

**CALIFORNIA COASTAL COMMISSION**

45 FREMONT, SUITE 2000  
SAN FRANCISCO, CA 94105-2219  
VOICE AND TDD (415) 904-5200  
FAX (415) 904-5400



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**STAFF REPORT AND RECOMMENDATION****ON CONSISTENCY DETERMINATION**

Consistency Determination No.	<b>CD-036-06</b>
Staff:	CT-SF
File Date:	5/18/2006
45 <sup>th</sup> Day:	7/02/2006
60 <sup>th</sup> Day:	7/17/2006
Commission Meeting:	7/14/2006

**FEDERAL AGENCY:**      **National Oceanic and Atmospheric Administration**

**PROJECT**  
**LOCATION:**

The Channel Islands National Marine Sanctuary consists of approximately 1243 square nautical miles of coastal and ocean waters off the southern coast of California. The boundary begins at the Mean High Water Line and extends seaward to a distance of approximately six nautical miles 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.

**PROJECT**  
**DESCRIPTION:**

Revised management plan and revised set of regulations for the Channel Islands National Marine Sanctuary.

**SUBSTANTIVE**  
**FILE DOCUMENTS:**

See page 27.

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### **EXECUTIVE SUMMARY**

The National Oceanic and Atmospheric Administration (NOAA) has submitted a consistency determination for the revised management plan and set of regulations governing activities in the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). NOAA states that the proposed measures would afford better protection to the natural and cultural resources of the CINMS. NOAA describes the proposed set of regulations as including both new regulations as well as changes to existing regulations, as follows:

*Proposed new regulations include prohibitions on: exploring for, developing, or producing minerals within the Sanctuary; abandoning matter on or in Sanctuary submerged lands; taking marine mammals, seabirds, or sea turtles within or above the Sanctuary; possessing within the Sanctuary any marine mammal, turtle or seabird; marking defacing, damaging, moving, removing, or tampering with Sanctuary signs, monuments, boundary markers, or similar items; introducing or otherwise releasing from within or into the Sanctuary an introduced species; and operating motorized personal watercraft within waters of the Channel Islands National Park [Channel Islands National Park waters include 125,000 acres and extend one nautical mile seaward from Santa Barbara Island, Santa Rosa Island, Anacapa Island and Santa Cruz Island]. Proposed changes to existing regulations would clarify or refine: corrected coordinates and the description of the Sanctuary's outer and shoreline boundaries; the area in which altering submerged lands is prohibited; exceptions from the prohibition on discharging or depositing matter into the Sanctuary; the regulation on moving, removing, or injuring a Sanctuary historical resource; exemptions for military activities; and permit issuance criteria and procedures.*

*The revised regulations would also remove the exception for discharging food or depositing meals on board vessels into the Sanctuary and include additional prohibition on discharging and depositing any material or other matter from beyond the boundary of the Sanctuary that subsequently enters the Sanctuary and injures a Sanctuary resource or quality.*

In addition to these regulatory changes to the CINMS, NOAA is proposing significant updates and revisions to the Channel Islands National Marine Sanctuary's original 1983 management plan as well. These changes are intended to address the significant advances in science and technology, innovations in marine resource management techniques and challenging new resource management issues that have emerged in the past several decades and rendered the original 1983 management plan obsolete. The management plan details information about the Sanctuary's staffing and administration, operational and programmatic costs, performance measures, priority management issues and the actions proposed to address them. Its revision will allow the Sanctuary to integrate new tools and practices into site management and increase its ability 1) to inform constituents, including the general public, about the Sanctuary and the management actions CINMS has planned for the next five years, and 2) to guide site

management towards achievement of the Sanctuary's goals with the best means available. Briefly stated, the management plan addresses priority resource management issues through the following ten action plans: Public Awareness and Understanding, Conservation Science, Boundary Evaluation, Marine Zoning, Water Quality, Emergency Response and Enforcement, Maritime Heritage Resources, Emerging Issues, Operations, and Evaluation.

The vast riches of the Channel Island National Marine Sanctuary have been well documented by NOAA's Environmental Impact Statement and Management Plan (EIS/MP) as well as by the Coastal Commission's marine preservation and management work over the last twenty-nine years. Collectively, the natural resources found in the Sanctuary constitute some of the most significant natural marine assets in the United States.

Within the context of the continuing management and protection of these marine assets and resources, NOAA has drafted its current revised management plan proposal. In evaluating the potential impacts of this proposal on the physical and biological environment, cultural/historical resources, and human uses of the CINMS, NOAA has determined that:

*no significant adverse impacts to any of these categories would occur as a result of implementing the Proposed Action. No cumulative impacts and less than adverse socioeconomic impacts would occur as well. Implementing the Proposed Action would have significant long-term beneficial effects on the physical and biological environments, on historical resources, and would benefit many of the resource dependant human uses of the Sanctuary, such as fishing, recreation, tourism, research and education.*

The proposed new and revised regulations on mineral extraction, discharging and depositing material within the Sanctuary, altering the seabed, abandoning material within the Sanctuary, nearshore operation of vessels, disturbing, taking or possessing marine mammals, seabirds or sea turtles, tampering with Sanctuary signs, releasing invasive organisms, operating motorized personal water craft, issuing permits, and exempting military activities will serve to eliminate adverse effects on water quality and enhance marine resource protection consistent with the water quality and marine resource policies of the California Coastal Management Program (CCMP; Sections 30230 and 30231 of the Coastal Act). At the same time, when adopted into the Sanctuary's comprehensive management plan, these regulatory changes will not adversely affect the recreational and public access opportunities and commercial and recreational fishing activities that currently exist within the Sanctuary and consistent with the public access and recreation, oil spill and commercial and recreational fishing policies of the CCMP (Sections 30210, 30214, 30220, 30232, 30234 and 30234.5 of the Coastal Act).

The management plan and regulatory revisions included in this consistency determination do not propose the establishment of marine reserves (no-take areas) or marine conservation areas (limited-take areas) within the Sanctuary and also do not propose a Sanctuary boundary extension. NOAA anticipates that these actions may be considered as part of a separate NOAA environmental review and a comprehensive, scientifically based, open public process in the future.

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## **STAFF SUMMARY AND RECOMMENDATION:**

### **I. STAFF SUMMARY**

**A. Project Description.** Initially designated in 1980, the Channel Islands National Marine Sanctuary consists of approximately 1243 square nautical miles of coastal and ocean waters, and their underlying submerged lands, 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 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.

The Sanctuary's primary objective is to conserve, protect, and enhance the biodiversity, ecological integrity, and cultural legacy of marine resources surrounding the Channel Islands for current and future generations. The significance of this objective is underscored by the Sanctuary's rich and diverse range of marine life and habitats, unique and productive oceanographic processes and ecosystems, and culturally significant resources. This objective is also directly reflected in the seven specific goals of the Sanctuary that are derived from the overarching mission of the National Marine Sanctuary Program and the policies of the National Marine Sanctuaries Act:

- 1) *Protect the natural habitats, ecological systems and biological communities of all living resources inhabiting these areas, and the area's cultural and archaeological resources, for future generations;*
- 2) *Enhance public awareness, understanding, and appreciation of the marine environment and the natural, historical, cultural and archaeological resources of the National Marine Sanctuary System;*
- 3) *Where appropriate, restore and enhance natural habitats, populations and ecological systems;*
- 4) *Provide comprehensive and coordinated conservation and management of these marine areas, as well as the activities affecting them in a manner complementing existing regulatory authorities;*
- 5) *Create models and incentives for ways to conserve and manage these areas, including the application of innovative management techniques;*
- 6) *Allow to the extent compatible with the primary objective of resources protection, public and private uses of the resources; and*
- 7) *Cooperate with national and international programs encouraging conservation of marine resources.*

Pursuant to 304 (e) of the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1431 *et seq.*, the National Marine Sanctuary Program (NMSP) conducted a review of the management plan and regulations for the Channel Islands National Marine Sanctuary. This review constituted the first

formal review and revision of the Sanctuary management plan and regulations since the Sanctuary was originally designated. The CINMS management plan review began with public scoping in 1999 and expanded to include input from sanctuary staff, public forum groups, the Channel Islands National Marine Sanctuary Advisory Council, and NMSP leadership. Based on information gathered and priority resource management issues identified during this review, the National Oceanic and Atmospheric Administration (NOAA) proposes the following: 1) inclusion of seven additional activities to the list of activities currently prohibited within the Sanctuary boundaries (specifically detailed in Exhibit 2), 2) clarification and refinement of eight existing regulations (also described in Exhibit 2), and 3) adoption of over three dozen specific programs comprising ten action plans within the Sanctuary's overall management plan. The proposed changes are intended to facilitate improved "on the ground" Sanctuary management and are needed for the Sanctuary to meet the goals and mission of the NMSP (15 C.F.R. Part 922.2(b)).

*Revisions of existing Sanctuary regulations included in the Proposed Action would:*

- *clarify that Sanctuary boundaries encompass the submerged lands;*
- *correct some inaccuracies and ambiguities in the coordinates and description of the Sanctuary's outer and shoreline boundaries;*
- *remove outdated and unnecessary oil spill contingency equipment requirements;*
- *clarify that discharges allowed from marine sanitation devices apply only to Type I and Type II marine sanitation devices;*
- *provide an exemption for discharges by vessels of the Armed Forces allowed under section 312(n) of the Federal Water Pollution Control Act;*
- *specify that the existing exception for discharging or depositing fish, fish parts, or chumming materials (bait) applies only to such discharges or deposits during the conduct of lawful fishing activity within the Sanctuary;*
- *remove an exception for discharging or depositing meals on board vessels;*
- *prohibit discharges or deposits of any material or other matter from beyond the boundary of the Sanctuary that subsequently enter the Sanctuary and injure a Sanctuary resource or quality;*
- *extend from 2 nautical miles (NM) to the outer 6 NM Sanctuary boundary the existing prohibition on alteration of the submerged lands of the Sanctuary;*
- *prohibit vessels of 300 gross registered tons or more (excluding fishing and/or kelp harvesting vessels) from approaching within 1 NM of the Islands;*
- *revise and strengthen the existing protection of cultural resources to prohibit moving, possessing, injuring, or attempting to move, remove, injure or possess any Sanctuary historical resource;*
- *clarify, update and refine the regulation of Department of Defense activities occurring within the Sanctuary to, among other things, provide more consistency with the NMSA as currently written; and*
- *conform wording, where appropriate, to wording used for more recently designated sanctuaries.*

*New regulations included in the Proposed Action would prohibit:*

- *exploring for, developing, or producing minerals within the Sanctuary, except producing byproducts incidental to authorized hydrocarbon production;*
- *abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary;*
- *taking any marine mammal, sea turtle, or seabird within or above the Sanctuary, except as expressly authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 et seq., Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 et seq., Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 et seq., or any regulation, as amended, promulgated under these acts;*
- *possessing within the Sanctuary (regardless of where taken from, moved, or removed from) any marine mammal, sea turtle, or seabird, except as expressly authorized by the MMPA, ESA, MBTA, or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA;*
- *marking, defacing, damaging, moving, removing, or tampering with any sign, notice or placard, whether temporary or permanent, or any monument, stake, post, or other boundary marker related to the Sanctuary;*
- *introducing or otherwise releasing an introduced species from within or into the Sanctuary; and*
- *operating a motorized personal watercraft within waters of the Channel Islands National Park, established by 16 U.S.C. 410(ff).*

*In addition, the Proposed Action includes revised and clarified Sanctuary permit regulations that would:*

- *add specificity to and slightly expand the types of activities for which the Director of the NMSP may issue permits;*
- *specify which otherwise prohibited activities would not be allowed under any Sanctuary permit;*
- *revise and clarify permit issuance criteria;*
- *further refine current requirements and procedures from general National Marine Sanctuary Program regulations (15 CFR 922.48(a) and (c));*
- *specify information about permit duration, timelines and procedures for permit processing, permit review, and procedures and criteria for permit renewal;*
- *expressly require that in addition to any other terms and conditions the Director deems appropriate, Sanctuary permits must require that the permittee agrees to hold the United States harmless against any claims arising out of the permitted activities; and*
- *expressly provide that a permittee may be required to purchase and maintain general liability insurance or other acceptable security against potential claims for destruction, loss of, or injury to Sanctuary resources arising out of the permitted activities.*

The changes listed above have been proposed to help strengthen and clarify Sanctuary goals and regulations as well as to integrate the technological and scientific advances that have occurred since original designation of the Sanctuary in 1980. The net result of these various revisions and

additions is the formation of a Sanctuary management plan that will be better able to actively and effectively address the resource management and resource protection challenges that are facing the Sanctuary presently and will potentially arise in the future.

Additional changes proposed by NOAA for the Channel Islands National Marine Sanctuary include the following specific strategies and programs included within the Sanctuary's management plan:

- 1. Public Awareness and Understanding Action Plan*
  - AU.1 – Education Program Development*
  - AU.2 – Community Involvement/ Volunteer & Intern Program Development*
  - AU.3 – Team OCEAN*
  - AU.4 – Developing Outreach Technology*
  - AU.5 – Greater Southern California Outreach*
  - AU.6 – Developing Education and Outreach Tools & Products*
  - AU.7 – Visitor Center Support & Development*
  - AU.9 – Multicultural Education*
- 2. Conservation Science Action Plan*
  - CS.1 – Sanctuary Aerial Monitoring and Spatial Analysis Program*
  - CS.2 – Comprehensive Data Management*
  - CS.3 – Supporting Existing Site Characterization & Monitoring Programs*
  - CS.4 – Collaborative Marine Research Project*
  - CS.5 – Research Interpretation*
  - CS.6 – Marine Reserves Monitoring*
- 3. Boundary Evaluation Action Plan*
  - BE.1 – Completing the NCCOS Biogeographic Study*
  - BE.2 – Final Determination on Boundary Issue*
- 4. Marine Zoning Action Plan*
  - MZ.1 – General Marine Zoning*
  - MZ.2 – Consideration of Federal Marine Reserves*
- 5. Water Quality Action Plan*
  - WQ.1 – Offshore Water Quality Monitoring*
  - WQ.2 – Water Quality Protection Planning*
- 6. Emergency Response and Enforcement Action Plan*
  - EE.1 – Improving Emergency Response Planning & Implementation*
  - EE.2 – Expanding Enforcement Efforts*
- 7. Maritime Heritage Resources Action Plan*
  - MHR.1 – The Shipwreck Reconnaissance Program*
  - MHR.2 – Maritime Heritage Resources Volunteer Program*
  - MHR.3 – Partnering with the Santa Barbara Maritime Museum*
  - MHR.4 – Implementing a Coordinated MHR Protection Outreach Effort*
  - MHR.5 – Upgrading the MHR Website*
  - MHR.6 – Promoting Public Education of Chumash Native American History*
- 8. Emerging Issues Action Plan*

*EI.1 – Identifying & Assessing Emerging Issues*

*EI.2 – Response to Identified Issues*

*9. Operations Action Plan*

*OP.1 – Sanctuary Advisory Council Operations*

*OP.2 – Permitting and Activity Tracking*

*OP.3 – Relationships with Other Authorities*

*OP.4 – Vehicle, Boat and Aircraft Operations*

*OP.5 – Administrative Initiatives*

*OP.6 – Human Resources*

*OP.7 – Office Space Expansion*

*10. Performance Evaluation Action Plan*

*EV.1 – Measuring Sanctuary Performance Over Time*

Similar to the proposed regulatory changes, the action plan strategies outlined above represent the wide variety of management tools that the Sanctuary is planning to employ to better manage and protect its marine resources. As NOAA describes, “Action plans allow the sanctuaries to address the resource issues identified for this management plan and to fulfill the purposes and policies of the NMSA.”

**B. Federal Agency’s Consistency Determination.** The National Oceanic and Atmospheric Administration has determined the project consistent to the maximum extent practicable with the California Coastal Management Program.

**II. Staff Recommendation.** The staff recommends that the Commission adopt the following motion:

**MOTION:** I move that the Commission concur with consistency determination CD-036-06 that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the California Coastal Management Program (CCMP).

**STAFF RECOMMENDATION:**

*Staff recommends a YES vote on the motion. Passage of this motion will result in concurrence with the determination and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.*

**RESOLUTION TO CONCUR WITH CONSISTENCY DETERMINATION:**

*The Commission hereby **concurs** with consistency determination CD-036-06 by the National Oceanic and Atmospheric Administration, on the grounds that the project described therein is fully consistent, and thus is consistent to the maximum extent practicable, with the enforceable policies of the CCMP.*

**III. Findings and Declarations.**



The Commission finds and declares as follows:

**A. Sanctuary Resources.** NOAA designated the Channel Islands National Marine Sanctuary in 1980 in recognition of the unique marine environment of the Southern California Bight around the Channel Islands. The Sanctuary encompasses approximately 1,243 square miles of coastal and offshore waters, including San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock offshore of Santa Barbara and Ventura Counties (Exhibit 1). As NOAA states in the subject EIS/MP, the Sanctuary supports a rich and diverse range of marine life and habitats, unique and productive oceanographic processes and ecosystems, and culturally significant resources such as hundreds of shipwrecks and submerged Chumash cultural artifacts, and that:

*The physical, biological and cultural characteristics of the Sanctuary combined provide outstanding opportunities for scientific research, education, recreation, and commerce. Examples of these include commercial and recreational fisheries, marine wildlife viewing, sailing, boating, kayaking and other recreational activities, marine shipping, and nearby offshore oil and gas development.*

The Channel Islands and surrounding ecosystems are unique and highly valued, as demonstrated by, for example, several national and international designations. In 1980 the United States designated both the Channel Islands Marine Sanctuary and Channel Islands National Park. In addition, the United Nations Educational, Scientific and Cultural Organization's (UNESCO) Man and the Biosphere Program designated the Sanctuary as a Biosphere Reserve in 1986.

Over 195 species of birds are known to use the water, shore or island habitats within the Sanctuary, and its location along the Pacific Flyway, a major migratory route for birds, makes it an important stopover during both north and south migrations. This migration route, as well as the high diversity of habitats located within the Sanctuary, contribute to its high species diversity and allow it to provide important habitat for eight seabirds with special status under Federal or State law.

Additionally, the Sanctuary's location within the Southern California Bight, an area characterized by the confluence of cold southward moving currents and warm northward moving currents, makes it an extremely productive marine region and a vital feeding and breeding ground for marine mammals. Over 27 species of whales and dolphins are known to frequent the Sanctuary waters on an annual basis, including the rare blue, humpback and sei whales, and at least 33 species of cetaceans have been reported within the Sanctuary region. Similarly, the area is home to a wide variety of seals and sea lions, including some of the most rare species in the Western Pacific, Guadalupe fur seals, Stellar sea lions and ribbon seals.

The abundance and diversity of fish and invertebrates is also a remarkable feature of the Sanctuary. There are roughly 481 species of fish known to inhabit the Sanctuary and estimates of the invertebrate diversity are typically in excess of 5,000 species. This tremendous diversity is due in part to the number of powerful upwelling (circulation patterns in which deep, cold,

nutrient laden water moves towards the surface) zones located in the waters in and around the Sanctuary and in part due to the range of distinct marine habitats. Kelp forests, eelgrass beds, sandy and rocky intertidal and subtidal zones, rocky reefs, and deep-water benthic habitats are a few of the many different environments included within the Sanctuary's borders.

**B. Marine Resources/Water Quality.** The Coastal Act provides:

*Section 30230: Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of marine organisms adequate for long-term commercial, recreational, scientific and educational purposes.*

*Section 30231: The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

Updating the Channel Islands National Marine Sanctuary's management plan and the implementation of NOAA's proposed regulations will substantially improve marine resource and water quality protection as needed to implement Coastal Act sections 30230, and 30231. The May 2006 draft Environmental Impact Statement/ Management Plan (EIR/MP) for the CINMS describes thirteen new or revised regulations that may potentially yield direct or indirect benefits to water quality and/or marine resources, as follows:

- Prohibition 2 (Mineral Activities) – *Implementation of Prohibition 2, a prohibition of exploration, development, or production of minerals in the Sanctuary, would protect the physical environment within the Sanctuary from potential negative effects on the seabed and water quality due to mineral mining, and therefore would have a direct long-term beneficial impact on the physical environment. Mineral extraction activities could involve scraping the Sanctuary's seabed surface and/or excavation of pits and tunnels into the seabed. In addition to the physical impacts on the seabed structure, mining could decrease water quality through the discharge of drill cuttings and mud. Discharge of drill cuttings and mud could also increase turbidity that could cause interference with the filtering, feeding, or respiratory functions of marine organisms. Drill cuttings and mud often have elevated concentrations of metals that can be toxic to marine life (e.g., arsenic, mercury). Other potential impacts could include: destruction and direct smothering of the benthic biota; potential harm to fisheries; loss of food sources and habitat for some species; possible lowered*

*photosynthesis and oxygen levels; and degraded appearance of the water itself. Implementation of Prohibition 2 would therefore result in added protection of biological resources such as invertebrates and fishes that utilize benthic habitats and rely on high water quality in the Sanctuary. Implementation of Prohibition 2 also would protect against noise levels associated with mining that could have the potential to disturb seabirds, marine mammals or other organisms.*

- Prohibition 3 (Discharging or Depositing) – *Prohibition 3 is intended to remain largely the same as the existing discharge and deposit regulation, with some wording changes aimed at improving clarity of the regulation in a manner consistent with its original intent. There are, however, also some important substantive changes proposed:*
  - *New language clarifying that discharging or depositing of fish, fish parts, or chumming materials (bait) is allowed only if it is from, and conducted during, lawful fishing activities in the Sanctuary. This new language would have a beneficial impact to biological resources of the Sanctuary by preventing discharge or depositing of fish, fish parts, or chumming material (bait) from activities other than fishing, such as dumping of waste fish product, and from fishing that did not occur in the Sanctuary. Such dumping of fish, fish parts, or chumming material could promote negative biological effects associated with fish feeding (e.g., providing unnatural food sources to marine life, altering community structure, and changing species behavior) and could lead to conflicts among uses (e.g., dumping of chum to attract sharks in close proximity to surfers or SCUBA divers).*
  - *A new prohibition on discharging or depositing food waste from vessels. Addition of human food waste into the Sanctuary provides an artificial source of food and nutrients to fish and other species and can be disruptive to the nutrient cycle and food chain dynamics of the natural ecosystem. Artificial feeding may encourage the growth of fish and invertebrate populations that tolerate and often thrive on artificial food sources, and that sometimes can out-compete other species, thereby reducing overall species diversity in localized areas (Alevizon 2000). Implementation of Prohibition 3 would have a long-term beneficial impact to biological resources within the Sanctuary by protecting the natural ecosystem from such disruption.*
  - *A new prohibition on discharging or depositing any material or other matter outside the Sanctuary that subsequently enters and injures a Sanctuary resource or quality. Currently, accidental or intentional discharge/deposit from beyond the Sanctuary boundary of oil, hazardous substances, or other matter from vessels, offshore facilities, or possibly mainland-based sources have the potential to enter and injure a Sanctuary resource or quality. [This Prohibition] would have a long-term beneficial net impact on biological resources and the physical environment (water quality), because it would act as an additional deterrent of illegal discharge/deposit and subsequent injury to Sanctuary resources or qualities and would also address additional discharge/deposits if they cause injury.*
  - *A clarification that the Marine Sanitation Device (MSD) discharge exception from the Sanctuary's discharge prohibition specifically applies to Type I and Type II (U.S.*

*Coast Guard classification) MSDs, and not to Type III MSDs. This proposed change would produce a direct long-term beneficial impact to biological resources and the physical environment (water quality) of the Sanctuary, because, in being more clear, it would provide a more effective deterrent to illegal discharges/deposits of sewage into the Sanctuary, thus providing greater protection to these resources and qualities.*

- Prohibition 4 (Altering the Seabed) – *The proposed revised Prohibition 4, which addresses alteration of the seabed, would be similar to the existing regulation except (1) it would expand seabed protection beyond 2 NM off the Islands out to the full extent of the 6 NM CINMS boundary and (2) it would replace the term “seabed” with “submerged lands” to attain consistency with the NMSA. The proposed revised Prohibition 4 would affect the potential for future human uses that might entail alteration of submerged lands beyond 2 NM of the Islands within the CINMS that are not already allowed under Sanctuary regulations (i.e., exploring for, developing, or producing hydrocarbons within the Sanctuary pursuant to leases executed prior to March 30, 1981, and laying of pipeline pursuant to exploring for, developing, or producing hydrocarbons). There is no present activity or known foreseeable future plan or project to alter the submerged lands within the CINMS boundary from 2 to 6 NM offshore, other than oil and gas industry activities already exempted from Sanctuary regulations (see Prohibition 1). Certain activities with the potential to impact the submerged lands of the Sanctuary could be allowed pursuant to a CINMS permit as authorized under the existing regulation (e.g., modification of CINP piers, appropriate research projects, etc.). Exceptions to this regulation would remain unchanged with one exception, and consist of the following: 1) anchoring a vessel; 2) installing an authorized navigational aid; 3) conducting lawful fishing activity; 4) laying pipeline pursuant to exploring for, developing or producing hydrocarbons; and 5) exploring for, developing or producing hydrocarbons as allowed by Prohibition 1.*

*The third exception is proposed to be changed from “bottom trawling from a commercial fishing vessel” because not just bottom trawling but also other types of lawful fishing, e.g., pot and trap fishing, could alter the submerged lands.*

*Implementation of Prohibition 4 would protect the physical environment within the CINMS from potential negative effects of alterations on the seabed, island reefs, and water quality, and would therefore have a long-term beneficial impact on the physical environment. In addition to the physical impacts on the seabed or reef structure, some activities that alter submerged lands (e.g., drilling operations) can decrease water quality by increasing turbidity. Therefore, implementation of Prohibition 4 also would result in protection of biological resources such as invertebrates and fishes in the CINMS that utilize the seabed or reef as substrate and rely on high water quality. This would result in a long-term beneficial impact to biological resources.*

- Prohibition 5 (Abandoning) – *The proposed new Prohibition 5 would prohibit abandoning any structure, material, or other matter on or in the submerged lands of the CINMS. This new regulation would protect against abandonment of shipwrecks or other debris. Implementation of Prohibition 5 would protect the physical environment within the CINMS from potential negative effects on the seabed, reefs, and water quality due to abandonment of destructive or potentially polluted matter. It would, therefore, have direct long-term beneficial impact on the physical environment. In addition to the physical impacts on the seabed, abandonment of structures or other matter increases solid waste within the CINMS and could decrease water quality due to leaching of hazardous materials, depending upon the nature of the debris, and increase physical damage and stress on habitats due to smothering and abrasion. Therefore, implementation of Prohibition 5 also would result in protection of biological resources such as invertebrates and fishes in the CINMS that use benthic habitats and/or rely on high water quality.*
  
- Prohibition 6 (Nearshore Operation of Vessels) – *Revised Prohibition 6 would expand the Sanctuary’s existing vessel regulation, which prohibits cargo carrying vessels and vessels engaged in the trade of servicing offshore installation from within 1 NM of Island shores, by proposing to also apply this prohibition to vessels of 300 gross registered tons or more. This proposed revision prohibits large vessels from coming within close proximity of an Island. An accident involving a large vessel has the potential to cause much greater damage to reefs or other nearshore Sanctuary habitats than an accident involving a smaller vessel. In addition, louder and lower frequency noise levels often are associated with larger vessels and may disturb marine mammals and seabirds on or near the Islands. Existing exceptions to the vessel operation prohibition would remain in effect, and are the following:*
  - *transporting persons or supplies to or from an Island;*
  - *fishing vessels and kelp harvesting vessels.*

*This revised regulation would provide additional protection against grounding accidents of large vessels on the Islands and collisions and potential noise impacts on marine mammals and seabirds. Implementation of Prohibition 6 would protect the physical environment within the CINMS from potential negative effects of accidents on nearshore habitats, and would have a direct long-term beneficial impact on the physical environment. Therefore, implementation of Prohibition 6 also would result in protection of biological resources such as invertebrates and fishes in the CINMS that use the seabed or reef as habitat, seabirds that use Island cliffs and shores, and marine mammals that use beaches, and thus would have a direct long-term beneficial impact on the biological environment. Finally, the proposed additional protection against grounding accidents with large vessels would reduce the risk of potential disturbance to underwater historical resources through physical disturbance and would thus have a direct long-term beneficial impact on historical resources.*

- Prohibition 7 (Disturbing a Marine Mammal or Seabird by Aircraft Overflight) – *Revised Prohibition 7—prohibiting disturbance of marine mammals and seabirds from aircraft overflights below 1000 feet within 1 NM of Island shores– would remain essentially identical to the existing regulation except for minor wording changes that specify that exceptions to this regulation do not override the obligation to comply with proposed Prohibition 9 (taking a marine mammal, seabird or sea turtle).*
- Prohibition 9 (Taking a Marine Mammal, Sea Turtle or Seabird) – *Prohibition 9 is a proposed new Sanctuary regulation that would prohibit the take of any marine mammal, sea turtle, or seabird within or above the Sanctuary except as expressly authorized by the MMPA, ESA, or MBTA. This revised regulation would provide additional protection to marine mammals, sea turtles, and seabirds beyond what is currently afforded. Per the NMSA regulations, “take or “taking” is defined as follows: (1) for any marine mammal, sea turtle, or seabird listed as either endangered or threatened pursuant to the ESA, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure, or to attempt to engage in any such conduct; (2) for any other marine mammal, sea turtle, or seabird, to harass, hunt, capture, kill, collect or injure, or to attempt to engage in any such conduct. For the purposes of both (1) and (2) of this definition, this includes, but is not limited to, collecting any dead or injured marine mammal, sea turtle, or seabird, or any part thereof; restraining or detaining any marine mammal, sea turtle, or seabird, or any part thereof, no matter how temporarily; tagging any sea turtle, marine mammal, or seabird; operating a vessel or aircraft or any other act that results in the disturbance or molestation of any marine mammal, sea turtle, or seabird (15 CFR 922.3).*

*This proposed new regulation would not apply if an activity that might cause take of marine mammals, seabirds, or sea turtles has already been expressly authorized under the MMPA, ESA, or MBTA (e.g., federal- or state-approved fisheries with authorization under those acts). This new regulation would bring a special focus to protection of the diverse and abundant marine mammal and sea bird populations of the Sanctuary as well as the occasional sea turtles present within the CINMS. This regulation, with its focus on protecting populations within the CINMS, is complementary to the jurisdiction and efforts of other resource protection agencies (i.e., NMFS, USFWS, CDFG), as these other authorities must spread limited resources over much wider geographic areas than the CINMS. In addition, this proposed regulation would provide a greater deterrent per the civil penalties in the NMSA, thus assisting in increasing compliance with laws that provide protection to marine mammals, seabirds and sea turtles. This same regulation has been in place at national marine sanctuaries established at Monterey Bay, Stellwagen Bank, Olympic Coast, and the Florida Keys. Additional exceptions to this proposed Sanctuary “take” prohibition would allow for activities to occur that are:*

- *necessary to respond to an emergency threatening life, property, or the environment;*
- *necessary for valid law enforcement activities;*

- *exempted Department of Defense activities.*

*With this proposed regulation, if NMFS or the USFWS issues a permit for the take of a marine mammal, seabird, or sea turtle, it would not be regulated by the NMSP and therefore would not require a permit from the Sanctuary unless the activity would also violate another Sanctuary regulation. This new regulation would have a direct long-term beneficial impact on biological resources.*

- Prohibition 10 (Possessing a Marine Mammal, Sea Turtle or Seabird) – *Related to proposed new Prohibition 9, this regulation would prohibit possessing within the Sanctuary (regardless of where taken from, moved, or removed from) any marine mammal, sea turtle, or seabird, except as expressly authorized by the MMPA, ESA, MBTA, or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA. This revised regulation would provide added protection to these species beyond what is currently afforded.*

*This proposed new regulation would not apply if an activity involves possession of a marine mammal, seabird, or sea turtle the take of which has already been expressly authorized under the MMPA, ESA, or MBTA (e.g., federal- or state-approved fisheries with authorization under those acts). Like proposed Prohibition 9, this new regulation would bring a special focus to protection of the diverse and abundant marine mammal and sea bird populations and the sea turtles of the CINMS. This Sanctuary-focused regulation providing protection to these important species is complimentary to the jurisdiction and efforts of other resource protection agencies (i.e., NMFS, USFWS, CDFG), as these other authorities must spread limited resources over much wider geographic areas than the CINMS. In addition, this proposed regulation would provide a greater deterrent per the civil penalties in the NMSA, thus assisting in increasing compliance with laws that provide protection to marine mammals, seabirds and sea turtles. A similar prohibition has been in place at national marine sanctuaries established at Monterey Bay, Stellwagen Bank, Olympic Coast, and the Florida Keys.*

*Exceptions to this proposed Sanctuary “possession” prohibition would allow for activities to occur:*

- *except as in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR sec. 922.48 and 922.73;*
- *except for an activity necessary to respond to an emergency threatening life or the environment;*
- *except for an activity necessary for valid law enforcement purposes in the Sanctuary.*

*With this proposed regulation, if NMFS or the USFWS issues a permit for the possession of a marine mammal, seabird, or sea turtle, it would not be regulated by the NMSP and therefore would not require a permit from the Sanctuary unless the activity would also violate another Sanctuary regulation. Like Prohibition 9, this*

*proposed regulation would have a direct long-term beneficial impact on biological resources.*

- Prohibition 11 (Tampering with Signs) – *Prohibition 11 is a proposed new Sanctuary regulation that would prohibit tampering with signs, notices, placards, monuments, stakes, posts, or boundary markers within the CINMS. This proposed regulation is consistent with regulations adopted for some other national marine sanctuaries. Addition of this regulation would serve as an additional deterrent to violation of the NMSA and its regulations. This revised regulation would also help to enhance protection and enjoyment of the Sanctuary’s physical environment, biological, and historical resources—in addition to what is currently afforded—by making it illegal to tamper with CINMS signs, monuments, and other markers that are necessary to adequately manage all of the resources and uses within the Sanctuary. As such, this proposed regulation would have an indirect long-term beneficial effect on these resources.*
  
- Prohibition 12 (Releasing an Introduced Species) – *Prohibition 12, a proposed new regulation, would prohibit introducing or otherwise releasing from within or into the Sanctuary an introduced species, except striped bass (*Roccus saxatilis*) released during catch and release fishing activity. “Introduced species” is defined to mean: (1) species (including but not limited to any of its biological matter capable of propagation) that are non-native to the ecosystem(s) protected by the Sanctuary; or (2) any organism into which genetic matter from another species has been transferred in order that the host organism acquires the genetic traits of the transferred genes. In general, introduced species in the marine environment can threaten the diversity and/or abundance of native marine species, may hamper the ecosystem’s ability to support itself, and therefore can adversely impact recreational and commercial activities. This proposed prohibition would help to prevent injury to Sanctuary resources, to protect the biodiversity of the CINMS ecosystems, and to preserve the native functional aspects of the ecosystems.*
  
- Prohibition 13 (Operation of Motorized Personal Watercraft) – *Prohibition 13 is a proposed new regulation that would prohibit operation of motorized personal watercrafts (MPWCs) within waters of the Channel Islands National Park (CINP), established by 16 U.S.C. sec. 410(ff). Operation of MPWCs within waters of the CINP is already prohibited by the National Park Service (NPS), due to the potential noise impacts on marine mammals and seabirds and potential impacts on water and air quality (36 CFR 3.24).*

...

*In combination with the existing NPS ban, this proposed CINMS regulation would provide added deterrence for purposes of ensuring protection of wildlife and habitats within the Sanctuary and Park.*



*The noise, air, and water quality pollution generated by MPWCs, as well as the nearshore operation of MPWC, may adversely impact the living marine resources within the CINMS through direct disturbances as well as environmental degradation. MPWCs operate in a manner unique among recreational vehicles and pose a threat to wildlife. Their shallow draft enables them to penetrate areas not available to conventional motorized watercraft (NPS 2000, MOCZM 2002). The high speed and maneuverability of MPWCs, along with the tendency to operate them near the shore and in a repeated fashion within a confined area, results in recurring disturbance to animals and habitats (Rodgers and Smith 1997, Snow 1989). Studies have shown that the use of MPWCs in nearshore areas can increase flushing rates, reduce nesting success of certain bird species, impact spawning fish, and reduce fishing success (Burger 1998, Snow 1989). The NPS (2000, 2004) identified several of these impacts along with interruption of normal activity, avoidance and displacement, loss of habitat use, interference with movement, direct mortality, interference with courtship, alteration of behavior, change in community structure, elevated noise levels, and damage to aquatic vegetation. Further, offshore marine mammals or surfacing birds may be unaware of the presence of these vehicles due to their low frequency sound; when the inability to detect the vehicles is combined with their high speed and rapid and unpredictable movements, both animals and operators are at risk (Snow 1989).*

*Water quality concerns related to use of MPWC, and in particular those with two-stroke engines, include discharge of oil and gas, and air pollutants. MPWC using two-stroke engines may discharge as much as 25 percent of their gas and oil emissions directly into the water (NPS 2000). Two-stroke engines may also expel lubricating oil as part of their exhaust, and emit air pollutants such as volatile organic compounds, nitrogen oxides, particulate matter, and carbon monoxide (NPS 2004).*

*A review of information currently available from MPWC manufacturers indicates that they have made efforts to reduce emissions and noise through use of more efficient four-stroke engines as well as other technology (e.g., Bombardier Recreational Products, Inc. 2005a, 2005b; Personal Watercraft Industry Association 2005). However, it is not clear whether such improvements have rendered emission and noise impacts due to motorized personal watercraft insignificant. While industry sponsored studies indicate that MPWCs are no louder than similar motorized vessels under analogous conditions, other studies indicate that because MPWCs travel repeatedly in the same area, continually leaving and reentering the water, they create rapid cycles of noise that disturb humans and wildlife (MOCZM 2002). Industry improvements in noise and other emissions do not address impacts associated with the high speed, maneuverability, shallow draft and nearshore operation of motorized personal watercraft. In addition to the types of impacts described above, NOAA's review of MPWCs at the Gulf of the Farallones National Marine Sanctuary also identified several other issues pertaining to MPWC:*

- *MPWCs have been operated in such a manner as to create a safety hazard to other nearby resource users.*
  - *MPWCs may interfere with marine commercial users.*
  - *MPWCs may disturb natural quiet and aesthetic appreciation.*
  - *MPWCs have interfered with other marine recreational uses.*
- Department of Defense Activities – *The revised language regarding the exemption of Department of Defense (DOD) activities from Prohibitions 3 through 13 is more protective of the physical, biological, and historical environments than the original regulation, with the addition of clause (3), which requires that the DOD restore or replace any injured or destroyed Sanctuary resource or quality and mitigate damage, and clause (4), which requires that all DOD activities be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources or qualities. This proposed revised regulation would continue to allow most DOD activities within the CINMS. The exemption language within this proposed revised regulation has the potential to impact the physical environment, biological environment, and historical resources by allowing the continuation of current DOD activities in the CINMS. Many of the military activities conducted today are different than those when the last management plan was developed for the CINMS (1982). A variety of military activities... potentially have noise impacts (including sonic boom impacts) on Sanctuary wildlife; physical impacts on habitats in the Sanctuary that can cause the destruction or loss of plants, invertebrates, fish, or wildlife; and physical impacts on the seabed, water quality, or air quality. These impacts potentially have indirect impacts on fishing, recreation, tourism, research, and education. However, many of these DOD activities are no longer conducted within the boundary of the CINMS, or only rarely take place within the Sanctuary. In addition, all of the military activities are required to undergo an environmental impact evaluation under the NEPA process—in addition to many permit processes. Furthermore, as explained above, DOD must restore or replace injured or destroyed Sanctuary resources or qualities. Therefore, the DOD regulation would have a less than significant adverse impact on the physical environment, biological environment, and historical resources of the Sanctuary.*
- Permit Procedures and Issuance Criteria – *The proposed revised permit regulations would maintain the status quo scope of activities for which a permit may potentially be issued (research, education, and salvage), and also add one more such activity category (for activities that will assist in managing the Sanctuary), in effect slightly broadening the types of otherwise prohibited activities for which a permit may be granted. To clarify what information the permit applicant must provide in his/her application the revised permit regulations indicate that in addition to the information listed in 15 CFR 922.48(b), all permit applications must include information the Director of the National Marine Sanctuary Program needs to make the required findings described in 15 CFR 922.73(b) and (c). The need for this type of information is already implied in the status quo permitting regulation, which tells the Director to*

*evaluate such matters when determining whether to grant a permit. In similar fashion, the proposed revised permit regulations clarify other concepts implicit in the status quo regulation, clarify existing requirements for permit applications found in the Office of Management and Budget approved applicant guidelines (OMB Control Number 0648-0141), and further refine current requirements and procedures from general National Marine Sanctuary Program regulations (15 CFR 922.48(a) and (c)). The intent of these clarifications and refinements is to make the permit regulations easier to comply with and enforce, while maintaining the same basic requirements of the permittee. The revised language regarding the procedures and criteria for issuing a CINMS permit for an otherwise prohibited activity strengthens the language in the current regulation, thereby providing more protection to the physical, biological, and historical environments. Specifically, criteria were added that must be met to ensure protection of the resources (e.g., the proposed activity must have, at most, only short-term and negligible adverse effects on Sanctuary resources and qualities). These revised permit procedures and issuance criteria would have a direct long-term beneficial impact on these resources. In addition, it is important to note that proposed activities that would require issuance of a Sanctuary permit also undergo a case-by-case NEPA review to ensure that in addition to Sanctuary permitting criteria, NEPA standards and process, as appropriate, are adhered to for assessing and analyzing potential environmental impacts.*

The Commission finds that the above regulatory changes will substantially enhance water quality and marine resource protection within the Sanctuary and will eliminate or reduce the occurrence of a number of activities that would be inconsistent with the goals and objectives of the Sanctuary. The Commission therefore agrees with NOAA that the regulatory additions and revisions described above are consistent with the marine resource and water quality policies of the CCMP (Coastal Act Sections 30230 and 30231).

**C. Oil Spills.** The Coastal Act provides for the protection against and cleanup of oil and hazardous substance spills in Section 30232:

*Section 30232: Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.*

As part of its comprehensive management plan revision, NOAA proposes to amend its existing policy prohibiting exploring for, developing or producing oil and/or gas within the Sanctuary, except for those oil and gas leases executed prior to the Sanctuary's final designation on March 31, 1981, and requiring oil and gas activities that meet this exception to provide equipment for the cleanup and containment of potential spills. NOAA describes its proposed action as the following:

- Prohibition 1 (Oil and Gas) – *Proposed revisions to Prohibition 1 regarding oil and gas activities (15 CFR 922.71(a)(1)), would yield a regulation nearly identical to the existing regulation except that outdated language related to cleanup equipment requirements for potential spills would be deleted.*

Specifically, this proposed revision would entail the elimination of the Sanctuary’s current regulation requiring all oil and gas operations within the Sanctuary to have the following oil spill contingency equipment on site:

- (i) *1500 feet of open ocean containment boom and a boat capable of deploying the boom;*
- (ii) *One oil skimming device capable of open ocean use; and*
- (iii) *Fifteen bales of oil sorbent material, and subject to all the prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations.*

These requirements were drafted as part of the Sanctuary’s original 1980 management plan and have not subsequently been revised to reflect recent advances in oil spill containment equipment and standards. As NOAA explains:

*The proposed revisions to Prohibition 1 would not create any new requirements for the oil and gas industry, but rather would simply eliminate from the regulation the outdated and unnecessary spill response equipment requirements. Oil and gas operations would, however, continue to be required to adhere to current standards and follow current procedures for cleanup of oil spills as stipulated in CERCLA and other federal, state and local regulations, although this would not be stipulated by the Sanctuary’s regulations.*

Regardless of the elimination of the Sanctuary’s oil spill contingency requirements, any oil and gas activity proposed for within the Sanctuary would be required to adhere to the more current and stringent oil spill contingency standards and regulations provided for under Federal, State and/or local regulations. The Commission therefore finds that the elimination of outdated oil spill contingency requirements from the Sanctuary’s management plan would be consistent with the oil spill policies of Coastal Act Section 30232.

**D. Commercial and Recreational Fishing.** Aside from the commercial fishing protection afforded under Section 30230, quoted above on page 10, Sections 30234 and 30234.5 provide for the need to protect commercial and recreational fishing opportunities, as follows:

**30234:** *Facilities serving the commercial fishing and recreational boating industries shall be protected and, where feasible, upgraded. Existing commercial fishing and recreational boating harbor space shall not be reduced unless the demand for those facilities no longer*

*exists or adequate substitute space has been provided. Proposed recreational boating facilities shall, where feasible, be designed and located in such a fashion as not to interfere with the needs of the commercial fishing industry.*

**30234.5:** *The economic, commercial, and recreational importance of fishing activities shall be recognized and protected.*

Several of the regulatory changes proposed by NOAA as part of the management plan review have the potential to both indirectly and directly affect commercial and recreational fishing activity within the Sanctuary. NOAA anticipates that overall, the changes that it has proposed will have a largely beneficial impact on fishing activities and will therefore be consistent with the specific policies of Coastal Act sections 30234 and 30234.5, as explained below.

Regarding the proposed revisions to the Sanctuary's prohibition on the discharge or deposition of material within the Sanctuary (Prohibition 3), the EIR/MP describes the potential direct and indirect impacts that this prohibition would have on commercial and recreational fishing:

- Prohibition 3 (Discharging or Depositing) –
  - a) Discharging or Depositing of Fish, Fish Parts or Chumming Materials (Bait) – *This new language would continue to have no [adverse] impact on lawful fishing in the CINMS because it is complementary to fishing activities. This new language would have less than significant adverse impacts on recreation and research use in the CINMS, as chumming practices for purposes other than fishing (e.g. to attract marine life for research, photography or other recreational purposes) is not known to occur within the Sanctuary. Other uses of the Sanctuary would not be affected by this regulatory change.*
  - b) Discharging or Depositing Food Waste from Vessels - *Some commercial and recreational vessels that operate within the Sanctuary currently dispose of their food waste (or meals on board vessels) by dumping it into the ocean. However, vessels are currently restricted from discharging or depositing food waste within 3 NM of land and from discharging or depositing food wastes unless ground to less than one inch within 3 to 12 NM of land by regulations implementing MARPOL (33 CFR, Part 151 et seq. and see Section 3.4.3.1 for more details). A proposed revised prohibition (Prohibition 3) would require that all vessels either dispose of their food waste as solid waste upon arrival at ports and harbors or properly discharge/deposit their food waste into the ocean beyond the Sanctuary's 6 NM boundary. Therefore, Prohibition 3 would have the effect of extending an absolute prohibition on discharge/deposit of food waste to the Sanctuary area between 3 and 6 NM from the Islands.*

*Potential effects on vessel-based commercial or recreational activities [including fishing] would be highest during multi-day trips to the islands or within the*

*Sanctuary. Alternate disposal options for food waste, other than within the Sanctuary, are feasible and affordable. No health standards or hazards would be expected to be violated from retaining food waste on board until appropriate discharge/deposit outside the Sanctuary is possible or upon returning to port. Therefore, less than significant adverse impacts to vessel-based commercial, recreational, and research user groups would occur with implementation of revised Prohibition 3. Implementation of Prohibition 3 also would have indirect long-term benefits on other resource-dependent human uses such as fishing, recreation, tourism, research, and education by preventing disruptions to the nutrient cycle and food chain dynamics of the natural ecosystem.*

- Prohibition 4 (Altering the Seabed) - *Because implementation of Prohibition 4 would result in a beneficial impact on physical, biological, and historical resources, it would also provide indirect long-term benefits to resource-dependent human uses such as fishing, recreation, tourism, research, and education. Protection of the seabed will protect benthic habitats that play an important role in the ecosystem, which in turn may provide indirect benefits to ecosystem dependent human uses such as those listed above. This prohibition would not negatively impact lawful commercial and recreational fishing activities since lawful fishing activity is excepted from this prohibition.*

Furthermore, the proposed changes to this regulation include a clarification of the wording in the description of exempted activities that will directly benefit commercial and recreational fishing activities. This proposed change involves the substitution of the language in exemption number three, “bottom trawling fishing from a commercial fishing vessel,” for the following language, “conducting lawful fishing activity.” As described by NOAA, “The third exception is proposed to be changed from ‘bottom trawling from a commercial fishing vessel’ because not just bottom trawling but also other types of lawful fishing, e.g., pot and trap fishing, could alter the submerged lands.”

Regarding the effects that NOAA’s proposed new regulation on abandoning material within the Sanctuary would have on fishing, NOAA states:

- Prohibition 5 (Abandoning) - *Protection of the natural habitats within the Sanctuary, free from abandoned wreckage or other debris, can enhance conditions for recreational and commercial users of the Sanctuary, such as those engaged in diving or lawful fishing (especially bottom fishing and trawling operations) or for those engaged in research of and education about natural marine environments. As such, fishing, recreation and tourism, research and education would experience an indirect long-term beneficial impact from this proposed regulation. In addition, marine salvage businesses engaged in removing wrecked vessels, thus assisting boaters with compliance of Sanctuary regulations, would experience a beneficial impact from this proposed regulation. Other Sanctuary users are expected to experience no impact from this proposed regulation.*

The revisions proposed for Prohibition 6 (Nearshore Operation of Vessels) do not include changes to the existing exceptions for the operation of fishing and kelp harvesting vessels. These exceptions would remain in place and this prohibition would therefore not result in a conflict with Coastal Act Sections 30234 and 30234.5.

In reference to the additional new and revised regulations that may affect recreational and commercial fishing activities within the Sanctuary, NOAA notes the following:

- Prohibition 9 (Taking a Marine Mammal, Sea Turtle or Seabird) - *Because take of most of these species is already illegal except when expressly authorized by the MMPA, ESA, MBTA, this regulation would have no significant adverse impact on human uses of the CINMS. Because the Sanctuary would not need to authorize take under a CINMS permit for activities permitted pursuant to the MMPA, ESA, or MBTA, this regulation would not impact the permit processes of other agencies (e.g., USFWS, NMFS, CDFG, etc.). In addition, commercial fishing or certain research activities which may involve the occasional take of these species may lawfully operate as such under authorizations granted pursuant to the MMPA, ESA, or MBTA. Further strengthening the prohibition of unpermitted, illegal activities that cause take of these species would have an indirect long-term beneficial impact on human uses such as recreation, tourism, research, and education. For example, the added protection of marine mammals, seabirds, and sea turtles can complement business activities focused on whale watching, kayaking, or other marine excursion tours within the Sanctuary.*
- Prohibition 12 (Introducing or otherwise releasing an Introduced Species) - *The release of introduced species is not part of the expected business or operational practices associated with any of current human uses of the Sanctuary. Furthermore, projects involving use or release of introduced species are not currently proposed within the CINMS, and none are anticipated within the foreseeable future. Therefore, a less than significant adverse impact on foreseeable future human uses of the CINMS would be expected by implementation of Prohibition 12. Implementation of Prohibition 12 is not expected to affect current fishing or boating within the CINMS and as such there would be no adverse impact to these current human uses. This proposed prohibition acknowledges that striped bass are the focus of an established state-managed sport fishery and since they consequently may be caught within the Sanctuary an exception is proposed for striped bass released during catch and release fishing activity. The proposed prohibition would therefore have no impact on the striped bass sport fishery, and supporting businesses, in California.*
- Department of Defense Activities - *The exemption language within this proposed revised regulation has the potential to impact some resource-dependent uses of the Sanctuary (fishing, recreation, tourism, research and education) by allowing the continuation of pre-existing DOD activities in the CINMS. However, many of these*

*DOD activities are no longer conducted within the boundary of the CINMS, or only rarely take place within the Sanctuary (see Exhibit 3). In addition, all of the military activities discussed [in Exhibit 3] are required to undergo an environmental impact evaluation under the NEPA process—in addition to many permit processes. Therefore, the DOD regulation would have a less than significant adverse impact on fishing, recreation, tourism, research, and educational uses of the Sanctuary. This proposed revised regulation would introduce no added adverse impact on the DOD activities because it retains exemptions for preexisting military activities and specifies consultation and impact mitigation requirements and the like in a manner consistent with existing requirements in the NMSA. Proposed revised DOD regulation language would not affect other human uses in the Sanctuary.*

As described above, none of the proposed regulations prohibit or significantly limit commercial or recreational fishing activity within the Sanctuary. The proposals instead either change the regulatory language to clarify that lawful fishing activity is exempt from regulation (Prohibitions 3a, 4, 6 and 12), include provisions that enhance the quality of fishing activity (Prohibition 3b and 5), support existing laws that regulate fishing (Prohibition 9) or result in less than significant adverse impacts to commercial and recreational fishing (exempted DOD activities). NOAA states that the Sanctuary cannot support the activities prohibited by the regulations listed above, that such activities are incompatible with other activities that occur within the Sanctuary, and that these regulations are necessary to protect the natural resources within the Sanctuary from harm and misuse. The Commission agrees and therefore finds that the proposed prohibitions are consistent with Sections 30234 and 30234.5 of the Coastal Act.

**E. Public Access and Recreation (MPWC Use).** The Coastal Act provides for the protection of public access in Sections 30210 and 30214:

***30210:** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*

***30214:** (a) The public access policies of this article shall be implemented in a manner that takes into account the need to regulate the time, place, and manner of public access depending on the facts and circumstances in each case including, but not limited to, the following:*

...

*(2) The capacity of the site to sustain use and at what level of intensity. . . .*

In addition, Section 30220 of the Coastal Act also provides for the protection of water-oriented recreation:



**30220:** *Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

Several of the proposed changes to the regulations contained within the Sanctuary's management plan have the potential to affect public access and recreational opportunities within the Sanctuary. The Commission must determine if NOAA's proposed regulations prohibiting the nearshore operation of vessels and the operation of motorized personal watercraft within the waters of the Channel Islands National Park (CINP) are consistent with the above public access and recreation policies of the Coastal Act. NOAA reported the following in its EIR/MP:

- Prohibition 6 (Nearshore Operation of Vessels) – *Revised Prohibition 6 would expand the Sanctuary's existing vessel regulation, which prohibits cargo carrying vessels and vessels engaged in the trade of servicing offshore installation from within 1 NM of Island shores, by proposing to also apply this prohibition to vessels of 300 gross registered tons or more. This proposed revision prohibits large vessels from coming within close proximity of an Island.*

...

*Currently, no known commercial passenger or recreational vessels over 300 gross registered tons approach within 1 NM of the Islands within CINMS. Many cruise ships are larger than 300 gross registered tons, and would be reached by this prohibition, but cruise ships have not been seen within the nearshore waters of the Sanctuary for more than ten years and the NMSP is not aware of any routes close to the Channel Islands planned by the cruise line industry. In addition, access inside of 1 NM from the Islands would be allowed for smaller craft that may be stowed on large vessels located beyond 1 NM (such as Zodiaks or skiffs). Therefore, this regulation would have no impact on current recreational or tourism use but could have less than significant negative affects on potential future uses of the CINMS by some large vessels.*

- Prohibition 13 (Operation of Motorized Personal Watercraft) - *Prohibition 13 is a proposed new regulation that would prohibit operation of motorized personal watercrafts (MPWCs) within waters of the Channel Islands National Park (CINP), established by 16 U.S.C. sec. 410(ff). Operation of MPWCs within waters of the CINP is already prohibited by the National Park Service (NPS), due to the potential noise impacts on marine mammals and seabirds and potential impacts on water and air quality (36 CFR 3.24).*

...

*In combination with the existing NPS ban, this proposed CINMS regulation would provide added deterrence for purposes of ensuring protection of wildlife and habitats within the Sanctuary and Park.*

As discussed in the Commission's findings on consistency determination CD-101-00 (Gulf of the Farallones National Marine Sanctuary), regulation of the use of MPWCs is consistent with the public access policies of the Coastal Act. In their review, the Commission found:

*The proposed regulations do not prohibit coastal access to or recreation within the Sanctuary, but instead regulate the manner and place of public access and recreation consistent with the facts and circumstances concerning the capacity of the Sanctuary to sustain the type and intensity of recreational use. Substantial evidence is provided by NOAA [detailed on pages 16-18 above] to demonstrate that the Sanctuary cannot support the use of MPWC and that such use is incompatible with other public access and recreation activities and the need to protect natural resources within the Sanctuary from harm and overuse. Therefore, the Commission finds that the proposed prohibition of MPWC are reasonable and necessary regulations of the place and manner of public access, and are consistent with Sections 30210 and 30214(a)(2) of the Coastal Act.*

Additionally, as NOAA goes on to note:

*Because [the operation of MPWCs within the waters of the CINP] is already illegal (36 CFR Part 3 sec. 3.24), this regulation would have no adverse impact on human uses of the Sanctuary. The proposed Sanctuary regulation would provide an additional deterrent to this currently illegal activity.*

*Further strengthening the prohibition of illegal activities within the CINMS would have an indirect long-term beneficial impact on human uses such as fishing, recreation, tourism, research, and education by helping preserve and maintain biological resources and habitats within the Sanctuary.*

Regarding Coastal Act Section 30220 and the need for protecting coastal water oriented recreational activities that cannot be provided at inland waters, the Commission's findings on coastal development permit 2-00-005 (Marin County) explain that MPWC can be used at other inland water areas outside of the Sanctuary:

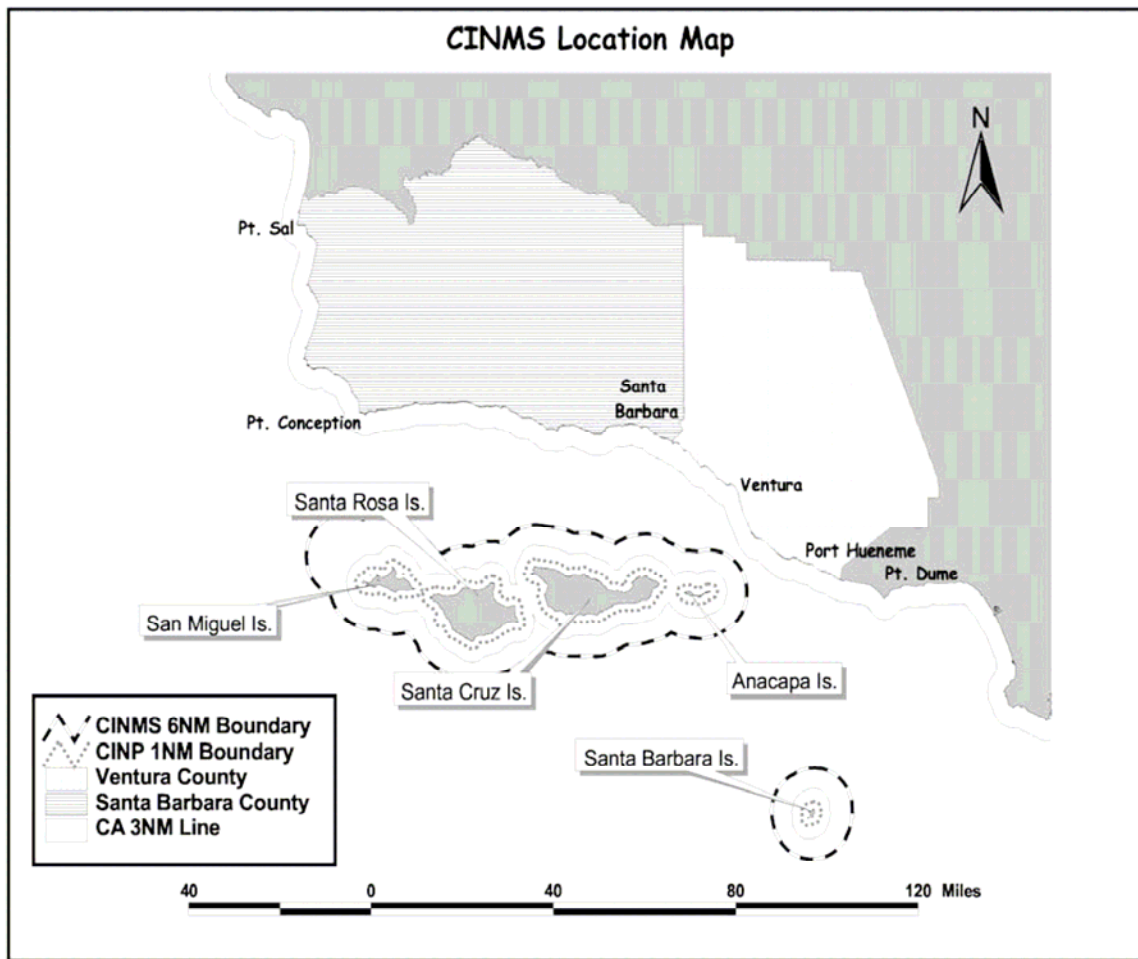
*[M]PWC can be operated at inland water areas as readily as in coastal waters... Therefore, the operation of [M]PWC is not a recreational activity that cannot readily be provided at inland water areas.*

As noted previously in this report, the Sanctuary is an area that provides habitat for threatened and endangered species, and the nearshore operation of large vessels and use of MPWC have the potential to generate significant adverse effects on these species and their habitats. As a result, the Sanctuary is not a coastal area that is suitable for MPWC recreation and the proposed prohibition on operation of MPWC is consistent with Section 30220 of the Coastal Act. In addition, the Sanctuary includes water areas that support recreational activities such as sailing, kayaking, windsurfing, canoeing, swimming, surfing, and fishing. Shoreline uses directly adjacent to the Sanctuary support these and other recreational activities, including picnicking, camping, hiking, and bird watching. The EIS/MP provides evidence that the noise generated by MPWC is disturbing and can pose a hazard to other recreational users of the Sanctuary. In conclusion, the Commission finds that the proposed regulations to prohibit the operation of

MPWC in the Sanctuary are consistent with the public access and recreation policies of the California Coastal Management Program (Sections 30210, 30214(a)(2) and 30220 of the Coastal Act).

**IV. Substantive File Documents:**

1. 1. Draft Management Plan/ Draft Environmental Impact Statement – Channel Islands National Marine Sanctuary, National Oceanic and Atmospheric Administration (NOAA), May 2006.
2. Consistency Determination CD-101-00, NOAA, Adoption of regulations to prohibit motorized personal watercraft in the Gulf of the Farallones National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary.
3. Coastal Development Permit 2-00-005, Marin County, Prohibition of the use and operation of motorized personal watercraft in waters from the shoreline of the Pacific Ocean to three miles seaward, bounded to the north by the Sonoma County line and to the south by the Golden Gate Bridge, including all estuaries, rivers, and bays within Marin County jurisdiction.
4. Consistency Determination CD-66-92, NOAA, Designation of the Monterey Bay National Marine Sanctuary.



**EXHIBIT 1**  
**Application**  
**No.**  
**CD-036-06**

**Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update**

<b>No Action (Status Quo)</b>	<b>Proposed Action</b> (Underlined (new) and <del>strikethrough</del> (deleted) text show differences from No Action (Status Quo))	<b>Alternative 1</b> (bold text is different from Proposed Action)
<p><b>Sanctuary Boundary</b> (15 CFR 922.70). The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of the waters off the coast of California of approximately 1252.5 square nautical miles (NM) 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 six NM. The boundary coordinates are listed in appendix A to this subpart.</p>	<p><b>Sanctuary Boundary.</b> The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of the waters off the coast of California of approximately 1252.5 1243 square nautical miles (NM) of coastal and ocean waters, and the submerged lands thereunder, off the southern coast of California. The Sanctuary boundary begins at the Mean High Water Line of and extends seaward to a distance of approximately six NM adjacent to 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) extending seaward to a distance of six NM. The seaward boundary coordinates are listed in the Appendix A to this subpart.</p>	<p><b>Sanctuary Boundary.</b> Same as Proposed Action</p>
<p><b>1. Oil and Gas.</b> Prohibited: Exploring for, developing, and producing hydrocarbons except pursuant to leases executed prior to March 30, 1981, and except the laying of pipeline, if the following oil spill contingency equipment is available at the site of such operations: (i) 1500 feet of open ocean containment boom and a boat capable of deploying the boom; (ii) One oil skimming device capable of open ocean use; and (iii) Fifteen bales of oil sorbent material, and subject to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations.  Other Exceptions: • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</p>	<p><b>1. Oil and Gas.</b> Prohibited: Exploring for, developing, <del>and/or</del> producing hydrocarbons within the Sanctuary, except pursuant to leases executed prior to March 30, 1981, and except the laying of pipeline pursuant to exploring for, developing, or producing hydrocarbons, if the following oil spill contingency equipment is available at the site of such operations: (i) 1500 feet of open ocean containment boom and a boat capable of deploying the boom; (ii) One oil skimming device capable of open ocean use; and (iii) Fifteen bales of oil sorbent material, and subject to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations.  Other Exceptions: • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</p>	<p><b>1. Oil and Gas.</b> Same as Proposed Action</p>
<p><b>Mineral Activities.</b>  <b>existing regulation</b></p>	<p><b>2. Mineral Activities.</b> Prohibited: Exploring for, developing, or producing minerals within the Sanctuary, except producing by-products incidental to hydrocarbon production allowed by paragraph (a)(1) of this section [see #1 above]</p>	<p><b>2. Mineral Activities.</b> Same as Proposed Action</p>

**EXHIBIT 2**  
**Application No.**  
**CD-036-06**  
**NOAA**

Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)

No Action (Status Quo)	Proposed Action	Alternative 1 (bold text is different from Proposed Action)
<p><b>3. Discharging or Depositing.</b> Prohibited: Discharging or depositing any material or other matter except:</p> <ul style="list-style-type: none"> <li>(i) Fish or fish parts and chumming materials (bait);</li> <li>(ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary generated by:                         <ul style="list-style-type: none"> <li>(A) Marine sanitation devices;</li> <li>(B) Routine vessel maintenance, e.g., deck wash down;</li> <li>(C) Engine exhaust; or</li> <li>(D) Meals on board vessels;</li> </ul> </li> <li>(iii) Effluents incidental to hydrocarbon exploration and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above].</li> </ul> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• Except as may be necessary for the national defense</li> <li>• Except as may be necessary to respond to an emergency threatening life, property, or the environment</li> <li>• Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</li> </ul>	<p><u>Underlined (new) and <del>struckthrough</del> (deleted) text show differences from No Action (Status Quo)</u></p> <p><b>3. Discharging or Depositing.</b> Prohibited: Discharging or depositing from within or into the Sanctuary any material or other matter except:</p> <p><u>(A)(4) Fish or fish parts, and or chumming materials (bait) used in or resulting from lawful fishing activity within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;</u></p> <p><u>(E)(4) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary and generated by: (A) an operable Type I or II marine sanitation device (U.S. Coast Guard classification), approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 et seq. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;</u></p> <p><u>(B)(C) Routine vessel maintenance, e.g., Biodegradable matter from a vessel resulting from deck wash down, vessel engine cooling water, or graywater as defined by section 312 of the FWPCA;</u></p> <p><u>(D) Vessel engine or generator exhaust; or</u></p> <p><u>(E) Effluents routinely and necessarily discharged or deposited incidental to hydrocarbon exploration, development, or production and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above];</u></p> <p><u>(F) Discharges allowed under section 312(n) of the FWPCA; or</u></p> <p><u>(i) Discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except those listed in subparagraphs (a)(3)(i)(B) through (F) of this section and fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity beyond the boundary of the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity there.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.72;</li> <li>• Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</li> <li>• Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</li> <li>• [See Department of Defense at the end of this table.]</li> </ul>	<p><b>3. Discharging or Depositing.</b> Prohibited: Discharging or depositing from within or into the Sanctuary any material or other matter except:</p> <p><del>(A)(4) Fish or fish parts, and or chumming materials (bait) used in or resulting from lawful fishing activity within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;</del></p> <p><del>(E)(4) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary and generated by: (A) an operable Type I or II marine sanitation device (U.S. Coast Guard classification), approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 et seq. <b>excluding any vessel of 300 gross registered tons or more.</b> Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;</del></p> <p><del>(B)(C) Routine vessel maintenance, e.g., Biodegradable matter from a vessel resulting from deck wash down, vessel engine cooling water, or graywater as defined by section 312 of the FWPCA;</del></p> <p><del>(D) Meals on board vessels;</del></p> <p><del>(E) Effluents routinely and necessarily discharged or deposited incidental to hydrocarbon exploration, development, or production and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above];</del></p> <p><del>(F) Discharges allowed under section 312(n) of the FWPCA; or</del></p> <p><del>(i) Discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except those listed in subparagraphs (a)(3)(i)(B) through (F) of this section and fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity beyond the boundary of the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity there.</del></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.72;</li> <li>• Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</li> <li>• Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</li> <li>• [See Department of Defense at the end of this table.]</li> </ul>

**EXHIBIT 2**  
**CONTINUED**  
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Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)

No Action (Status Quo)	Proposed Action <u>Underlined</u> (new) and <del>struckthrough</del> (deleted) text show differences from No Action (Status Quo)	Alternative 1 (bold text is different from Proposed Action)
<p><b>4. Altering the Seabed.</b> Prohibited: Except in connection with the laying of any pipeline as allowed by paragraph (a)(1) of this section, within 2 NM of any island:</p> <ul style="list-style-type: none"> <li>(i) Constructing any structure other than a navigation aid,</li> <li>(ii) Drilling through the seabed, or</li> <li>(iii) Dredging or otherwise altering the seabed in any way, other than (A) To anchor vessels, or (B) To bottom trawl from a commercial fishing vessel.</li> </ul> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• Except as may be necessary for the national defense</li> <li>• Except as may be necessary to respond to an emergency threatening life, property, or the environment,</li> <li>• Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</li> </ul>	<p><b>4. Altering the Submerged Lands.</b> Prohibited: <del>Except in connection with the laying of any pipeline as allowed by paragraph (a)(1) of this section, within 2 NM of any island. (b) Drilling into through the seabed. (iii) Dredging, or otherwise altering the seabed</del> submerged lands of the Sanctuary <u>in any way other than, (f) or</u> <del>Constructing or placing any structure other than a navigation aid, material or other matter on or in the submerged lands of the Sanctuary, except as incidental to and necessary to:</del></p> <ul style="list-style-type: none"> <li><del>(A) To anchor vessels,</del></li> <li><del>(B) To install an authorized navigational aid;</del></li> <li><del>(f) (iii) To bottom trawl from a commercial fishing vessel. Conduct lawful fishing activity;</del></li> <li>(iv) Lay pipeline pursuant to exploring for, developing, or producing hydrocarbons, or</li> <li>(v) Explore for, develop, or produce hydrocarbons as allowed by subparagraph (a)(1) of this section. [See #1 above].</li> </ul> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• <del>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.72.</del></li> <li>• <del>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</del></li> <li>• <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u></li> <li>• [See Department of Defense at the end of this table.]</li> </ul>	<p><b>4. Altering the Submerged Lands.</b> Same as Proposed Action</p>
<p><b>5. Abandoning.</b>  <b>No existing regulation</b></p>	<p><b>5. Abandoning.</b> Prohibited: <u>Abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>• <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u></li> <li>• <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u></li> <li>• <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u></li> <li>• [See Department of Defense at the end of this table.]</li> </ul>	<p><b>5. Abandoning.</b> Same as Proposed Action</p>

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**EXHIBIT 2  
CONTINUED**

**Page 3 of 9**

Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)

No Action (Status Quo)	Proposed Action <del>Underlined (new) and <del>through</del> (deleted) text show differences from No Action (Status Quo)</del>	Alternative 1 <del>(bold text is different from Proposed Action)</del>
<p><b>6. Nearshore Operation of Vessels.</b></p> <p>Prohibited: Except to transport persons or supplies to or from an island, operating within one NM of an island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations. In no event shall this section be construed to limit access for fishing (including kelp harvesting), recreational, or research vessels.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• Except as may be necessary for the national defense</li> <li>• Except as may be necessary to respond to an emergency threatening life, property, or the environment;</li> <li>• Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</li> </ul>	<p><b>6. Nearshore Operation of Vessels.</b></p> <p>Prohibited: Except to transport persons or supplies to or from any island, operating within one NM of any island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations, or any vessel of three hundred gross registered tons or more, <del>except in no event shall this section be construed to limit access for fishing (including or kelp harvesting), recreational, or research vessels.</del></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• <del>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</del></li> <li>• <del>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</del></li> <li>• <del>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</del></li> <li>• <del>[See Department of Defense at the end of this table.]</del></li> </ul>	<p><b>6. Nearshore Operation of Vessels.</b></p> <p>Prohibited: Except to transport persons or supplies to or from any island, operating within one NM of any island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations, or any vessel of <b>one hundred fifty</b> gross registered tons or more, <del>except in no event shall this section be construed to limit access for fishing (including or kelp harvesting), recreational, or research vessels.</del></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• <del>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</del></li> <li>• <del>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</del></li> <li>• <del>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</del></li> <li>• <del>[See Department of Defense at the end of this table.]</del></li> </ul>
<p><b>7. Disturbing a Seabird or Marine Mammal by Aircraft.</b></p> <p>Prohibited: Disturbing seabirds or marine mammals by flying motorized aircraft at less than 1000 feet over the waters within one NM of any island except:</p> <p>(i) For enforcement purposes;</p> <p>(ii) To engage in kelp bed surveys; or</p> <p>(iii) To transport persons or supplies to or from an island.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• Except as may be necessary for the national defense</li> <li>• be necessary to respond to an emergency threatening life, property, or the environment;</li> <li>• be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</li> </ul>	<p><b>7. Disturbing a Seabird or Marine Mammal by Aircraft.</b></p> <p>Prohibited: Disturbing a seabirds or marine mammals by flying a motorized aircraft at less than 1000 feet over the waters within one NM of any island, <del>except if allowed under subparagraph (a)(9) of this section [see #9 below]:</del></p> <p><del>(i) For enforcement purposes;</del></p> <p><del>(ii) To engage in kelp bed surveys; or</del></p> <p><del>(iii) To transport persons or supplies to or from an island.</del></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• <del>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</del></li> <li>• <del>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</del></li> <li>• <del>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</del></li> <li>• <del>[See Department of Defense at the end of this table.]</del></li> </ul>	<p><b>7. Disturbing a Seabird or Marine Mammal by Aircraft.</b></p> <p>Same as Proposed Action</p>

**EXHIBIT 2  
CONINUED**

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Page 4 of 9



Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)

No Action (Status Quo)	Proposed Action <del>Underlined (new) and strikethrough (deleted) text show differences from No Action (Status Quo)</del>	Alternative 1 (bold text is different from Proposed Action)
<p><b>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</b></p> <p>Prohibited: Removing or damaging any historical or cultural resource.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• Except as may be necessary for the national defense</li> <li>• Except as may be necessary to respond to an emergency threatening life, property, or the environment,</li> <li>• Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</li> </ul>	<p><b>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</b></p> <p>Prohibited: <del>Moving, Removing, or injuring, or possessing, or attempting to move, remove, injure, or possess or damaging any a Sanctuary historical or cultural resource.</del></p> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>• <del>Except as may be permitted by the Director</del> in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR <del>secs. 922.48 and 922.72</del>.</li> <li>• <del>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</del></li> <li>• <del>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</del></li> <li>• [See Department of Defense at the end of this table.]</li> </ul>	<p><b>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</b></p> <p>Same as Proposed Action</p>
<p><b>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</b></p> <p>No existing regulation</p>	<p><b>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</b></p> <p>Prohibited: Taking any marine mammal, sea turtle, or seabird within or above the Sanctuary, except as expressly authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 et seq., Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 et seq., Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 et seq., or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• <del>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</del></li> <li>• <del>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</del></li> <li>• <del>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</del></li> <li>• [See Department of Defense at the end of this table.]</li> </ul>	<p><b>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</b></p> <p>Same as Proposed Action</p>
<p><b>10. Possessing a Marine Mammal, Sea Turtle, or Seabird.</b></p> <p>No existing regulation</p>	<p><b>10. Possessing a Marine Mammal, Sea Turtle, or Seabird.</b></p> <p>Prohibited: Possessing within the Sanctuary (regardless of where taken from, moved, or removed from) any marine mammal, sea turtle, or seabird, except as expressly authorized by the MMPA, ESA, MBTA, or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> <li>• <del>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</del></li> <li>• <del>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</del></li> <li>• <del>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</del></li> <li>• [See Department of Defense at the end of this table.]</li> </ul>	<p><b>10. Possessing a Marine Mammal, Sea Turtle, or Seabird</b></p> <p>Same as Proposed Action</p>

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**EXHIBIT 2  
CONTINUED**

Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)

No Action (Status Quo)	Proposed Action	Alternative 1 (bold text is different from Proposed Action)
<p>11. Tampering with Signs</p> <p>No existing regulation</p>	<p><u>Underlined (new) and <del>struckthrough</del></u> text show differences from No Action (Status Quo)</p> <p>11. Tampering with Signs</p> <p>Prohibited: <u>Marking, defacing, damaging, moving, removing, or tampering with any sign, notice, or placard, whether temporary or permanent, or any monument, stake, post, or other boundary marker related to the Sanctuary.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>• <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u></li> <li>• <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u></li> <li>• <u>[See Department of Defense at the end of this table.]</u></li> </ul>	<p>11. Tampering with Signs</p> <p>Same as Proposed Action</p>
<p>12. Releasing an Introduced Species</p> <p>No existing regulation</p>	<p>12. Releasing an Introduced Species</p> <p>Prohibited: <u>Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except striped bass (<i>Roccus saxatilis</i>) released during catch and release fishing activity.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>• <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u></li> <li>• <u>[See Department of Defense at the end of this table.]</u></li> </ul> <p>Proposed definition (at Sec. 922.71):  <u>Introduced species means (1) a species (including but not limited to any of its biological matter capable of propagation) that is non-native to the ecosystems protected by the Sanctuary, or (2) any organism into which genetic matter from another species has been transferred in order that the host organism acquires the genetic traits of the transferred genes.</u></p>	<p>12. Releasing an Introduced Species</p> <p>Same as Proposed Action</p>
<p>13. Operation of Motorized Personal Watercraft</p> <p>No existing regulation</p>	<p>13. Operation of Motorized Personal Watercraft</p> <p>Prohibited: <u>Operating a motorized personal watercraft within waters of the Channel Islands National Park, established by 16 U.S.C. 410(ff).</u></p> <p>Proposed definition (at Sec. 922.71):  <u>Motorized personal watercraft means a vessel, usually less than 16 feet in length, which uses an inboard, internal combustion engine, powering a water jet pump, as its primary source of propulsion. The vessel is intended to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the hull. The length is measured from end to end over the deck, excluding sheer, meaning a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments, are not included in the measurement. Length is stated in feet and inches.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>• <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u></li> <li>• <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u></li> <li>• <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u></li> <li>• <u>[See Department of Defense at the end of this table.]</u></li> </ul>	<p>13. Operation of Motorized Personal Watercraft</p> <p>Same as Proposed Action</p>

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Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)

No Action (Status Quo)	Proposed Action  Underlined (new) and <del>struckthrough</del> (deleted) text show differences from No Action (Status Quo)	Alternative 1  (bold text is different from Proposed Action)
<p>14. Lightering</p> <p>No existing regulation</p>	<p>14. Lightering</p> <p>No regulation proposed</p>	<p><b>14. Lightering</b></p> <p><b>Prohibited: Lightering in the Sanctuary.</b></p> <p>Note: Sanctuary regulations define lightering as at-sea transfer of petroleum-based products, materials, or other matter from vessel to vessel (15 CFR 922.3).</p> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>• Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</li> <li>• Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</li> <li>• [See Department of Defense at the end of this table.]</li> </ul> <p><b>Department of Defense Activities.</b></p> <p>Same as Proposed Action.</p>
<p><b>Department of Defense Activities.</b></p> <p>All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and are determined in consultation between the Director and the Department of Defense.</p>	<p><b>Department of Defense Activities.</b></p> <p><del>(b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to the prohibitions in this section. The exemption of additional activities having significant impact shall be determined in consultation between the Director and the Department of Defense.</del></p> <p><del>(b)(1) The prohibitions in paragraphs (a)(3) through (13) do not apply to military activities carried out by DOD as of the effective date of these regulations and specifically identified in section 3.5.9 (Department of Defense Activities) of the Final Channel Islands National Marine Sanctuary Management Plan/Environmental Impact Statement (FMP/FEIS). Volume II: Environmental Impact Statement, 200 [year of completion of the FMP/FEIS will be entered here], authored and published by NOAA ("pre-existing activities"). Copies of the document are available from the Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109. Other military activities carried out by DOD may be exempted by the Director after consultation between the Director and DOD.</del></p> <p><del>(2) A military activity carried out by DOD as of the effective date of these regulations and specifically identified in the section entitled "Department of Defense Activity" of the FMP/FEIS is not considered a pre-existing activity if:</del></p> <p><del>(A) it is modified in such a way that requires the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4321 et seq., relevant to a Sanctuary resource or quality;</del></p> <p><del>(B) it is modified, including but not limited to changes in location or frequency, in such a way that its possible adverse effects on Sanctuary resources or qualities are significantly greater than previously considered for the unmodified activity;</del></p> <p><del>(C) it is modified, including but not limited to changes in location or frequency, in such a way that its possible adverse effects on Sanctuary resources or qualities are significantly different in manner than previously considered for the unmodified activity; or</del></p> <p><del>(D) there are new circumstances or information relevant to a Sanctuary resource or quality that were not addressed in the FMP/FEIS.</del></p> <p><del>(3) In the event of destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an incident, including, but not limited to, discharges, deposits, and groundings, caused by a DOD activity, DOD, in coordination with the Director, must promptly prevent and mitigate further damage and must restore or replace the Sanctuary resource or quality in a manner approved by the Director.</del></p> <p><del>(4) All DOD activities must be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities.</del></p>	<p><b>Department of Defense Activities.</b></p> <p>Same as Proposed Action.</p>

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**EXHIBIT 2**  
**CONTINUED**

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Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)

No Action (Status Quo)	Proposed Action	Alternative 1 (bold text is different from Proposed Action)
<p><b>Permit Procedures and Issuance Criteria.</b></p> <p>(a) Any person in possession of a valid permit issued by the Director in accordance with this section and Sec. 922.48 may conduct any activity in the Sanctuary prohibited under Sec. 922.71 [see above] if such activity is either:</p> <p>(1) Research related to the resources of the Sanctuary;</p> <p>(2) To further the educational value of the Sanctuary; or</p> <p>(3) For salvage or recovery operations.</p> <p>(b) Permit applications shall be addressed to: Director, Office of Ocean and Coastal Resource Management, ATTN: Manager, Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109.</p> <p>(c) In considering whether to grant a permit the Director shall evaluate such matters as:</p> <p>(1) The general professional, and financial responsibility of the applicant;</p> <p>(2) The appropriateness of the methods envisioned to the purpose(s) of the activity;</p> <p>(3) The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information;</p> <p>(4) The end value of the activity and</p> <p>(5) Such other matters as may be deemed appropriate.</p> <p>The Director may observe any permitted activity and/or require the submission of more reports of the status or progress of such activity. Any information requested shall be available to the public.</p> <p>2.1-1, Page 8 of 9</p>	<p><u>Underlined</u> (new) and <del>struckthrough</del> (deleted) text show differences from No Action (Status Quo)</p> <p><b>Permit Procedures and Issuance Criteria.</b></p> <p>(a) Any person in possession of a valid permit issued by the Director in accordance with this section and Sec. 922.48 may conduct any activity in the Sanctuary prohibited under by 922.742(a)(3) through (10), (a)(12), and (a)(13), if such activity is either:</p> <p>(1) Research related to the resources of the Sanctuary;</p> <p>(2) To further the educational value of the Sanctuary; or</p> <p>(3) For salvage or recovery operations.</p> <p>specifically authorized by, and conducted in accordance with the scope, purpose, terms, and conditions of, a permit issued under 922.48 and this section.</p> <p>(b) The Director, at his or her sole discretion, may issue a permit, subject to terms and conditions, as he or she deems appropriate, to conduct an activity prohibited by 922.72(a)(3) through (10), (a)(12), and (a)(13), if the Director finds that the activity:</p> <p>(1) Is appropriate research designed to further understanding of Sanctuary resources and qualities;</p> <p>(2) Will further the educational value of the Sanctuary;</p> <p>(3) Will further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty;</p> <p>(4) Will assist in managing the Sanctuary; or</p> <p>(5) Will further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of California.</p> <p>(c) In considering whether to grant a permit the Director shall evaluate such matters as:</p> <p>(1) The Director may not issue a permit under 922.48 and this section unless the Director also finds that:</p> <p>(1) The general professional, and financial responsibility of the applicant;</p> <p>(2) The appropriateness of the methods envisioned to the purpose(s) of the activity;</p> <p>(3) The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information;</p> <p>(4) The end value of the activity and</p> <p>(5) Such other matters as may be deemed appropriate.</p> <p>(1) The proposed activity will have at most short-term and negligible adverse effects on Sanctuary resources and qualities;</p> <p>(2) The applicant is professionally qualified to conduct and complete the proposed activity;</p> <p>(3) The applicant has adequate financial resources available to conduct and complete the proposed activity;</p> <p>(4) The duration of the proposed activity is no longer than necessary to achieve its stated purpose;</p> <p>(5) The methods and procedures proposed by the applicant are appropriate to achieve the goals of the proposed activity, especially in relation to the potential effects of the proposed activity on Sanctuary resources and qualities;</p> <p>(6) The proposed activity will be conducted in a manner compatible with the primary objective of protection of Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any potential indirect, secondary, or cumulative effects of the activity, and the duration of such effects;</p> <p>(7) The proposed activity will be conducted in a manner compatible with the value of the Sanctuary as a source of recreation and as a source of educational and scientific information, considering the extent to which the conduct of the activity may result in conflicts between different users of the Sanctuary and the duration of such effects;</p> <p>(8) It is necessary to conduct the proposed activity within the Sanctuary.</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p> <p><b>Permit Procedures and Issuance Criteria.</b></p> <p>Same as Proposed Action</p>

**EXHIBIT 2  
CONTINUED**

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**Table 2.1-1  
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	<p><u>Underlined</u> (new) and <del>strikethrough</del> (deleted) text show differences from No Action (Status Quo)</p> <p><b>Proposed Action</b></p>	Alternative 1 (bold text is different from Proposed Action)
	<p>(9) The reasonably expected end value of the proposed activity furthers Sanctuary goals and purposes and outweighs any potential adverse effects on Sanctuary resources and qualities from the conduct of the activity; and</p> <p>(10) Any other matters the Director deems appropriate do not make the issuance of a permit for the proposed activity inappropriate.</p> <p>(d) Applications.</p> <p><del>(b)(1) Permit applications for permits shall be addressed to: the Director, Office of Ocean and Coastal Resource Management National Marine Sanctuaries; A TTN: Manager, Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109.</del></p> <p>(2) In addition to the information listed in 922.48(b), all applications must include information the Director needs to make the findings in paragraphs (b) and (c) of this section.</p> <p>(e) In addition to any other terms and conditions that the Director deems appropriate, a permit issued pursuant to this section must require that the permittee agrees to hold the United States harmless against any claims arising out of the conduct of the permitted activities.</p>	

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behavioral modifications are not well understood. The effects of vessel-based wildlife viewing coupled with other vessel traffic can have a negative cumulative impact on whales.

In 1999, eight for-hire operations accounted for almost 26,000 person-days of whalewatching activity in the CINMS (information on whalewatching from private boats is not available). These eight operators received about \$1.5 million in revenue and earned a little over \$9,000 in profits from this activity. This activity generated over \$3.6 million in income (including multiplier impacts), which supported 108 full and part-time jobs in Santa Barbara and Ventura counties. In addition, whalewatchers received almost \$938,000 in consumer's surplus (nonmarket economic user value) from their whale watching activities in the CINMS (Leeworthy and Wiley 2003).

### **3.5.8.7 Regulatory Setting**

The NPS currently prohibits the use of MPWCs within waters of the CINP.

### **3.5.9 Department of Defense Activities**

The U.S. Air Force and U.S. Navy conduct training exercises, provide logistic support, and conduct military testing and evaluation projects for aircraft, ship, and missile programs in the Study Area. Vandenberg Air Force Base (AFB), and the Naval Base Ventura County (NBVC) at the Point Mugu and Port Hueneme coastal areas are the primary locations for these testing and training exercises. The following presents an analysis of the current level of U.S. Air Force and U.S. Navy military activities in the Study Area. Finally, operations of the USCG are discussed.

#### **3.5.9.1 Vandenberg AFB**

##### *Overview*

Vandenberg Air Force Base (AFB) is located on California's central coast between Los Angeles and San Francisco, about 55 miles northwest of Santa Barbara. Vandenberg's unique location provides 42 miles of Pacific Ocean shoreline, over 99,000 acres of varied terrain and restricted airspace for spacelift, ballistic test, aeronautical operations, and military exercises. A 15,000-foot runway, boat dock, railway system and several major highways service Vandenberg AFB.

North Vandenberg has a coastline facing west while much of the South Vandenberg coastline faces south. This unique geography permits launch azimuths ranging from 147 to 300+ degrees, enabling over-ocean ballistic and polar space launches. Vandenberg is the only location in the continental United States where spacecraft can be launched into polar orbit without overflying land. In addition, the West Coast Offshore Operating Area (WCOOA) provides about 200,000 square miles of over-water and sea-land transition zones for aeronautical and cruise missile testing.

The types of activities conducted at Vandenberg AFB which have or may have an impact on marine resources can be categorized into the following areas:

- Spacelift Operations
- Intercontinental Ballistic Missile and Missile Defense Testing and Operations
- Missile Testing and Aircraft Operations
- Military Training Exercises
- Boat Dock Operations

A description of each category is provided below.

### *Spacelift Operations*

Spacelift operations consist of launching rockets for the purpose of inserting satellites into earth orbit. Launch vehicles, such as, but not limited to Titans, Atlas and Deltas, are generally composed of multiple stages that are stacked one upon another. Each stage consists of a rocket motor and a supply of propellant (fuel and oxidizer). After the propellant in one stage is consumed, the entire stage is jettisoned from the rest of the launch vehicle and the next stage is fired to resume powered flight. Some launch vehicles are configured with two or more strap-on boosters, which are attached to the sides of the launch vehicle. Strap-on boosters and the vehicle's first stage are fired concurrently in order to provide additional thrust during the initial minutes of flight.

Spent booster stages, strap-on boosters, and other launch vehicle debris are jettisoned into the Pacific Ocean during spacelift operations. Such objects could fall almost anywhere within the CINMS Study Area. Current launch rates indicate up to 5 launches overfly the current CINMS boundary of which one overflies San Miguel Island directly. Presently all spent stages for these trajectories impact outside the CINMS. Historically launch rates for spacelift (southerly trajectories) have varied and future launch rates are subject to change based on mission need. Eleven spacelift operations occurred between 1997, 1998 and 1999. In 1966, the number of spacelift launches peaked at about 46. Future projected launch profiles do not deposit spent stages inside the CINMS.

The need to insert payloads into polar and other highly inclined orbits drives the requirement to launch spacelift vehicles along a wide range of southerly launch azimuths. In addition, different launch vehicles have dissimilar hardware and dissimilar flight characteristics, which further expands the region where launch vehicle debris could fall into the ocean. Active precautionary measures are in place to minimize the likelihood of jettisoned objects falling in the Sanctuary or on oil platforms.

As previously mentioned, a typical booster stage consists of a rocket motor and a large tank used for storing propellant. The size of booster stages vary from vehicle to vehicle, but some of the larger booster stages can have a 10-foot diameter and be nearly 90 feet in height. Large strap-on boosters can have a 10-foot diameter and exceed 110 feet in height. Booster stages, which consist primarily of metal components, fall into the ocean after their propellant has been consumed. Residual amounts of propellant may reside inside booster stages when they fall into the ocean.

Jettisoned objects sink to the ocean floor and are not recovered due to the extreme difficulty in locating and recovering such objects in deep ocean waters. Furthermore, the high costs associated with deep recovery operations would be prohibitive. On rare occasion, launch anomalies occur. Various sized fragments from a destroyed vehicle as well as pieces of unburned solid propellants could be dispersed over a wide area potentially inside portions of CINMS and the Study Area. Liquid propellants would likely burn during the explosion or evaporate shortly thereafter. To date, no "scheduled" or planned spent stages have fallen within the CINMS. There was a launch failure (Titan IV in Aug '93), however, that deposited debris in the CINMS area.

The Department of Defense (DoD), the National Aeronautics and Space Administration (NASA), other government agencies, and various commercial enterprises conduct Spacelift operations at Vandenberg AFB. As the appointed executive agent for space, the Air Force is responsible for ensuring public safety. As such, positive control measures are employed during all missile and space launch activities. All launch vehicles are equipped with flight termination packages and tracking systems that offer operators the ability to terminate thrust or destroy vehicles that follow non-nominal trajectories. DoD personnel are

entrusted with this responsibility during powered flight (the phase of flight when thrust is provided by engines/motors that includes overflight of the Sanctuary and Study Area). In this role, the DoD is responsible for positive flight termination actions taken for all launches whether they are DoD, civilian, or commercial in nature.

#### *Intercontinental Ballistic Missile and Missile Defense Testing and Operations*

Vandenberg AFB is the primary location in the United States where Intercontinental Ballistic Missiles (ICBMs) are launched for testing purposes. Ballistic missiles, such as, but not limited to, Peacekeeper and Minuteman, are usually launched to targets located near the Kwajalein Atolls in the South Pacific; however, some missiles are launched to targets in other broad ocean areas. The impact of ballistic missile testing is similar to the impact of spacelift operations.

Spent booster stages fall into the Pacific Ocean during ICBM testing operations. Highly variable testing configurations result in jettisoned objects falling over a wide area of the ocean. Jettisoned objects, and other missile debris, sink to the ocean floor and are not recovered due to the extreme difficulty in locating and recovering such objects in deep ocean waters. Furthermore, the high costs associated with deep recovery operations would be prohibitive. No ICBM missiles have deposited spent stages in the CINMS area. Future missile defense testing could overfly the CINMS; however, none are planned to deposit spent stages in the CINMS.

Missile intercept operations also occur from Vandenberg AFB, where a target missile is destroyed down range by an interceptor missile, laser, or other weapon system. Missile intercept operations result in debris being dispersed over a wide area of the ocean and potentially inside portions of the CINMS Study Area. Active precautionary measures are in place to minimize the likelihood of jettisoned objects falling in the Sanctuary or on oil platforms.

On rare occasion, ICBM and missile defense launch anomalies occur. Various sized fragments from a destroyed vehicle as well as unburned solid propellants and some unburned liquid propellant (upper stages such as post boost vehicles), could be dispersed over a wide area potentially inside portions of the CINMS Study Area, but ICBM past anomalies have not deposited debris in the CINMS.

ICBM and missile defense testing operations at Vandenberg AFB are conducted by DoD. As the appointed executive agent for space, the AF is responsible for ensuring public safety. As such, positive control measures are employed during all missile and space launch activity. All launch vehicles are equipped with flight termination packages and tracking systems that offer operators the ability to terminate thrust or destroy vehicles that follow non-nominal trajectories. DoD personnel are entrusted with this responsibility during powered flight (the phase of flight when thrust is provided by engines/motors that includes overflight of the Sanctuary and Study Area).

#### *Missile Testing and Aircraft Operations*

Extending 200 miles offshore and traversing the entire west coast of the United States, the WCOOA provides the ideal airspace for testing military and civilian aircraft, ballistic missiles, guided missiles, and other weapon systems. Most WCOOA tests are conducted off the California coast due to the stable air mass, and due to the radar, telemetry, and optical sensors at Vandenberg AFB and the Naval Air Warfare Center at Point Mugu.

Different types of ballistic and guided missiles are launched from land, sea, and air (over water) for various reasons, including, but not limited to, testing guided missiles, intercept technologies for a national



missile defense system, and testing anti-aircraft artillery. The target area for some short-range missiles may only be a couple miles offshore, which could result in missile debris being deposited into the CINMS Study Area.

Active precautionary measures are in place to minimize the likelihood of jettisoned objects falling in the Sanctuary or on oil platforms. Currently, no past (or projected future) missile system launched from VAFB deposited spent stages in the CINMS area. Past aircraft overflight operations have occurred inside the CINMS, and such activity is expected to continue in the future, however.

Other operations conducted in the WCOOA consist of aircraft and aeronautical test operations. Airspace corridors (over-land and over-water) are routinely used for aircraft flight test operations. In addition, aircraft from other military installations routinely use the 15,000-foot landing strip at Vandenberg AFB for refueling and training exercises. Training exercises, involving both fixed wing and rotor aircraft, are conducted at all altitudes within the CINMS Study Area. Devices used for training include, but are not limited to, flares, chaff, and sea dye. Water survival training is also conducted within the study area, which consists of, but is not limited to, simulating emergency egress through a cockpit, practicing life raft usage, and hoisting people from the ocean. Low altitude flights near the shore of the islands are infrequent, but do occur occasionally.

Missile testing and aircraft operations in the WCOOA are conducted by DoD. As the executive agent for space, the Air Force is responsible for ensuring public safety. As such, positive control measures are employed during all missile and space launch activity. Except for some small missile systems having a maximum affected flight area entirely over water and away from populated areas (including oil platforms), all launch vehicles are equipped with flight termination packages and tracking systems that offer operators the ability to terminate thrust or destroy vehicles that follow non-nominal trajectories. DoD personnel are entrusted with this responsibility during powered flight (the phase of flight when thrust is provided by engines/motors that includes overflight of the Sanctuary and Study Area).

#### *Military Training Exercises*

Periodically, the Vandenberg AFB shoreline is used for military training exercises, which usually involve the movement of military personnel from ocean vessels and aircraft to the shore.

#### *Boat Dock Operations*

Vandenberg AFB is serviced by a boat dock. Boat dock operations include, but are not limited to, the unloading of rocket motors and large booster segments from barges. The boat dock is located within the CINMS Study Area and will require to be dredged from time to time.

#### *Launch Discussion*

Current launch rates indicate that up to 5 launches overfly the current CINMS boundary, of which one overflies San Miguel Island directly. Presently all spent stages for these trajectories impact outside the CINMS.

**Table 3.5-10 Space Vehicle Launches from Vandenberg Air Force Base, Sonic Boom Measurements, Northern Channel Islands**

Launch Vehicle	Date	Launch Site	Island Monitoring Location	Sonic Boom Peak Amplitude (psf)	Sound Exposure Level (dB) [A-weighted]
Titan IV	12 May 1996	SLC-4E S. VAFB	Crook Point, San Miguel	8.97	97.2
Titan IV	23 Oct 1997	SLC-4E S. VAFB	Kinton Point, Santa Cruz	1.1	86.8
Athena 2	27 Apr 1999	SLC-6 S. VAFB	Adams Cove, San Miguel	0.95	73.4
Titan IV	22 May 1999	SLC-4E S. VAFB	Harris Point San Miguel	1.84	78.5
Athena 2	24 Sep 1999	SLC-6 S. VAFB	Point Bennett, San Miguel	0.96	68.3
Delta II	21 Nov 2000	SLC-2 N. VAFB	Point Bennett, San Miguel	0.4	91.5
Atlas II	8 Sep 2001	SLC-3E S. VAFB	Cardwell Pt., San Miguel	0.75	79.4
Delta II	18 Oct 2001	SLC-2 N. VAFB	Point Bennett, San Miguel	0.0	83.5 (unweighted)
Delta II	11 Feb 2002	SLC-2 N. VAFB	Point Bennett, San Miguel	0.64	84.7
Atlas II	2 Dec 2003	SLC-3E S. VAFB	Point Bennett, San Miguel	0.88	99.310/7/2004

References: SRS Technologies monitoring reports

Historically launch rates for spacelift (southerly trajectories) have varied and future launch rates are subject to change based on mission need. Eleven spacelift operations occurred between 1997, 1998 and 1999. In 1966, the number of spacelifts peaked at about 46. Future projected launch profiles do not deposit spent stages inside the CINMS.

For CINMS, the National Marine Fisheries Service programmatic take permit would be the only applicable existing requirement. Under this permit the Air Force is required to conduct modeling to predict the likelihood of a sonic boom impacting the Channel Islands. No significant impacts have ever been detected, but pinnipeds on the Channel Islands may be briefly disturbed by sonic booms and the take permit allows for this level of impact.

### 3.5.9.2 United States Navy

The U.S. Navy has an extensive presence in Southern California through installations, offshore operating areas, and ranges (offshore as well as inland). Within the study area, installations are located at Point Mugu and Port Hueneme in Ventura County. These two facilities comprise the unified base command known as Naval Base Ventura County (NBVC). The installations at Point Mugu and Port Hueneme are composed of approximately 6,000 acres of prime real estate and include an airfield, a port facility and

light industrial activities. The installations host various Naval activities including the Pacific Fleet Seabee units, Pacific Fleet Early Warning Aircraft (E-2) squadrons, the Naval Surface Warfare Center Port Hueneme Division, the Naval Facilities Engineering Service Center, and Naval Air Warfare Center Weapons Division (NAWCWD), as well as a variety of other tenant organizations.

NAWCWD Point Mugu operates and controls the Point Mugu Sea Range, a 36,000 square mile area of military controlled airspace off the Southern California Coast (see figure 1). Although some Navy operations in the study area occur outside the Sea Range, most are conducted within the Sea Range boundaries. The Sea Range includes airspace overlying significant portions of the existing Sanctuary (78% of the Sanctuary) as well as the airspace above the land areas of several of the Channel Islands.

The Sea Range was established in 1946 after an extensive nationwide search for an operationally realistic ocean site to conduct testing and development of missiles and other Naval systems. The unique geography of this region, including coastal mountains, offshore islands, convex coastline and relatively good weather, led to the selection and designation of the Sea Range.



Figure 3.5-5 Point Mugu Sea Range

The Sea Range continues today to provide the Navy an operationally realistic environment for safely conducting controlled air, surface, and subsurface Navy testing and training. The combination of the geographic factors, instrumentation sites, unique test capabilities, proximity to Naval Forces, and highly skilled workforce provides the most advanced and efficient method for conducting weapon system tests and Fleet training necessary to ensure the readiness of Pacific Fleet units.

In addition to the Navy's presence within the Study Area, the Navy maintains substantial installations, operating areas and training ranges that rely on and enhance the Navy's presence at Point Mugu Sea Range and NBVC. Approximately one-quarter of the United States Fleet is stationed in San Diego, including three aircraft carriers. In addition, the United States Marine Corps maintains a significant presence at Marine Corps Base Camp Pendleton. As part of their interdeployment training cycle, these forces utilize the Point Mugu Sea Range, other operating areas off Southern California, and training ranges as far inland as Nevada and Arizona as they progress from basic unit level training through advanced task force exercises in preparation for the missions they anticipate conducting during overseas deployments. These operations range from single units to battle groups and multi-national exercises.

The Navy conducts a wide variety of activities within the Study Area and boundaries of the existing Sanctuary in support of operational training and testing. The exact activities vary based on current operational requirements, evolving technologies, and world events. The following sections describe baseline categories of activities that occur within the Channel Islands National Marine Sanctuary and the associated Management Plan Study Area.

***Vessel, Aircraft, and Target Operations***

Within the Study Area and Sanctuary, the Navy operates the full range of Navy ships, submarines, aircraft, weapons systems, sensors, and targets, including those based at Point Mugu and Port Hueneme, as well as those from other bases. In addition, foreign military units often participate with the Navy in testing and training operations.

U.S. Navy vessels operating in the area, including aircraft carriers, destroyers, cruisers, submarines, and various amphibious and small craft, utilize the Sea Range for testing, training, and experimentation. Also, the U.S. Navy operates a small fleet of specialized support boats and several larger vessels (ships) that support Sea Range operations. Operation of these vessels includes, but is not limited to, transits and operation of all shipboard systems. Ships routinely conduct anti-submarine warfare, surface-to-surface and surface-to-air warfare training, testing, and experimentation. They also perform maritime intercept operations and escort training. These are missions they are routinely required to perform during overseas deployments.

Within the existing Sanctuary, normal routine vessel operations are located primarily in areas outside 1 NM from the islands. Operations closer to the islands would normally be transit and vessels seeking shelter from weather conditions. However, the exact location of vessel operations is dictated by safety and mission requirements. Navy vessels do not discharge or exchange ballast water within the existing Sanctuary.

Aircraft operations include transits, air-to-air and air-to-surface operations involving both manned aircraft and unmanned air vehicles. Aircraft operations occur throughout the area at various altitudes and speeds, including supersonic operations. Overflight of the shorelines of the Channel Islands is normally above 1,000 feet, unless a lower altitude is required to accomplish the mission or training objective (e.g., low-level helicopter flight training). Requirement for such lower altitude flights over shorelines of the islands are rare (several per year) and are carefully planned to minimize noise impacts. Aircraft flights originate from Point Mugu, other bases, and ships at sea.

Targets operated in the study area include both airborne and surface (boats/ships) targets. Airborne targets are remotely controlled and used to test weapon systems such as missiles or radar systems. They range from small missile-size to full airplane size and are designed to be recovered and reused. However, some targets are not recovered or are intentionally intercepted and destroyed. Aerial targets are launched from Point Mugu, San Nicolas Island, surface vessels, or aircraft. Surface targets are remote controlled vessels designed for testing or training in situations where personnel cannot safely be on-board. There is a wide range of surface targets used on the Sea Range. Normally surface targets are designed to withstand extensive damage for reuse. However, some targets include vessels ("hulks") that are intentionally sunk. Lastly, underwater targets are also used by submarines and torpedoes for testing and training. Target operations that involve missile intercepts or sinking targets are rarely performed within the existing sanctuary and are not currently done in the areas close to the islands.

***Weapon Activities***

The mission of Sea Range is to provide an operationally realistic location to test and evaluate weapon systems as well as to conduct training in the use of these weapon systems. The weapon systems employed cover the breadth of Navy (and DoD) weapons systems, including both offensive and defensive systems. There is an emphasis on missile and air warfare systems. These weapons systems activities generally occur south of the northern Channel Islands or in the vicinity of San Nicolas Island but may occur in other locations within the Study Area. Within the current Sanctuary boundary, weapon activities

are unusual and very limited in scope (e.g., overflight). Missile flights (and their associated safety chase aircraft) in the current Sanctuary boundary normally occur over ocean areas. In general, the categories of weapons can be classified as guns, bombs, missiles, and torpedoes. These weapon systems often do not use live warheads, but actual live fire of weapons does occur. Debris from intercepts is not recovered. The scenarios and conditions employed vary widely depending on the specific weapon system, operational requirement, and platform (aircraft, ship, submarine) employed. For simplicity, weapon systems activities can generally be described in the following categories:

- **Air-to-Air:** Typical scenario would involve aircraft firing missiles at airborne targets and aircraft engaged in air combat maneuvering. Missiles rarely fly over the existing sanctuary and such overflight operations are normally above 1,000 feet. The nature and scope of air-to-air activities involving aircraft firing missiles is documented within the Point Mugu Sea Range Environmental Impact Statement.
- **Air-to-Surface:** Typical scenario would involve aircraft firing weapons against surface (boat) targets or the target complex at San Nicolas Island. Firing of weapons from aircraft at targets does not normally occur within the existing Sanctuary boundary. When weapons are used against surface targets within the Sea Range, protective measures are in place to increase situational awareness of the training participants to minimize and avoid takes of marine mammals under the Marine Mammal Protection Act and Endangered Species Act. The nature and scope of air-to-surface weapons use is documented within the Point Mugu Sea Range Environmental Impact Statement.
- **Surface-to-Air:** Typically involves either ships firing weapons against airborne targets or weapons launched from Point Mugu or San Nicolas Island against airborne targets. Because of safety considerations, surface-to-air weapons are not normally used within the existing Sanctuary boundary. Debris is not normally recovered on the Sea Range. The nature and scope of surface-to-air weapons use is documented within the Point Mugu Sea Range Environmental Impact Statement.
- **Surface-to-Surface:** Typical scenario would be ships or weapon systems at Point Mugu or San Nicolas Island firing missiles or guns against surface targets (either vessels or the SNI target complex). Although missiles and targets are fired from Point Mugu seaward into the Sea Range approximately 150 times per year, they rarely fly directly over the existing Sanctuary boundary. Details of how these activities are conducted are analyzed in the Point Mugu Sea Range Environmental Impact Statement.
- **Subsurface-to-Surface:** Involves submarines firing missiles or torpedoes at surface vessels or land targets. Use of missiles and torpedoes may occur several times each calendar year depending on sea state and operational requirements. Because of safety considerations, these activities do not occur within the existing Sanctuary boundary. These activities are carefully scheduled in advance and require commanders involved in each event to utilize protective measures designed to increase situational awareness of exercise participants to avoid takes under the Marine Mammal Protection Act and Endangered Species Act.
- **Subsurface-to-Subsurface:** Involves submarines firing torpedoes at undersea targets. These engagements may occur several times each calendar year depending on sea state and operational requirements. Because of safety considerations, these activities do not occur within the existing Sanctuary boundary. These activities are carefully scheduled in advance and require

commanders involved in each event to utilize protective measures designed to increase situational awareness of exercise participants to avoid takes under the Marine Mammal Protection Act and Endangered Species Act.

- **Surface-to-Subsurface:** Involves ships firing missiles or torpedoes at undersea targets. These activities may occur several times each calendar year depending on sea state and operational requirements. Because of safety considerations, these activities do not occur within the existing Sanctuary boundary. These activities are carefully scheduled in advance and require commanders involved in each event to utilize protective measures designed to increase situational awareness of exercise participants to avoid takes under the Marine Mammal Protection Act and Endangered Species Act.
- **Air-to-Subsurface:** Involves aircraft firing torpedoes at undersea targets. Use of torpedoes may occur several times each calendar year depending on sea state and operational requirements. Because of safety considerations, these activities do not occur within the existing Sanctuary boundary. These activities are carefully scheduled in advance and require commanders involved in each event to utilize protective measures designed to increase situational awareness of exercise participants to avoid takes under the Marine Mammal Protection Act and Endangered Species Act.

The Sea Range has an extensive and well-established safety program that ensures all areas of potential hazard are clear of non-participants. This program includes public notifications as well as radar and physical searches of operating areas prior to commencement of operations.

#### ***Submarine and Antisubmarine Warfare***

Submarine operations include, but are not limited to, transits, anti-submarine operations and anti-surface vessel operations. Antisubmarine warfare operations in the Study Area include submarine, deep submergence vehicle, surface vessel, and aircraft operations designed to detect, locate, and prosecute threat submarines or underwater warfare platforms. As discussed above, these operations include torpedo operations and the use of both passive and active acoustic devices. These acoustic devices may be autonomous (e.g. sonobuoys or remote controlled undersea vehicles) or be connected to vessels or aircraft (e.g. sonar systems). Acoustic sources are tonal and explosive and are used for seeking out submarines as well as communicating with U.S. and foreign submarines. Antisubmarine warfare activities also include deployment, maintenance, and abandonment of equipment secured to the ocean bottom, such as cables, hydrophones, or sonar arrays. In addition, naval aviation units conduct anti-submarine warfare training well below 1,000 feet in the Study Area. Within the existing Sanctuary, submarine and antisubmarine warfare operations are rare and normally limited to transiting/maneuvering in the area and passive acoustic systems. To the extent active acoustic devices are used, the precise frequency levels are classified but protective measures are used by training exercise planners to increase situational awareness of unit commanders to ensure received levels by marine mammals in the area of acoustic activity do not result in takes under the Marine Mammal Protection Act and Endangered Species Act.

#### ***Mine Warfare***

Mine warfare operations include, but are not limited to, mine laying from aircraft, surface vessels and submarines as well as mine sweeping. Within Bechers Bay off Santa Rosa Island, the Navy periodically conducts inert mine drops. On average there are two multi-aircraft mine drop exercises annually. The inert mines are steel jacketed concrete shapes that are often recovered for reuse (roughly 50% recovered). The mine shapes are dropped from aircraft for shallow water minefield deployment training. The drops

are done only after following safety clearance procedures, which ensure the area is clear of all non-participants.

#### *Amphibious and Special Warfare*

Amphibious warfare operations in the study area include, but are not limited to, surface vessels, subsurface systems, swimmers, and aircraft/helicopter operations designed to land and secure beaches for subsequent land based operations. The training exercises include manned raids, small craft landing, and special operations force insertions from aircraft, surface vessels or submarines at Point Mugu, Port Hueneme, Vandenberg Air Force Base and oil platforms. Landing operations are not conducted at the islands within the Sanctuary.

#### *Explosive Ordnance Disposal*

Explosive Ordnance Disposal operations include, but are not limited to, the location, assessment, disarming and, in some cases, detonation of ordnance and missile propulsion systems. With the exception of an emergency or safety disposal, these activities are not conducted within the boundary of the existing Sanctuary.

#### *Decoys*

To provide operationally realistic testing and training the Sea Range scenarios described above often also include the use of decoys, which are devices designed to reduce weapon system effectiveness by confusing sensor systems. Decoy use includes, but is not limited to, chaff, obscurants, flares, and undersea acoustic devices. The use of decoys occurs throughout the Sea Range and may inadvertently occur within the existing boundary of the Sanctuary. Use of decoys within existing Sanctuary boundary is rare because the types of activities being conducted do not normally occur within the existing Sanctuary boundary.

Chaff consists of aluminum strips deployed from aircraft or ships to confuse radar systems. Obscurants consist of smoke used in the study area that is deployed from ships or aircraft and is designed to confuse sensor systems. Flares consist of incendiary devices of two types: defensive flares fired from ships or aircraft designed to confuse heat-seeking missiles, and illumination flares fired from ships designed to provide surface illumination during darkness. Undersea decoys consist of devices that emit acoustic energy and are designed to confuse sensor systems.

#### *Maintenance, Replacement, Removal, and Abandonment of Existing Facilities*

Facilities that must be maintained, replaced periodically, or removed or abandoned include permanent facilities at the Navy installations and sites (e.g. pier side maintenance) as well as ocean submarine cables, and other miscellaneous facilities and equipment. Examples include, but are not limited to, hydrophone arrays, communications cables linking the mainland to the offshore islands, or submarine communication systems. A portion of an undersea communication cable running from Point Mugu to San Nicolas Island passes through the existing Sanctuary. Removal of this cable is not anticipated in the foreseeable future. Maintenance of this cable is conducted on a regular and as-needed basis.

#### *Marine Research and Surveys*

The Navy conducts oceanographic research and surveys within the Study Area. This activity involves the use of sound sources; sampling; placement of ocean bottom equipment, weather balloons; and the use of

vessels, divers, submarines, and satellites. Diving is also conducted for training and in support of other operations. Research and surveys within the existing Sanctuary are not conducted frequently.

#### *Anchoring of Ships and Vessels*

Naval vessels routinely anchor within the Study Area at various locations. Examples include, but are not limited to, range support boats anchoring during bad weather as well as long-term anchoring or mooring of surface target vessels. Vessels larger than 300 gross tons do not normally anchor within the existing Sanctuary and would rarely be within 1 NM of the islands within the Sanctuary.

#### *Harbor Operations*

The Navy operates the harbor at Port Hueneme. It is used for berthing of permanently assigned vessels and visiting ships. A portion of the harbor is leased to the Oxnard Harbor District for commercial use. Ships routinely transit through the proposed concept areas as part of naval operations.

#### *Logistics Operations*

Various logistics operations occur within the Study Area to support the testing, training, and experimentation operations described above. These include, but are not limited to, refueling operations (both planes and underway vessels), replenishment/re-supply operations (e.g. barges, supply ships, etc.), vessel towing, and salvage activities.

### **3.5.10 U.S. Coast Guard Activities**

The USCG conducts search and rescue, marine environmental protection, law and international treaty enforcement, aids to navigation maintenance, marine safety, defense readiness, and training operations to support these activities within the Study Area.

The USCG operates a Marine Safety Detachment including two 87-foot coastal patrol boats (USCG Cutter *Blackfin*, located at Santa Barbara, and USCG Cutter *Blacktip* located at Oxnard), and a Station, (Station Channel Islands Harbor), and the East Anacapa Island Lighthouse. There is also another small boat station at Morro Bay, California (Station Morro Bay).

Station Channel Islands Harbor has three search and rescue (SAR) boats including a 21-foot boat, 41-foot utility boat, and a 44-foot motor lifeboat. The station provides quarterly maintenance to the East Anacapa Lighthouse. The lighthouse maintenance schedule is coordinated with the NPS. Noise from any heavy equipment is minimized during these maintenance activities. The three small boats are used to conduct smaller caliber fire exercises within the Study Area, and the *Blacktip* is currently used for larger caliber, live fire exercises within the Study Area.

The *Blackfin* is used for SAR and various law enforcement operations such as drug interdiction, migrant interdiction, and fisheries enforcement. The *Blackfin* is also used in live fire exercises within the Study Area. The Marine Safety Detachment conducts pollution response, marine casualty investigations, and annual platform inspections within the Study Area. Civilian crew boats and helicopters are used to transport USCG inspectors to and from the platforms for inspections as well.

The USCG Cutter *George Cobb* is a 175-foot buoy tender used for servicing aids to navigation throughout the area. These aids consist of mooring balls for USCG patrol boats operating in the area and