

FISHERY REGULATION IN MPAS WITHIN THE CHANNEL ISLANDS NATIONAL
MARINE SANCTUARY THROUGH MAGNUSON-STEVENSON ACT AND STATE
MANAGEMENT AUTHORITY

The Council has been coordinating with Channel Islands National Marine Sanctuary (CINMS) in their development of proposed marine protected areas (Marine Protected Areas [MPAs], which include both no-take marine reserves and marine conservation areas where some fishing is allowed and some prohibited) within CINMS. At the November 2005 Council meeting, the Council elected to not forward any proposed fishing regulations for the Channel Islands National Marine Sanctuary (CINMS) under the regulatory authority of the National Marine Sanctuaries Act. Instead, the Council directed staff to send letters to Vice Admiral Lautenbacher and Mr. Dan Basta, National Marine Sanctuaries Program Director (Agenda Item I.1.a, Attachment 1 and Attachment 2), formally notifying the National Oceanic and Atmospheric Administration (NOAA) of the Council's intent to develop regulations that achieve the stated goals and objectives of the CINMS under the aggregate of the various Council fishery management plan (FMP) authorities and complimentary state laws.

In a written response to Council dated December 30, 2005, Vice Admiral Lautenbacher informed the Council of the NOAA's intent to pursue the necessary CINMS designation document changes and fishery regulations under the National Marine Sanctuaries Act (NMSA) to achieve limited and no-take zones in the water column within the CINMS. Documents and analyses supporting these actions, including a draft Environmental Impact Statement and draft fishing regulations, are anticipated for public review in March 2006. The Vice Admiral concludes the letter by encouraging the Council to continue to pursue management measures under Magnuson-Stevens Fishery Conservation and Management Act (MSA) authority that meet the goals and objectives of the CINMS and states that if the Council is successful "the scope of the NMSA regulations could be reduced" (Agenda Item I.1.a, Attachment 3).

At the March 2006 Council meeting the Council is scheduled review relevant correspondence and events since the November 2005 Council meeting and provide guidance on a future course of action. Options for the Council include: 1) taking no further regulatory action while tracking the establishment of CINMS designation document changes and NMSA fishing regulations, and 2) continue to pursue limited and no-take closure of the water column under combination of state and MSA authority under the various Council fishery management plans. The National Marine Fisheries Service (NMFS), Southwest Regional Office (SWR), has considered the viability of various alternatives including matters of general MSA authority, protection of essential fish habitat, and compliance with National Standard 10 (Agenda Item I.1.c, NMFS Report).

The following important MPA matters have arisen since the November 2005 Council meeting, which are peripheral but pertinent to fishery regulatory issues within the CINMS:

- Mr. Ed Ebisui, Western Pacific Fishery Management Council member, is scheduled under Agenda Item I.1.b to provide a brief case history of the development of fishing regulations for the proposed Northwest Hawaiian Islands National Marine Sanctuary.
- Mr. Jim Balsiger, National Marine Fisheries Service, Acting Deputy Assistant Administrator, and Captain Craig McClean, National Ocean Service, Acting Deputy Assistant Administrator, sent a memo and draft flowchart to all eight Regional Fishery Management Council requesting input on a proposal to improve coordination concerning the promulgation of fishing regulations in National Marine Sanctuary (Agenda Item I.1.a, Attachment 4). Formal written comments on the proposal, such as the letter submitted by the Southwest Regional Office of the National Marine Fisheries Service (Agenda Item I.1.a, Attachment 5) have been solicited by NOAA by April 30, 2006.
- The four coastal Washington Indian Tribes presented a cosigned letter to Vice Admiral Lautenbacher at the September 2006 Council meeting regarding tribal support of the MSA fishery management process as well as tribal concerns regarding fishery authority in the Olympic Coast National Marine Sanctuary. Following the November Council meeting, in a letter dated December 7, 2005 (Agenda Item I.1.a, Attachment 6), Vice Admiral Lautenbacher responded with an explanation of NOAA's position on fishery regulation within California's National Marine Sanctuaries, and a request for tribal and state participation in the review process for the Olympic Coast National Marine Sanctuary management plan.
- Oregon Governor, Ted Kulongoski, proposed an Oregon Coast National Marine Sanctuary in a letter to members of the Oregon Congressional Delegation on December 13, 2005 (Agenda Item I.1.a, Attachment 7). As a starting point for discussion of the size and location of the proposed sanctuary, Governor Kulongoski has requested consideration of the Oregon Ocean Stewardship Area, established by the state in 1991 and extending from the Columbia River to the Oregon/California border and from the shore to the edge of the continental margin.

The Council is anticipated to discuss these relevant materials and provide guidance on a recommend course of action regarding fishing regulations for the water column in the federal water portion of the proposed marine protected areas of the CINMS. Additionally, the Council may discuss a draft response to NOAA on the proposed processes and draft flowchart regarding the promulgation of National Marine Sanctuary fishing regulations. This draft response could be prepared for review and final consideration at the April Council meeting in time for submission of formal written comments by the **April 30, 2006 deadline**. Depending upon Council input on these matters, the Council may also discuss plans for addressing MPA matters at the April 2006 Council meeting in Sacramento, California.

Council Action:

- 1. Provide guidance on a course of action regarding MSA regulations within the CINMS.**
- 2. Discuss a draft response to the NOAA proposal for improved coordination regarding fishing regulations in National Marine Sanctuary.**
- 3. Plan MPA matters for the April Council meeting.**

Reference Materials:

1. Agenda Item I.1.a, Attachment 1: November 23, 2005 letter from Dr. McIsaac to Mr. Basta conveying formal Council response regarding fishing regulations in federal waters of the Channel Islands National Marine Sanctuary.
2. Agenda Item I.1.a, Attachment 2: November 23, 2005 letter from Dr. McIsaac to Vice Admiral Lautenbacher regarding the viability of meeting National Marine Sanctuary goals and objectives under the authority of the MSA.
3. Agenda Item I.1.a, Attachment 3: December 30, 2005 letter from Vice Admiral Lautenbacher regarding November 2005 Council actions regarding fishing regulations in the CINMS.
4. Agenda Item I.1.a, Attachment 4: January 6, 2006 memorandum and draft flowchart from Mr. Jim Balsiger and Captain Craig McLean regarding fishing regulations for National Marine Sanctuaries.
5. Agenda Item I.1.a, Attachment 5: January 19, 2006 memorandum and from Mr. Rodney McInnis to Mr. Jim Balsiger and Captain Craig McLean regarding comments on the draft flowchart on fishing regulations for National Marine Sanctuaries.
6. Agenda Item I.1.a, Attachment 6: December 7, 2006 letter from Vice Admiral Lautenbacher to Ms. Jennifer Hagan, Northwest Indian Fisheries Commission, responding to tribal concerns regarding fishery management within National Marine Sanctuaries.
7. Agenda Item I.1.a, Attachment 7: December 13, 2005 letter from Oregon Governor Theodore R. Kulongoski to U.S. Senator Ron Wyden regarding a proposal for an Oregon Coast National Marine Sanctuary.
8. Agenda Item I.1.c, NMFS Report: Discussion Paper, Water Column Fishing Closures at CINMS Under the MSA and State Authorities.

Agenda Order:

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| a. Agenda Item Overview | Mike Burner |
| b. Northwest Hawaiian Islands Sanctuary Process | Ed Ebisui |
| c. NMFS Report | Mark Helvey |
| d. Reports and Comments of Advisory Bodies | |
| e. Public Comment | |
| f. Council Action: Consider Adopting Public Review Alternatives for Area Closures in the CINMS. | |

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