

CHANNEL ISLANDS NATIONAL MARINE SANCTUARY

The Council has been coordinating with Channel Islands National Marine Sanctuary (CINMS) in their development of proposed marine protected areas (marine reserves and marine conservation areas) within CINMS.

The National Marine Sanctuary Program (NMSP) submitted a letter and supporting documents at the June 2005 Council meeting (Agenda Item H.1.a, Attachment 1) which provided the Council the opportunity to draft fishing regulations for the potential establishment of marine protected areas in the federal waters of the CINMS pursuant to section 304(a)(5) of the National Marine Sanctuaries Act (NMSA). Although not the completed Draft Environmental Impact Statement (DEIS) for the proposed marine protected areas, the supporting materials provide the Council a description of the range of alternatives and preliminary analyses that have been conducted to date. One essential aspect of the analysis was not included, specifically the evaluation of the establishing fishing regulations that meet the CINMS goals and objectives under a combination of Magnuson-Stevens Fishery Conservation and Management Act (MSA) and state authorities as opposed to the NMSA process. The expectation in the May 25, 2005 letter was that National Oceanographic and Atmospheric Administration's (NOAA's) determination of whether to implement fishing regulations under the NMSA or under the combination of MSA and state authority would be available no later than July 18, 2005.

The Council reviewed the NMSP's May 25, 2005 materials and conveyed comments on the proposal in a letter dated July 1, 2005 (Agenda Item, H.1.a, Attachment 2). In this letter, the Council requested clarification on several aspects of the process including concerns about a change in the process schedule including the delivery of the full DEIS, the de-emphasis of state authority in achieving the NMSA goals with non-NMSA fishing regulations, and an incomplete description of the alternatives. The Council also requested reconsideration of the length of the review period and specified a deadline of November 23, 2005 if all of the required analyses were completed by July 18, 2005, and if not, requested the 120-day review period begin when all of the analyses were made available. Finally, the Council response letter informed the NMSP of Council action at the June 2005 meeting relative groundfish essential fish habitat (EFH). Under that action, the Council recommended the federal water areas of the CINMS in Alternative 2 in Agenda Item H.1.a, Attachment 1 as habitat areas of particular concern and identified most of these waters as "no-take" areas as a means of minimizing adverse habitat impacts (see Agenda Item F.4 for additional information and EFH regulatory recommendations).

In a letter dated July 19, 2005, Vice Admiral Lautenbacher responded to the Council's requests (Agenda Item H.1.a, Attachment 3) notifying the Council the need for additional time to complete the review of meeting CINMS goals through existing MSA and state authority. The letter states that the review is now anticipated in either September or October 2005. The letter grants an extension of the Council response deadline to November 23, 2005 and requests the Council proceed under the NMSA section 304(a)(5) process should the review conclude that proceeding under MSA and state authority is not viable. The letter also stated that the Council should anticipate a more thorough response from the NMSP on Council concerns of differing information and insufficient explanation of alternatives considered but rejected.

The NMSP sent a letter to the Council dated July 26, 2005 (Agenda Item H.1.a, Attachment 4) responding to the Council's specific comments and acknowledging the Council's recent actions relative to groundfish EFH protection measures. The NMSP reiterated the May 25, 2005 positions that "providing the [Council] with this opportunity (to draft regulations) does not presuppose that regulation will be issued under the NMSA".

The Council will hear a report from the CINMS staff and receive statements from its advisory bodies and the public. The Council is to consider draft fishing regulations to be implemented under the NMSA for public review. It is anticipated that NOAA's review of achieving the CINMS goals through MSA and state authority will be available prior to Council final action on this matter at the November 2005 Council meeting in San Diego, California.

Council Task:

- 1. Consider draft fishing regulations under to the National Marine Sanctuary Act for public review for the potential establishment of marine protected areas in federal waters of the Channel Island National Marine Sanctuary.**

Reference Materials:

1. Agenda Item H.1.a, Attachment 1: May 25, 2005 letter and supporting materials from Mr. Basta providing the Council the opportunity to prepare draft fishing regulations pursuant to section 304(a)(5) of the NMSA.
2. Agenda Item H.1.a, Attachment 2: July 1, 2005 letter from Dr. McIsaac to Mr. Basta conveying Council comments on the section 304(a)(5) of the NMSA and Council action relative to groundfish EFH relative to the CINMS.
3. Agenda Item H.1.a, Attachment 3: July 19, 2005 from Vice Admiral Lautenbacher regarding the time line for documentation of analytical results and the response period for Council final action.
4. Agenda Item H.1.a, Attachment 4: July 26, 2005 letter from Mr. Basta in response to June 2005 Council comments.
5. Agenda Item H.1.e, Public Comment.

Agenda Order:

- a. Agenda Item Overview
 - b. Statement of the CINMS Staff
 - c. Reports and Comments of Advisory Bodies
 - d. Public Comment
 - e. **Council Action:** Consider Proposed Draft of Fishing Regulations Under National Marine Sanctuary Act Authority for Public Review
- Mike Burner
Christopher Mobley/Sean Hastings

PFMC
08/24/05