

ACTION: Notice of effective date.

SUMMARY: NOAA published a final revised management plan and revised regulations for the Channel Islands National Marine Sanctuary (CINMS) January 16, 2009 (74 FR 3216). Under the National Marine Sanctuaries Act, the final regulations automatically take effect after 45 days of continuous session of Congress beginning on January 16, 2009. The 45-day period ends on March 19, 2009. This document provides notice of the effective date, March 19, 2009.

DATES: The regulations published on January 16, 2009 (74 FR 3216) are effective on March 19, 2009.

FOR FURTHER INFORMATION CONTACT: Michael Murray, Channel Islands National Marine Sanctuary, 805-884-1464.

Dated: March 18, 2009.

William Corso,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 080302355-81415-02]

RINs 0648-AT14, 0648-AT15, 0648-AT16

Gulf of the Farallones National Marine Sanctuary Regulations; Monterey Bay National Marine Sanctuary Regulations; and Cordell Bank National Marine Sanctuary Regulations; Notice of Effective Date

AGENCY: Office of National Marine Sanctuaries (ONMS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of effective date.

SUMMARY: NOAA published final revised management plans and revised regulations for the Gulf of the Farallones, Cordell Bank, and Monterey Bay national marine sanctuaries (GFNMS, CBNMS, and MBNMS respectively) on November 20, 2008 (73 FR 70488). Under the National Marine Sanctuaries Act, the final regulations would automatically take effect after 45 days of continuous session of Congress beginning from November 20, 2008. (Given the break in the 110th Congress, the period was reset and began again with the 111th Congress. For purposes

of this action, the 45 days of continuous session of Congress ended on March 9, 2009.) The period allows a governor for a state affected by modified term(s) of designation to certify to the Secretary of Commerce (Secretary) whether any of the modified terms of designation are unacceptable, and if such a term is certified as unacceptable, it does not take effect in the area of the national marine sanctuary lying within the seaward boundary of the State. During the 45-day period, the Governor of California sent a letter to the Secretary conditionally objecting to certain provisions of the regulations within state waters of California. The Governor conditionally objected to the portions of the regulations that would have prohibited the introduction of introduced species in state waters of the GFNMS and MBNMS. Through this notice, NOAA is announcing the regulations for the CBNMS and GFNMS became effective on March 9, 2009 in their entirety; and the regulations for the MBNMS also became effective on March 9, 2009, except the one prohibiting the introduction of introduced species in the state waters of MBNMS; and it will initiate a process to consider making the Governor's requested changes to the introduced species regulation in GFNMS.

DATES: The regulations published on November 20, 2008 (73 FR 70488) are effective March 19, 2009 and applicable on March 9, 2009.

FOR FURTHER INFORMATION CONTACT: John Armor, NOAA Office of National Marine Sanctuaries, 301-713-7234.

SUPPLEMENTARY INFORMATION:

Background

NOAA published final revised management plans and revised regulations for the GFNMS, CBNMS, and MBNMS on November 20, 2008 (73 FR 70488). Section 304(b) of the NMSA provides the Governor with 45 days of continuous session of Congress (beginning on the day on which the final regulations were published) to review the terms of designation (or changes thereto). After this period the regulations would become final and take effect, except that any new or modified term of designation the Governor certified as unacceptable would not take effect in state waters of the sanctuary.

Governor's Objection to the Regulations of Introduced Species

NOAA's regulations would have, among other things, prohibited the introduction of introduced species into the sanctuaries with exceptions for striped bass caught and released during

fishing and current state-permitted mariculture activities in Tomales Bay (part of GFNMS). The prohibition against introducing species is intended to prevent injury to sanctuary resources and qualities, to protect the biodiversity of sanctuary ecosystems, and to preserve the native functional aspects of sanctuary ecosystems, which are put at risk by introduced species. Introduced species may become a new form of predator, competitor, disturber, parasite, or disease that can have devastating effects upon ecosystems. For example, introduced species impacts on native coastal marine species of the GFNMS, MBNMS, and CBNMS could include: replacement of a functionally similar native species through competition; reduction in abundance or elimination of an entire population of a native species, which can affect native species richness; inhibition of normal growth or increased mortality of the host and associated species; increased intra- or interspecies competition with native species; creation or alteration of original substrate and habitat; hybridization with native species; and direct or indirect toxicity (e.g., toxic diatoms). Changes in species interactions can lead to disrupted nutrient cycles and altered energy flows that ripple with unpredictable results through an entire ecosystem. Introduced species may also pose threats to endangered species and native species diversity.

On December 23, 2008, the Governor of California sent a letter to the Secretary of Commerce conditionally objecting to the revised terms of designation that would have allowed NOAA to issue regulations prohibiting the introduction of introduced species in the state waters of the GFNMS and MBNMS.¹ The Governor conditioned his objection to the revised terms of designation on NOAA's willingness and ability to modify these regulations to exempt all state-permitted aquaculture activities in MBNMS and GFNMS and research involving the introduction of introduced species into MBNMS.

After receiving the letter from the Governor, NOAA worked with the California Resources Agency and the California Department of Fish and Game to find a mutually agreeable solution to the Governor's concerns. In a letter dated March 2, 2009, the Acting Secretary of Commerce, Otto J. Wolff, replied to the Governor by: (1) Offering to immediately propose exemptions for introduced species cultivated in state-

¹ The final regulations for CBNMS also included a prohibition on the introduction of introduced species. That prohibition, however, is not subject to gubernatorial objection since CBNMS does not include state waters.

permitted aquaculture activities within MBNMS and GFNMS; and (2) asking the Governor to withdraw his objection to prohibiting the release of introduced species during research activities in the MBNMS. The state's existing review process for aquaculture projects provides NOAA with some level of assurance that NOAA has an opportunity to provide input and can minimize the potential for harm to sanctuary resources from an introduced species aquaculture project. The MBNMS permit process would allow NOAA to issue a permit for an introduced species research project if environmental and legal review found the project to be acceptable. The state would also retain its authority to issue permits for introduced species research projects, or reject such a proposal. By offering to propose regulatory exemptions for introduced species that are cultivated in MBNMS or GFNMS as part of state-permitted aquaculture activities, NOAA satisfied a condition of the governor's objection. As such, the objection does not apply to these terms of designations or the corresponding regulations in GFNMS. However, by the close of the review period that ended on March 9, 2009, the state had not accepted the compromise solution for the MBNMS with regard to introduced species that are released during research activities. Therefore, the Governor's December 23, 2008 letter serves, in effect, to object to the MBNMS terms of designation for introduction of introduced species in the state waters of the MBNMS.

Effective Date for GFNMS Regulations

The revised regulations for the GFNMS associated with the November 20, 2008 final rule became effective on March 9, 2009. NOAA will not enforce 15 CFR 922.82(a)(10), the prohibition on introducing introduced species, in state waters of the GFNMS until it has been amended in accordance with the Governor's requirement that it exempt state-permitted aquaculture. NOAA has agreed and committed to immediately initiate a process to modify the introduced species regulation to exempt state-permitted introduced species aquaculture in the GFNMS. As part of this agreement, NOAA has agreed that it will not enforce the prohibition on introducing introduced species in the state waters of GFNMS until a new rulemaking process for these regulations can take place. NOAA will promptly commence a separate regulatory action for public comment to determine the appropriateness of further regulation of introduced species in the state waters of the GFNMS. After consideration of all

comments received for that proposed action, NOAA will publish a new final rule to address the concerns raised in the Governor's December 23, 2008 letter. That regulation will become effective soon thereafter, in accordance with applicable federal law.

Effective Date for MBNMS Regulations

The revised regulations for the MBNMS associated with the November 20, 2008 final rule became effective on March 9, 2009 except for 15 CFR 922.132(a)(12), the prohibition on introducing introduced species, which will not take effect in state waters of the MBNMS. Because the Governor objected to the revised term of designation that would have provided specific authority to prohibit the introduction of introduced species in MBNMS, it cannot take effect in the state waters of the MBNMS. The regulation still applies and took effect in the federal waters of the MBNMS on March 9, 2009.

The terms of designation for the MBNMS will also reflect the Governor's objection to limit the application of that specific term of designation to federal waters. As such, paragraph 1 of section 1 of Article IV will read: "1. Introducing or otherwise releasing from within or into the Sanctuary an introduced species. [This provision does not apply in the area of the Sanctuary lying within the seaward boundary of California, because, pursuant to section 304(b) of the Act, the Governor of California filed an objection to this provision pursuant to a December 23, 2008 letter.]

Effective Date for CBNMS Regulations

The revised regulations for the CBNMS associated with the November 20, 2008 final rule became effective on March 9, 2009. There are no state waters in the CBNMS, and thus the terms of designation for the sanctuary were not subject to gubernatorial objection.

Dated: March 18, 2009.

William Corso,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2008-1026]

RIN 1625-AA00

Safety Zone; Saugus River, Lynn, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting the interim safety zone published on December 29, 2008, as a temporary final rule. This rule creates a safety zone for a portion of the Saugus River in Lynn, Massachusetts as requested by the Massachusetts Highway Department (MHD), to allow for vital repair work to commence on the Route 107/Fox Hill Bridge during the winter and spring months. This zone is necessary to protect mariners from the potential hazards associated with the work being conducted by the Commonwealth of Massachusetts in making critical repairs to the bridge while it is closed to transiting vessels and vehicular traffic.

DATES: Effective March 23, 2009, the interim rule amending 33 CFR Part 165 which was published at 73 FR 79363 on 29 December, 2008 is adopted without change as a temporary final rule.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-1026 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2008-1026 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays and United States Coast Guard Sector Boston, 427 Commercial St, Boston, MA 02109 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Chief Petty Officer Eldridge McFadden, Waterways Management at 617-223-3000. If you have questions on viewing the docket, call Renee V.