

RANGE OF COUNCIL RESPONSES REGARDING PROPOSED FISHING REGULATIONS TO BE PROMULGATED UNDER THE NATIONAL MARINE SANCTUARIES ACT FOR THE FEDERAL WATERS PORTION OF THE CHANNEL ISLANDS NATIONAL MARINE SANCTUARY.

Option 1 - The Council proposes that no fishing regulations be promulgated under the authority of the National Marine Sanctuaries Act (NMSA).

Rationale

This response is in keeping with the Council's April 2005 response on proposed changes to the Channel Islands National Marine Sanctuary (CINMS) Designation Document, whereby the Council recommended no changes to the CINMS Designation Document. This recommendation was based on the premise that the goals and objectives of the CINMS can be met through the creation of marine protected areas (MPAs) under the existing authorities of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the State of California Fish and Game Code of Regulations. An analysis of the feasibility of creating MPAs solely under State and MSA authority may be forthcoming from the National Oceanic and Atmospheric Administration, but was not available at the time these options were developed.

Proposed Regulations

None. To achieve the goals and objectives stated by the CINMS, proposed regulations would be put forward by the Council under Title III of the MSA for simultaneous implementation with corresponding landing laws put forward by the State of California (see agenda item H.7).

Option 2 - The Council proposes regulations be promulgated under the National Marine Sanctuaries Act implementing fishery closures in the CINMS the same as adopted by the Council in June 2005 as the preferred alternative to protect groundfish essential fish habitat (EFH).

Rationale

This option proposes regulations consistent with the Council action taken in June under the MSA, but proposes them as per the process described in Section 304(a)(5) of the NMSA, to be promulgated under that Act. This proposal would necessitate a change in the CINMS Designation Document to allow for the regulation of fishing.

This option corresponds to Alternative 2 in the CINMS "Supporting Materials" document that was made available at the June Council meeting. All closed areas except for the western Anacapa Island marine conservation area are proposed as "no-take" marine reserve areas. The western Anacapa Island marine conservation area is proposed to be closed to except for specified gear types intended to allow for recreational fishing for pelagic fish species and lobster, as well as commercial fishing for lobster.

Proposed Regulations

The following draft proposed regulations were developed by Council staff. They are based on the preliminary draft regulations distributed at the September Council meeting (see Agenda Item H.7.a, Attachment 2) to implement Council decisions at the June Council meeting for the protection of groundfish EFH, and the intent of the type of fishing to be allowed in the Anacapa Island Marine Conservation Area as expressed by the CINMS.

2.1 No-Take Marine Reserve Closure. It is unlawful to fish¹ or possess fish within the following marine reserve areas (defined by the coordinates below in 2.4 Marine Protected Area Descriptions): Anacapa Island, Carrington Point, Footprint, Gull Island, Harris Point, Judith Rock, Painted Cove, Richardson Rock, Santa Barbara, Scorpion, Skunk Point, and South Point, except for possession as provided below under 2.3 Fish and Fishing Gear in Transit.

2.2 Marine Conservation Area Closure. It is unlawful to fish¹ or possess fish within the Anacapa Island Marine Conservation Area (defined by the coordinates below in 2.4 Marine Protected Area Descriptions), except for (1) fishing and possession of fish caught with (a) recreational fishing with hook and line gear as defined and limited in this regulation or recreational fishing gear for lobster as defined in this regulation and (b) commercial fishing with gear as defined in this regulation and (2) possession as provided below under 2.3 Fish and Fishing Gear in Transit.

2.2.a Recreational hook and line fishing gear definition. Recreational hook and line fishing gear is defined for the purpose of this regulation as the current definition in the State of California Fish and Game Code of Regulations for recreational hook and line fishing gear, absent any reference to the use of weights; such gear used in this area may not be augmented with any weights such that the total weight of the terminal gear is greater than 6 ounces, not counting the weight of any natural bait.

2.2.b Recreational lobster fishing gear definition. Recreational lobster fishing gear is defined for the purpose of this regulation as the current gear and methods allowable under the State of California Fish and Game Code of Regulations in the immediately adjacent open area.

¹ *To fish* is defined for the purpose of this regulation is defined as in the *Code of Federal Regulations* (50 CFR part 660 Section 600.10): *Fishing*, or *to fish* means any activity, other than scientific research conducted by a scientific research vessel, that involves: (1) The catching, taking, or harvesting of fish; (2) The attempted catching, taking, or harvesting of fish; (3) Any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or (4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1), (2), or (3) of this definition.

2.2.c Commercial fishing gear definition. Commercial fishing gear is defined for the purposes of this regulation as the current definition in the State of California Fish and Game Code of Regulations for allowable lobster gear and methods in the immediately adjacent open area. It is unlawful to retain fish other than lobster when using commercial fishing gear allowable under this regulation.

2.2.d Size and Bag Limits. It is unlawful to possess fish caught under this regulation in the Anacapa Island Marine Conservation Area different than the allowable size limit in place in the immediately adjacent open area, or in an amount greater than the daily retention limit in place in the immediately adjacent open area.

2.3 Fish and Fishing Gear in Transit. It is unlawful to possess or transport (1) fish taken legally in open waters and/or (2) fishing gear, through the no-take marine reserve areas described in 2.4 Marine Protected Area Descriptions except while in a vessel in active transit though the area in question with all fishing gear stowed and not in use. It is unlawful to possess or transport (1) fish taken legally in open waters with gear other than allowed under 2.2 above and/or (2) fishing gear not allowable under 2.2 above, through the marine conservation area described in 2.4 Marine Protected Area Descriptions except while in a vessel in active transit though the area in question with all fishing gear stowed and not in use.

2.3.a Stowed Gear Definition. For the purposes of this regulation, (1) stowed recreational hook and line fishing gear is defined as hook and line gear with all line reeled to the reel or rod tip and no fishing gear other than a swivel attached to the line, with the rod and reel placed on the vessel in a manner different than when actively fishing; (2) stowed recreational lobster fishing gear is defined as placed on or below a vessel surface and tied to such surface in a manner would not allow immediate deployment; and (3) stowed commercial fishing gear is defined as placed on or below a vessel surface and tied to such surface in a manner that would not allow immediate deployment.

2.4 Marine Protected Area Descriptions. Boundaries for areas designated as marine reserves or marine conservation areas defined by straight lines connecting all of the following latitude/longitude coordinates in the order stated:

Anacapa Is. Marine Conservation Area:

34°04.00' N. lat., 119°26.70' W. long.;
34°05.00' N. lat., 119°26.70' W. long.;
34°05.00' N. lat., 119°24.60' W. long.;
34°04.00' N. lat., 119°24.60' W. long.

Anacapa Island Marine Reserve

34°04.00' N. lat., 119°24.60' W. long.;
34°05.00' N. lat., 119°24.60' W. long.;
34°05.00' N. lat., 119°21.40' W. long.;
34°04.00' N. lat., 119°21.40' W. long.

Carrington Point Marine Reserve

34°01.30' N. lat., 120°05.20' W. long.;
34°04.00' N. lat., 120°05.20' W. long.;
34°04.00' N. lat., 120°01.00' W. long.;
34°00.50' N. lat., 120°01.00' W. long.

Footprint Marine Reserve

33°57.50' N. lat., 119°31.00' W. long.;
33°54.11' N. lat., 119°31.00' W. long.;
33°54.11' N. lat., 119°26.00' W. long.;
33°57.14' N. lat., 119°26.00' W. long.

Gull Island Marine Reserve

33°55.29' N. lat., 119°53.00' W. long.;
33°51.63' N. lat., 119°53.00' W. long.;
33°51.63' N. lat., 119°48.00' W. long.;
33°54.26' N. lat., 119°48.00' W. long.

Harris Point Marine Reserve

34°09.33' N. lat., 120°23.30' W. long.;
34°12.50' N. lat., 120°23.30' W. long.;
34°12.50' N. lat., 120°18.40' W. long.;
34°06.22' N. lat., 120°18.40' W. long.;
34°09.33' N. lat., 120°23.30' W. long.

Judith Rock Marine Reserve

34°01.80' N. lat., 120°26.60' W. long.;
33°58.50' N. lat., 120°26.60' W. long.;
33°58.50' N. lat., 120°25.30' W. long.;
34°01.50' N. lat., 120°25.30' W. long.

Painted Cove Marine Reserve

34°04.50' N. lat., 119°53.00' W. long.;
34°05.20' N. lat., 119°53.00' W. long.;
34°05.00' N. lat., 119°51.00' W. long.;
34°04.00' N. lat., 119°51.00' W. long.

Richardson Rock Marine Reserve

34°08.40' N. lat., 120°33.79' W. long.;
34°08.40' N. lat., 120°34.20' W. long.;
34°08.01' N. lat., 120°34.20' W. long.;
34°04.19' N. lat., 120°34.20' W. long.;
34°03.60' N. lat., 120°34.20' W. long.;
34°03.60' N. lat., 120°33.52' W. long.;
34°02.21' N. lat., 120°30.92' W. long.;
34°02.21' N. lat., 120°36.29' W. long.;
34°10.40' N. lat., 120°36.29' W. long.;
34°10.40' N. lat., 120°28.20' W. long.;
34°08.40' N. lat., 120°28.20' W. long.;
34°08.40' N. lat., 120°28.68' W. long.

Santa Barbara Marine Reserve

33°28.50' N. lat., 118°58.20' W. long.;
33°24.90' N. lat., 119°02.20' W. long.;
33°21.78' N. lat., 119°02.20' W. long.;
33°21.78' N. lat., 118°54.54' W. long.;
33°28.50' N. lat., 118°54.54' W. long.

Scorpion Marine Reserve

34°06.25' N. lat., 119°35.50' W. long.;
34°09.35' N. lat., 119°35.50' W. long.;
34°09.35' N. lat., 119°32.80' W. long.;
34°06.25' N. lat., 119°32.80' W. long.

Skunk Point Marine Reserve

33°59.00' N. lat., 119°58.80' W. long.;
33°59.00' N. lat., 119°58.02' W. long.;
33°57.10' N. lat., 119°58.00' W. long.;
33°57.10' N. lat., 119°58.20' W. long.

South Point Marine Reserve

33°50.48' N. lat., 120°06.50' W. long.;
33°51.29' N. lat., 120°10.00' W. long.;
33°50.40' N. lat., 120°10.00' W. long.;
33°50.40' N. lat., 120°06.50' W. long.

Option 3- The Council proposes regulations be promulgated under the National Marine Sanctuaries Act implementing areas presented as Alternative 3 in the CINMS “Supporting Materials” document.

Rationale

At the September meeting, the Council selected Option 3 to reflect areas presented as Alternative 3 in the CINMS “Supporting Materials” document that was made available at the June Council meeting. Option 3 is essentially the same as Option 2 except that the no-take marine reserve areas and the marine conservation area are somewhat larger and differently shaped. This proposal would necessitate a change in the CINMS Designation Document to allow for the regulation of fishing.

Proposed Regulations

The principal difference between Option 2 and Option 3 is the larger sizes of the marine reserve and marine conservation areas under Option 3. Therefore, the regulatory language in Option 2 applies to Option 3 with the exception of the coordinates defining the marine reserve and marine conservation areas.

MPA Definition

The coordinates for Option 3 are presented below in decimal degrees as submitted by the CINMS. These areas are bounded by the 3 nautical mile state boundary and the following points. Unlike Option 2, these coordinates do not include marine reserves and marine conservation areas in state waters and leave gaps where the existing state MPA boundaries are inside the state and federal 3nm border.

Anacapa Is. Marine Conservation Area.

34.06670 °N. lat., -119.44500 °W. long.
34.11722 °N. lat., -119.44500 °W. long.
34.11722 °N. lat., -119.41000 °W. long.
34.06670 °N. lat., -119.41000 °W. long.

Anacapa Island Marine Reserve.

34.06670 °N. lat., -119.41000 °W. long.
34.11722 °N. lat., -119.41000 °W. long.
34.11722 °N. lat., -119.35670 °W. long.
34.06670 °N. lat., -119.35670 °W. long.

Carrington Point Marine Reserve.

34.08211 °N. lat., -120.08667 °W. long.
34.08159 °N. lat., -120.01670 °W. long.
34.13710 °N. lat., -120.08667 °W. long.
34.13710 °N. lat., -120.01670 °W. long.

Footprint Marine Reserve.

33.95831 °N. lat., -119.51667 °W. long.
33.90189 °N. lat., -119.51667 °W. long.
33.90189 °N. lat., -119.43333 °W. long.
33.95240 °N. lat., -119.43333 °W. long.

Gull Island Marine Reserve.

33.92147 °N. lat., -119.88330 °W. long.
33.86043 °N. lat., -119.88330 °W. long.
33.86043 °N. lat., -119.80000 °W. long.
33.90439 °N. lat., -119.80000 °W. long.

Harris Point Marine Reserve.

34.15542 °N. lat., -120.38833 °W. long.
34.20833 °N. lat., -120.38833 °W. long.
34.20833 °N. lat., -120.30667 °W. long.
34.10374 °N. lat., -120.30670 °W. long.
34.15542 °N. lat., -120.38833 °W. long.

Judith Rock Marine Reserve.

33.97500 °N. lat., -120.44330 °W. long.
33.97500 °N. lat., -120.43730 °W. long.
33.97500 °N. lat., -120.42170 °W. long.
33.92579 °N. lat., -120.42170 °W. long.
33.92579 °N. lat., -120.44330 °W. long.

Richardson Rock Marine Reserve.

34.14000 °N. lat., -120.56313 °W. long.
34.14000 °N. lat., -120.57000 °W. long.
34.13342 °N. lat., -120.57000 °W. long.
34.06978 °N. lat., -120.57000 °W. long.
34.06000 °N. lat., -120.57000 °W. long.
34.06000 °N. lat., -120.55860 °W. long.
34.03685 °N. lat., -120.51538 °W. long.
34.03685 °N. lat., -120.60485 °W. long.
34.20369 °N. lat., -120.60485 °W. long.
34.20369 °N. lat., -120.47000 °W. long.
34.14000 °N. lat., -120.47000 °W. long.
34.14000 °N. lat., -120.47795 °W. long.

Santa Barbara Is. Marine Reserve.

33.47500 °N. lat., -118.97000 °W. long.
33.41500 °N. lat., -119.03670 °W. long.
33.36301 °N. lat., -119.03670 °W. long.
33.36301 °N. lat., -118.90897 °W. long.
33.47500 °N. lat., -118.90897 °W. long.

Scorpion Marine Reserve.

34.10417 °N. lat., -119.59170 °W. long.
34.15590 °N. lat., -119.59170 °W. long.
34.15590 °N. lat., -119.54670 °W. long.
34.10417 °N. lat., -119.54670 °W. long.

South Point Marine Reserve.

33.85482 °N. lat., -120.16670 °W. long.
33.84136 °N. lat., -120.10833 °W. long.
33.79465 °N. lat., -120.10833 °W. long.
33.79465 °N. lat., -120.16670 °W. long.