 50,000 mt for 2 consecutive fishing years, there will be no live bait harvest until the spawning biomass reaches or exceeds 50,000 mt.

(c) *Subarea B harvest quota.* The reduction harvest quota for subarea B will be equal to the reduction harvest quota in the PAFA minus a reserve of 10 percent of the reduction harvest quota or 9,072 mt, whichever is less. This reserve is allocated to the reduction fishery in subarea A except as provided in paragraph (d) of this section.

(d) *Reallocation of subarea A reserve.* The Secretary may reallocate on June 1 from subarea A to subarea B that portion of the reserve allocated to subarea A under paragraph (c) of this section that will not be harvested in subarea A by the end of the fishing year. This amount will be estimated based on catch to date in the current year and the expected intentions of processors and fishermen in the reduction fishery north of Point Buchon to harvest anchovies in the remaining fishing year. Reallocation under this paragraph will be based first, on a need to increase the subarea B harvest quota and secondly, on the projected reduction harvest in subarea A to the end of the fishing year.

(e) *Procedure for reallocation of subarea A reserve.* (1) The Secretary may, by May 1 each year, determine the need to increase the subarea B harvest quota as provided in paragraph (d) of this section if the expected reduction fishery harvest in subarea B is an amount equal to or greater than the subarea B harvest quota. After making a determination that the subarea B harvest quota needs to be increased as provided in paragraph (d) of this section, the Secretary will make the estimate under paragraph (d) of this section on or about May 15 and, as soon as practicable after June 1, announce to all reduction fishing vessel owners and operators and licensed anchovy reduction plant operators by notification in the **Federal Register** and other appropriate notice—

(i) The change in the subarea B quota.

(ii) The reasons for the change.

(iii) A summary of, and responses to, any comments submitted under paragraph (e)(3) of this section.

(2) The Regional Administrator will compile in aggregate form all data used to make the estimates under paragraph (d) of this section and make them available for public inspection during normal business hours at the Southwest Regional Office at the address in Table 1 § 600.502.

(3) Comments from the public on the estimates made under paragraph (d) of this section may be submitted to the Regional Administrator until May 31.

(f) Anchovies harvested for reduction and non-reduction purposes in the PAFA and adjacent territorial sea will

be counted toward the total harvest quota.

**§ 660.510 Closures.**

(a) *Closure of the reduction fishery.* The Secretary will close the reduction fishery during the open season provided in § 660.511 when the total harvest quota in the PAFA is taken. The Secretary will close only the reduction fishery in subarea B when the subarea B reduction harvest quota is taken.

(b) *Closure of the non-reduction fishery.* The Secretary will close the non-reduction fishery in the PAFA only if the total harvest quota is taken.

(c) *Procedure for closing.* (1) When the harvest quotas prescribed in § 660.509 are about to be taken, the Secretary will announce, by notification in the **Federal Register** and to the Council and the California Department of Fish and Game, the date of closure in one or both subareas.

(2) If a reduction fishery closure is announced, the reduction fishery in the affected subarea will cease on the date of closure specified in the **Federal Register** document provided by paragraph (c)(1) of this section, and will not resume until a final determination of new harvest quotas is announced under § 662.509.

(3) The non-reduction fishery in the PAFA ceases on the date that a total harvest quota closure is announced under paragraph (c)(1) of this section, and will not resume until a new harvest quota is announced under § 660.509.

**§ 660.511 Fishing seasons.**

All open seasons will begin at 0001 hours and terminate at 2400 hours local time. The PAFA is closed to anchovy fishing except as follows:

(a) *Non-reduction fishing season.* The open season for non-reduction fishing in the PAFA is from August 1 to July 31.

(b) *Reduction fishing season.* (1) In subarea A, the open season for reduction fishing in the PAFA is from August 1 to June 30.

(2) In subarea B, the open season for reduction fishing in the PAFA is from September 15 to June 30.

**§ 660.512 Closed areas.**

(a) *Non-reduction fishery.* There are no closed areas for non-reduction fishing in the PAFA.

(b) *Reduction fishery.* The following areas are closed to reduction fishing:

(1) *Farallon Islands closure* (see Figure 1). The portion of subarea A bounded by—

(i) A straight line joining Pigeon Point Light (37°10.9' N. lat., 122°23.6' W. long.) and the U.S. navigation light on Southeast Farallon Island (37°42.0' N. lat., 123°00.1' W. long.).

(ii) A straight line joining the U.S. navigation light on Southeast Farallon Island (37°42.0' N. lat., 123°00.1' W. long.) and the U.S. navigation light on Point Reyes (37°59.7' N. lat., 123°01.3' W. long.).

(2) *Subarea B closures.* That portion of subarea B described as—

(i) *Oxnard closure* (see Figure 1). The area that extends offshore four (4) miles (7.41 km) from the mainland shore between lines running 250° true from the steam plant stack at Manadalay Beach (34°12.4' N. lat., 119°15.0' W. long.) and 220° true from the steam plant stack at Ormond Beach (34°07.8' N. lat., 119°10.0' W. long.).

(ii) *Santa Monica Bay closure* (see Figure 1). Santa Monica Bay shoreward of that line from Malibu Point (34°01.8' N. lat., 118°40.8' W. long.) to Rocky Point (Palos Verdes Point) (33°46.5' N. lat., 118°25.7' W. long.).

(iii) *Los Angeles Harbor closure* (see Figure 1). The area outside Los Angeles Harbor described by a line extending six

(6) miles (11.11 km) 180° true from Point Fermin (33°42.3' N. lat., 118°17.6' W. long.) and then to a point located three (3) miles (5.56 km) offshore on a line 225° true from Huntington Beach Pier (33°39.2' N. lat., 118°00.3' W. long.).

(iv) *Oceanside to San Diego closure* (see Figure 1). The area six (6) miles (11.11 km) from the mainland shore south of a line running 225° true from the tip of the outer breakwater (33°12.4' N. lat., 117°24.1' W. long.) of Oceanside Harbor to the United States-Mexico International Boundary.

**§ 660.513 Gear limitations.**

(a) *Nonreduction fishery.* There are no limitations on gear used in the non-reduction fishery.

(b) *Reduction fishery.* Authorized fishing gear only may be used in the reduction fishery. Authorized fishing gear will be round haul nets that have a minimum wet-stretch mesh size of 10/16 of an inch (1.59 cm) excluding the bag portion of a purse seine. The bag portion must be constructed as a single unit and must not exceed a rectangular area adjacent to 20 percent of the total corkline of the purse seine. Minimum mesh size requirements are met if a stainless steel wedge can be passed with only thumb pressure through 16 of 20 sets of two meshes each of wet mesh. The wedges used to measure trawl mesh size are made of 20 gauge stainless steel, and will be no wider than 10/16 of an inch (1.59 cm) less one thickness of the metal at the widest part.

**PART 662—[REMOVED]**

5. Under the authority of 16 U.S.C. 1801 *et seq.*, part 662 is removed.

BILLING CODE 3510-22-P

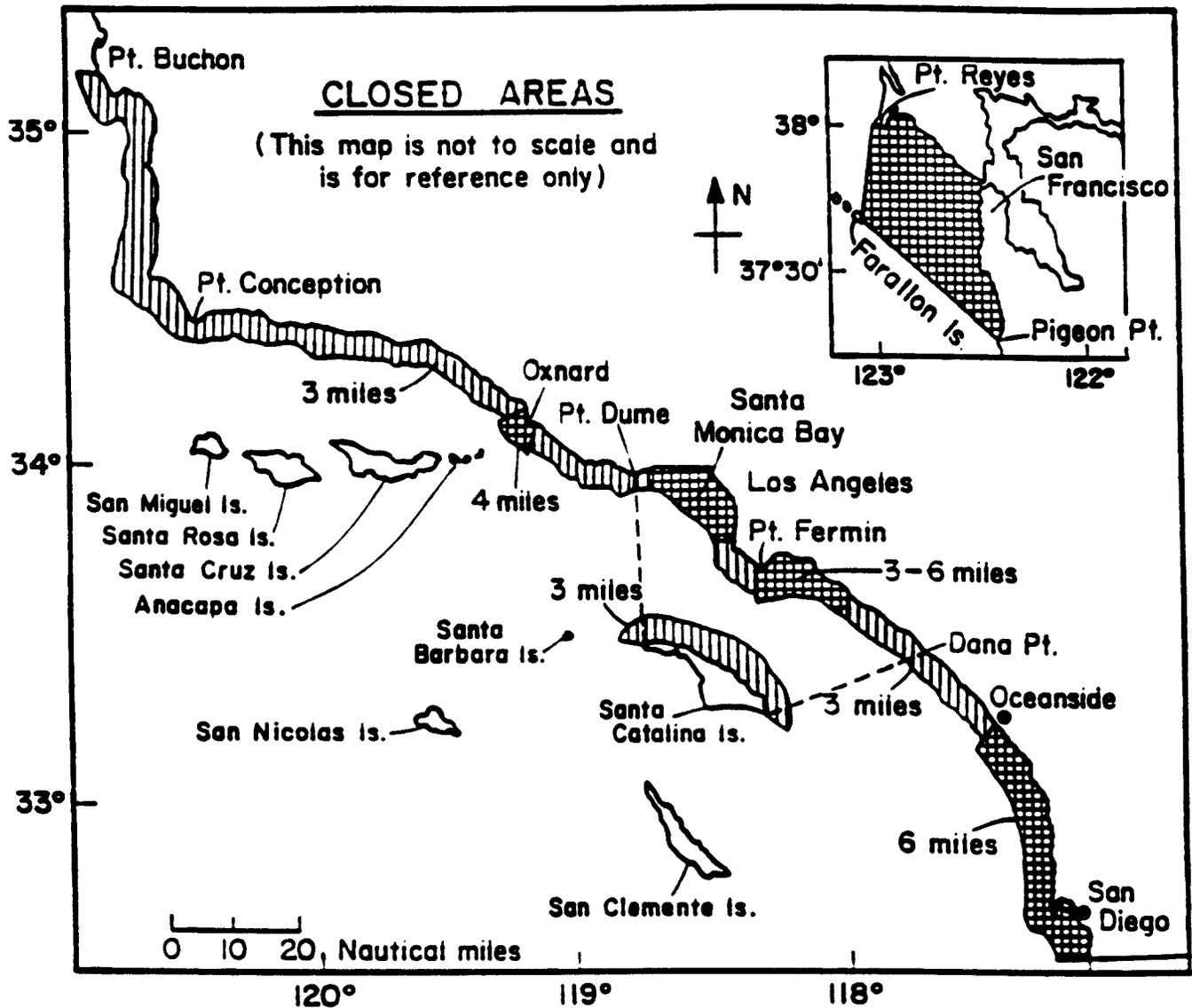


Figure 1—Existing California Area Closures (hatched areas extend to 3 miles (5.56 km) offshore; cross-hatched areas extend beyond 3 miles (5.56 km) offshore) and Optional Catalina Channel foreign vessel closure (outlined by dashed lines)

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