

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 632
Title 14, California Code of Regulations
Re: Channel Islands Marine Protected Areas

I. Date of Initial Statement of Reasons: May 25, 2007

II. Dates and Locations of Scheduled Hearings

- (a) Notice Hearing: Date: May 4, 2007
Location: San Diego, California
- (b) Discussion Hearing: Date: July 13, 2007
Location: Bridgeport, California
- (c) Discussion Hearing: Date: August 10, 2007
Location: Santa Barbara, California
- (d) Adoption Hearing Date: October 12, 2007
Location: Concord, California

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

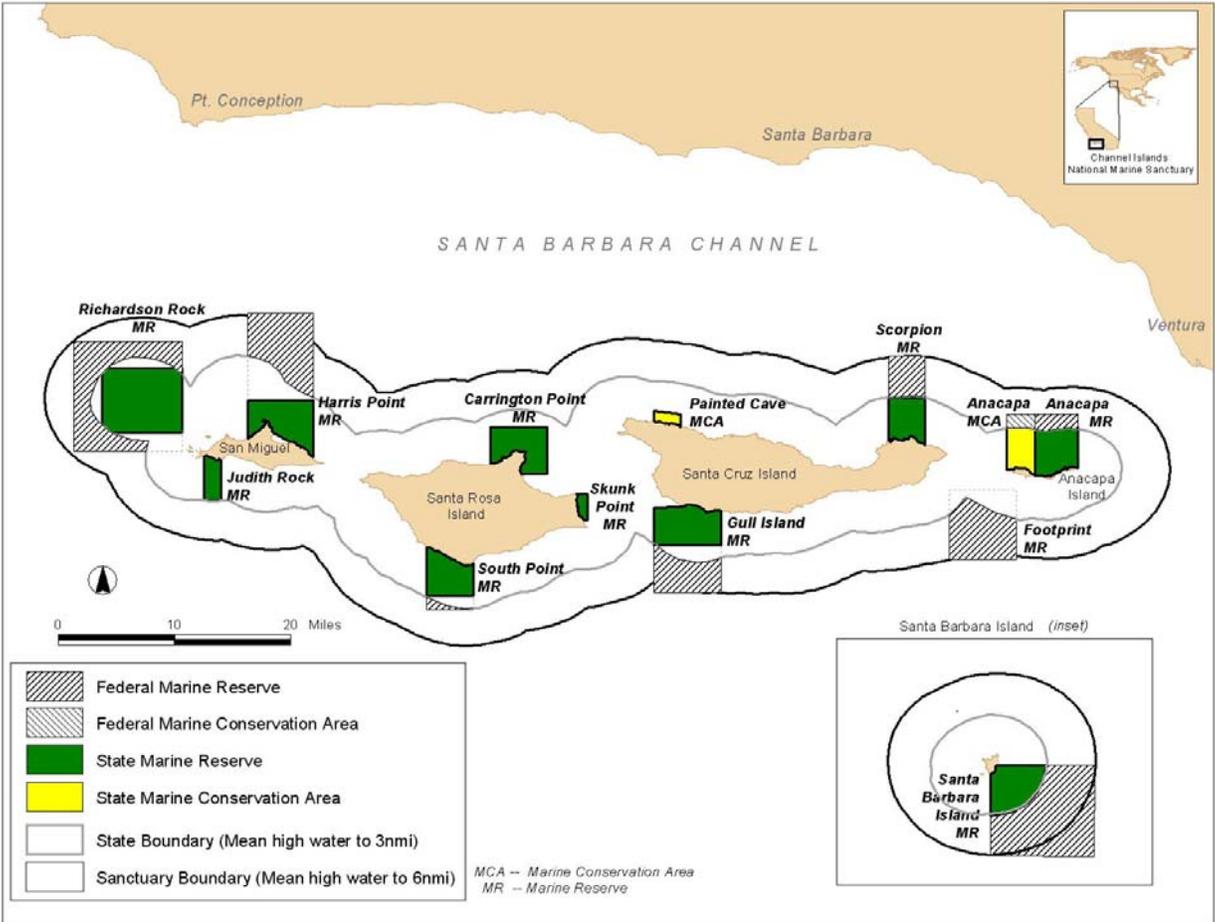
On October 23, 2002, the California Fish and Game Commission (Commission) adopted regulations to implement the first phase of a joint state/federal proposal for Marine Protected Areas (MPAs) in the National Oceanic and Atmospheric Association's (NOAAs) Channel Islands National Marine Sanctuary (Sanctuary). The proposal envisioned a state waters phase, to be followed by a federal phase extending the MPAs into Sanctuary waters farther than 3 nautical miles from shore (outside the State Lands Act 3 nautical mile offshore boundary). In order to facilitate enforcement the state waters phase used straight line offshore boundaries, rather than extending MPAs to the irregular 3 nautical mile state waters line. Additionally, one MPA at the "Footprint" area within the Anacapa Channel was left out of the initial state phase, as the bulk of its area was outside state waters (Figure 1).

The federal phase has now been completed, leaving gaps between the existing state MPAs and the inner edge of the federal MPAs at the state

water line and missing area in the “Footprint” MPA. The proposed regulation will adjust the offshore boundaries of all Channel Islands MPAs with a federal waters component, so that the boundaries match the federal MPA boundary at the state water line. The proposed regulation will add one MPA at the “Footprint” area to complete the originally proposed area. The proposed regulation will also correct offshore coordinates of MPAs not extending into federal waters so that they fall more precisely on the State Lands Act boundary.

NOAA, in preparing its regulations, reviewed existing latitude longitude coordinates for the state MPAs using updated data on the location of mean high tide. These updated data show that existing shoreline coordinates can be made more precise, so that the inshore boundaries of state MPAs fall on the official line of mean high tide used for nautical charting. Corrections are proposed for all inshore coordinates of the existing MPAs to make them more precise. This will also allow NOAA Charting to add the MPAs to NOAA nautical charts, making them easier to identify and find for the boating public.

Figure 1. Existing state MPAs, new federal MPAs, and the gaps to be filled by the proposed regulations.



- (b) Authority and Reference Sections from Fish and Game Code and Public Resources Code for Regulation:

Authority: Sections 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861, and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code.

Reference: Sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 2861, 5521, 6653, 8420(e), and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

None were identified.

- (e) Public Discussions of Proposed Regulations Prior to Notice of publication:

No public meetings are being held prior to the notice publication. The 45-day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change: None.

- (b) No Change Alternative:

The no change alternative would leave existing MPAs in state waters of the Channel Islands unchanged. This would leave a gap in protection between the existing boundaries inside state waters and the new federal boundaries at the state water line. The gaps would lead to enforcement difficulties and difficulties in understanding for the public. This would not fulfill the Commission's intent in adopting the first phase of this project in 2003.

- (c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action would have no negative impact on the environment; therefore, no mitigation measures are needed. A full discussion of the proposed regulation and alternatives is included in the Department of Fish and Game's Final Environmental Document for Marine Protected Areas in NOAA's Channel Islands National Marine Sanctuary, October 2002 (State Clearing House #2001121116).

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action was assessed during the original regulatory process, including potential impacts of this second phase. Almost all impacts foreseen were a result of the initial process or the federal process. The potential impacts from this minor change to fill gaps between existing state MPAs and federal MPAs offshore would be minimal and difficult to quantify. Additionally, predicted negative impacts from the first phase were not realized.

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Any additional costs to State agencies for enforcement, monitoring, and management of MPAs are difficult to estimate and depend on not only the impacts of the proposed regulation but also other regulations and processes. Current cooperative efforts with the Channel Islands National Marine Sanctuary provide funding for some existing costs and are expected to increase with the adoption of this regulation. Changes in

enforcement, monitoring, and management will increase costs to the Department of Fish and Game as compared to current efforts. These costs, however, will be minimal and likely supported by existing funding.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to Be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Informative Digest / Policy Statement Overview

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