

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by 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 and to implement, interpret or make specific 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, proposes to amend Section 632, Title 14, California Code of Regulations, relating to Channel Islands Federal MPA Boundaries.

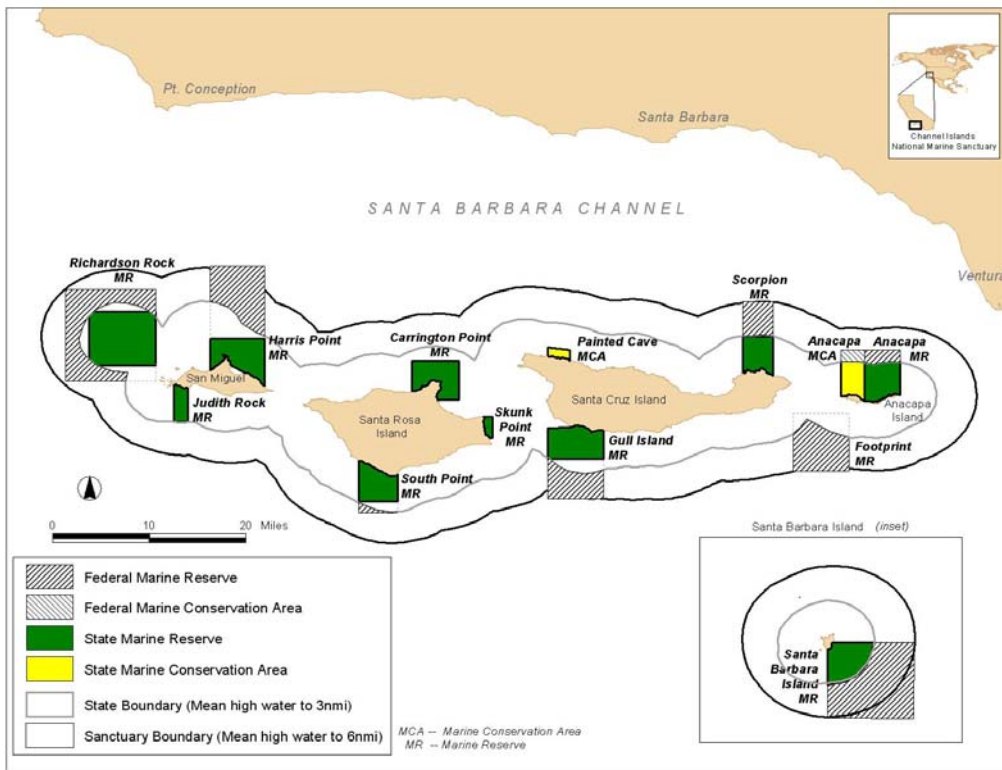
Informative Digest/Policy Statement Overview

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. 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.

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.



NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Bridgeport Memorial Hall, 75 North School Streets, Bridgeport, California on Friday, July 13, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the County Administration Building, Board of Supervisors Hearing Room, 105 East Anapamu Street, 4th Floor, Santa Barbara, California on Friday, August 10, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Crowne Plaza, Cedar Room, 45 John Glenn Drive, Concord, California on Friday, October 12, 2007, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before October 5, 2007, at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on October 9, 2007. All comments must be received no later than October 12, 2007, at the hearing in Concord, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John Carlson, Jr., Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct

requests for the above mentioned documents and inquiries concerning the regulatory process to Sheri Tiemann at the preceding address or phone number. **John Ugoretz, Marine Region, phone (805) 338-3905, has been designated to respond to questions on the substance of the proposed regulations.** Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Circumstances beyond the control of the Commission (e.g., timing of Federal regulation adoption, timing of resource data collection, timelines do not allow, etc.) or changes made to be responsive to public recommendation and comments during the regulatory process may preclude full compliance with the 15-day comment period, and the Commission will exercise its powers under Section 202 of the Fish and Game Code. Regulations adopted pursuant to this section are not subject to the time periods for adoption, amendment or repeal of regulations prescribed in Sections 11343.4, 11346.4 and 11346.8 of the Government Code. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (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

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: June 19, 2007

John Carlson, Jr.
Executive Director