

**EXECUTIVE SUMMARY**  
**ENVIRONMENTAL IMPACT STATEMENT (EIS)**  
**FOR THE**  
**CHANNEL ISLANDS NATIONAL MARINE SANCTUARY**  
**MANAGEMENT PLAN/REGULATIONS UPDATE**

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) regulations require an agency to prepare an Environmental Impact Statement (EIS) for federal actions that may have significant impacts on the quality of the human environment or that may be controversial in nature. This EIS evaluates the potential environmental impacts associated with proposed revisions to the regulations for the Channel Islands National Marine Sanctuary (CINMS or Sanctuary), offshore California. The National Oceanic and Atmospheric Administration (NOAA) is the lead agency for this proposed project.

This EIS has been prepared in accordance with the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. 4321 *et seq.*, and its implementing regulations, 40 CFR Parts 1500–1508. The EIS presents, to the decision maker and the public, information required to understand the potential environmental consequences of the proposed action and alternatives.

## **1.0 BACKGROUND**

Under the National Marine Sanctuaries Act (NMSA), as amended, 16 U.S.C. 1431 *et seq.*, the Secretary of Commerce (Secretary) is authorized to designate and manage areas of the marine environment as national marine sanctuaries. Such designation is based on attributes of special national significance, namely conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or aesthetic qualities. The primary objective of the NMSA is to protect marine resources.

In addition to the NMSA itself, resource protection for national marine sanctuaries is carried out by regulations under the National Marine Sanctuary Program (NMSP), which are codified at 15 CFR Part 922. The mission of the NMSP “is to identify, designate and manage areas of the marine environment of special national, and in some cases international, significance due to their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities” (15 CFR Part 922.2(a)).

Designated in 1980, the CINMS consists of an area of approximately 1243<sup>1</sup> square nautical miles (NM) off the southern coast of California. The Sanctuary boundary begins at the Mean High Water Line of and extends seaward to a distance of approximately six NM from the following islands and offshore rocks: San Miguel Island, Santa Cruz Island, Santa Rosa Island, Anacapa Island, Santa Barbara Island, Richardson Rock, and Castle Rock (collectively the Islands). Located offshore from Santa Barbara and Ventura Counties in southern California, the Sanctuary hosts a rich and diverse range of marine life and habitats, unique and productive oceanographic processes and ecosystems, and culturally significant resources.

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<sup>1</sup> Since designation the area of CINMS has been described as approximately 1252.5 square nautical miles. However, adjusting for technical corrections and using updated technologies, the CINMS area is now calculated as approximately 1243 square nautical miles. The legal description of CINMS is proposed to be updated to reflect this change (see Vol. II, DEIS, Section 2.1.1). This update would not constitute a change in the geographic area of the Sanctuary but rather an improvement in the estimate of its size.

## **2.0 PURPOSE AND NEED**

The Sanctuary's Designation Document and regulations were published in the Federal Register in 1980 (vol. 45, No. 193), and the original management plan was completed in 1983. No formal review or revision of the management plan or Sanctuary regulations has occurred since that time. Congress, however, has amended the NMSA numerous times, strengthening and clarifying the conservation principles for the program. The amended NMSA calls upon the NMSP to review the management plan of each sanctuary in five-year intervals and to revise the management plan and regulations as necessary to fulfill the purposes and policies of the NMSA (16 U.S.C. 1434(e)).

Sanctuaries are the subject of management plan review in order to:

- Evaluate substantive progress toward implementing the management plan and goals;
- Evaluate the effectiveness of site-specific management techniques and strategies;
- Determine revisions as may be necessary to the management plan and regulations;
- Prioritize management objectives; and
- Inform the general public and Sanctuary constituents about the Sanctuary and management strategies planned for future years.

For the CINMS, there are additional reasons for revising the original management plan. Since its designation as a national marine sanctuary, significant advances in science and technology, as well as innovations in marine resource management techniques, have rendered the original 1983 CINMS management plan and its corresponding EIS significantly outdated. Furthermore, new threats to Sanctuary resources have emerged that require new approaches in CINMS resource management. In addition, the original management plan did not contain performance indicators to help evaluate the effectiveness of either the CINMS or the NMSP. A new management plan is needed to reflect these changes and to guide actions that can achieve effective conservation and management of Sanctuary resources.

The CINMS management plan review began with public scoping in 1999. Following the public scoping process, sanctuary staff, public forum groups, the Channel Islands National Marine Sanctuary Advisory Council (SAC), and NMSP leadership contributed to the identification of nine priority resource management issue categories to be considered in the new management plan: water quality, public awareness and knowledge of the Sanctuary, research and monitoring, enforcement, boundary redefinition, human uses (recreational, commercial, military), marine reserves, marine mammal and seabird protection, administrative issues (performance standards, improved inter-agency coordination). Staff further refined these issue categories and focused the development of action plans and regulatory changes upon priority resource management issues. The draft management plan (DMP) addresses many resource management issues through ten action plans: Public Awareness and Understanding, Conservation Science, Boundary Evaluation, Marine Zoning, Water Quality, Emergency Response and Enforcement, Maritime Heritage Resources, Emerging Issues, Operations, and Evaluation. In addition, the proposed regulatory changes analyzed in this EIS also address several priority resource management issues and were developed to facilitate improved "on the ground" Sanctuary management of such issues. Furthermore, both the proposed changes presented in this DEIS, as well as the in the DMP, are needed to meet the goals and mission of the NMSP (15 C.F.R. Part 922.2(b)). The DMP and DEIS are packaged as a two volume set (the DMP is Volume I and the DEIS is Volume II).

This EIS has been prepared because revisions and updates to the outdated portions of the 1980 CINMS Designation Document are proposed. The Designation Document provides the terms of a sanctuary's designation, i.e.: the geographic area to be designated a national marine sanctuary, the characteristics that give the area particular value, and the types of activities that will be subject to sanctuary regulation to protect those characteristics. Proposed updates and other revisions to the CINMS terms of designation include replacing the term "seabed" with "submerged lands of the Sanctuary" to be consistent with the NMSA, improving accuracy of the boundary coordinates by using the North American Datum of 1983, updating the description of the area based on improved knowledge about the Sanctuary acquired since 1980, and modifications to the Sanctuary's scope of regulations to enable the Sanctuary to address current priority issues via Sanctuary regulations. To meet the requirements of the NMSA, which states in section 304(a)(4) that "the terms of designation may be modified only by the same procedures by which the original designation is made," the NMSP is preparing an EIS (one of the requirements of a designation), regardless of whether one would be required to do so under NEPA.

### **3.0 SCOPE OF THE EIS**

This EIS evaluates the environmental impacts associated with the proposed revised regulatory action and alternatives to the proposed action. The Proposed Action in this EIS consists of revising existing Sanctuary regulations and adopting several new regulations. An alternative to the Proposed Action consists of a regulatory package with slight variations in the proposed regulations. Regulatory changes contained within the preferred alternative (i.e. the Proposed Action) and alternative one are outlined below, described in detail in Section 2 of this EIS, and analyzed in terms of impacts in Section 4 of this EIS. In addition, a No-Action Alternative (i.e., no changes to regulations) is also analyzed in this EIS.

In addition, this EIS presents proposed changes to the Sanctuary's terms of designation (see Section 2.1.18 and Appendix D). The CINMS terms of designation were originally set in 1980 upon establishment of the Sanctuary, and per the NMSA describe the geographic area proposed to be included within the Sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics (16 U.S.C. 304(a)(4)). In order to implement many of the regulatory changes included in the Proposed Action, the NMSP would need to modify the Sanctuary's terms of designation describing types of activities subject to Sanctuary regulation. Additional proposed changes to the Designation Document include: an updated and more accurate description of the Sanctuary area and characteristics of the area that give it particular value, greater clarity on the applicability of Sanctuary emergency regulations, and an updated explanation of the effect of Sanctuary authority on preexisting leases, permits, licenses, and rights. While most of the proposed regulatory changes presented in this EIS do not meet the NEPA environmental impact statement test of constituting a major federal action significantly affecting the human environment, such as clarifications to the Sanctuary boundary description or wording clarifications to existing regulations, these proposed regulatory changes are nonetheless presented and assessed within this EIS because they relate to associated proposed changes to the Sanctuary's Designation Document. Under the NMSA (16 U.S.C. 1434(a)(4)), alterations to the terms of designation require the Sanctuary to go through the same procedures as site designation, including preparation of an EIS.

This EIS analyzes regulatory changes, not the action plans proposed in the DMP (Vol. 1). The DMP action plans describe non-regulatory management strategies and actions that Sanctuary staff would use to address various issues identified during the management plan review process. Nested within each action plan is a series of strategies, each of which contains detailed actions Sanctuary staff would take over the next five years in order to meet CINMS goals and objectives. These strategies comprise activities ranging from program planning, budgeting, administrative services, mapping, vessel and aircraft operations, to

basic and applied research and monitoring activities, education and outreach services, and advisory body activities. Section 6.03(c)(3)(d) of NOAA Administrative Order 216-6 (48 FR 14734) specifies that these and other administrative or routine program functions that have no potential for significant environmental impacts are eligible for a categorical exclusion. The NMSP has determined that the proposed actions within the DMP (Vol. I) individually and cumulatively will have no significant impact on the environment and, therefore, qualify for a categorical exclusion from NEPA's requirement for conducting an environmental assessment or preparing an EIS. Thus, the DMP's planned activities are not included or analyzed within this DEIS.

During 1999 public scoping meetings members of the public frequently raised issues relating to Sanctuary boundary expansion and marine reserves; however, an assessment of these issues is beyond the scope of this EIS. The DMP (Vol. I) includes a Boundary Evaluation Action Plan and a Marine Zoning Action Plan describing the Sanctuary's separate and future planned environmental review processes to address these matters. The former outlines future steps of a NOAA National Centers for Coastal Ocean Science (NCCOS) biogeographic study, the results of which will be included in a supplemental environmental review process designed to yield a future decision on whether to modify the Sanctuary's outer boundary. The supplemental environmental review process will be NEPA-compliant and will result in a supplemental EIS (SEIS) and supplemental management plan. The proposed regulations addressed in this EIS would only apply to the existing CINMS boundaries, while the applicability of Sanctuary regulations to various boundary alternatives will be evaluated in the SEIS. Similarly, the Marine Zoning Action Plan explains that the Sanctuary initiated a separate ongoing NEPA process in 2003 to consider establishing a network of marine reserves and/or marine conservation areas within the Sanctuary to complement those implemented by the State of California in 2003. This separate ongoing NEPA process will be concluded subsequent to this management plan revision. As such the consideration of Sanctuary boundary expansions and marine reserve zoning is outside the scope of this EIS.

#### **4.0 DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES**

The Proposed Action consists of adopting revisions to the existing regulations plus adoption of several proposed new regulations. An alternative to the Proposed Action consists of a regulatory package with slight variations to the proposed regulations and one additional proposed new regulation. The No-Action Alternative would consist of leaving the current regulations unchanged.

Revisions of existing Sanctuary regulations included in the Proposed Action would:

- clarify that Sanctuary boundaries encompass the submerged lands;
- correct some inaccuracies and ambiguities in the coordinates and description of the Sanctuary's outer and shoreline boundaries;
- remove outdated and unnecessary oil spill contingency equipment requirements;
- clarify that discharges allowed from marine sanitation devices apply only to Type I and Type II marine sanitation devices;
- provide an exemption for discharges by vessels of the Armed Forces allowed under section 312(n) of the Federal Water Pollution Control Act;
- specify that the existing exception for discharging or depositing fish, fish parts, or chumming materials (bait) applies only to such discharges or deposits during the conduct of lawful fishing activity within the Sanctuary;
- remove an exception for discharging or depositing meals on board vessels;

- prohibit discharges or deposits of any material or other matter from beyond the boundary of the Sanctuary that subsequently enter the Sanctuary and injure a Sanctuary resource or quality;
- extend from 2 NM to the outer 6 NM Sanctuary boundary the existing prohibition on alteration of the submerged lands of the Sanctuary;
- prohibit vessels of 300 gross registered tons or more (excluding fishing and/or kelp harvesting vessels) from approaching within 1 NM of the Islands;
- revise and strengthen the existing protection of cultural resources to prohibit moving, possessing, injuring, or attempting to move, remove, injure or possess any Sanctuary historical resource;
- clarify, update and refine the regulation of Department of Defense activities occurring within the Sanctuary to, among other things, provide more consistency with the NMSA as currently written; and
- conform wording, where appropriate, to wording used for more recently designated sanctuaries.

New regulations included in the Proposed Action would prohibit:

- exploring for, developing, or producing minerals within the Sanctuary, except producing by-products incidental to authorized hydrocarbon production;
- abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary;
- taking any marine mammal, sea turtle, or seabird within or above the Sanctuary, except as expressly authorized by the Marine Mammal Protection Act, as amended, (MMPA), 16 U.S.C. 1361 et seq., Endangered Species Act, as amended, (ESA), 16 U.S.C. 1531 et seq., Migratory Bird Treaty Act, as amended, (MBTA), 16 U.S.C. 703 et seq., or any regulation, as amended, promulgated under these acts;
- possessing within the Sanctuary (regardless of where taken from, moved, or removed from) any marine mammal, sea turtle, or seabird, except as expressly authorized by the MMPA, ESA, MBTA, or any regulation, as amended, promulgated under the MMPA, ESA, or MBTA;
- marking, defacing, damaging, moving, removing, or tampering with any sign, notice or placard, whether temporary or permanent, or any monument, stake, post, or other boundary marker related to the Sanctuary;
- introducing or otherwise releasing an introduced species from within or into the Sanctuary; and
- operating a motorized personal watercraft within waters of the Channel Islands National Park, established by 16 U.S.C. 410(ff).

In addition, the Proposed Action includes revised and clarified Sanctuary permit regulations that would:

- add specificity to and slightly expand the types of activities for which the Director of the NMSP may issue permits;
- specify which otherwise prohibited activities would not be allowed under any Sanctuary permit;
- revise and clarify permit issuance criteria;
- further refine current requirements and procedures from general National Marine Sanctuary Program regulations (15 CFR 922.48(a) and (c));
- specify information about permit duration, timelines and procedures for permit processing, permit review, and procedures and criteria for permit renewal;
- expressly require that in addition to any other terms and conditions the Director deems appropriate, Sanctuary permits must require that the permittee agrees to hold the United States harmless against any claims arising out of the permitted activities; and

- expressly provide that a permittee may be required to purchase and maintain general liability insurance or other acceptable security against potential claims for destruction, loss of, or injury to Sanctuary resources arising out of the permitted activities.

Alternative One includes the proposed suite of new and revised regulations in the Proposed Action described above, along with more stringent regulatory language for the prohibitions on discharging or depositing material or other matter from within or into the Sanctuary, and operation of vessels within one NM of Island shores. The more stringent language would:

- specify that the exception for discharges or deposits generated by operable Type I or II marine sanitation devices does not apply to such discharges or deposits from vessels of 300 gross registered tons or more; and
- prohibit vessels of 150 gross registered tons or more (excluding fishing and kelp harvesting vessels) from operating within 1 NM of the Islands.

The additional proposed regulation found exclusively in Alternative One prohibits lightering (defined in Program-wide regulations as at-sea transfer of petroleum-based products, materials, or other matter from vessel to vessel, 15 CFR Part 922.3) within the Sanctuary.

## **5.0 SUMMARY OF THE ANTICIPATED ENVIRONMENTAL IMPACTS**

Impacts to the physical and biological environment, cultural/historical resources, and human uses of the CINMS are defined and evaluated in Section 4 of this DEIS. No significant adverse impacts to any of these categories would occur as a result of implementing the Proposed Action. No cumulative impacts and less than adverse socioeconomic impacts would occur as well. Implementing the Proposed Action would have significant long-term beneficial effects on the physical and biological environments, on historical resources, and would benefit many of the resource-dependent human uses of the Sanctuary, such as fishing, recreation, tourism, research, and education. Table ES-1 provides a summary of impacts under the Proposed Action.

**Table ES-1 Summary of Impacts Under the Proposed Action (PAGE 1 OF 3)**

<p style="text-align: center;"><u>Legend</u></p> <ul style="list-style-type: none"> <li>- No impact</li> <li>&lt; Less than significant adverse impact</li> <li>&gt; Significant adverse impact</li> <li>+ Beneficial impact</li> </ul> <p><u>Note: Proposed regulatory changes are summarized</u></p>	Physical Environment	Biological Environment	Cultural/Historical Resources	Human Use												
				Oil & Gas	Tele-communications	Minerals Mining	Vessels & Harbors	Commercial Fishing	Recreation & Tourism (consumptive and non-consumptive)	Marine Salvage Businesses	Motorized Personal Watercraft	Aviation	Research & Education	Department of Defense		
Prohibition 1 (modification): Exploring for, Developing, or Producing Hydrocarbons																
Remove outdated and unnecessary oil spill contingency equipment requirements for offshore oil industry operations at leased areas partially within the Sanctuary	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Prohibition 2 (new): Exploring for, Developing, or Producing Minerals	+	+	+	-	-	<	-	+	+	-	-	-	+	-	-	-
Prohibition 3 (modifications): Discharge or Deposit																
Specify that the existing exception for discharging or depositing fish, fish parts, or chumming materials (bait) applies only to lawful fishing activity within the Sanctuary	-	+	-	-	-	-	-	-	<	-	-	-	<	-	-	-
Remove an exception for discharging or depositing meals on board vessels	-	+	-	-	-	-	<	<	<	<	-	-	<	-	-	-
Clarify that discharges allowed from marine sanitation devices apply only to Type I and Type II marine sanitation devices	+	+	-	-	-	-	<	<	<	<	-	-	<	-	-	-
Prohibit discharges and deposits of any material or other matter from beyond the boundary of the Sanctuary that subsequently enters the Sanctuary and injures a Sanctuary resource or quality	+	+	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Prohibition 4 (modification): Altering the Seabed																

Legend	Physical Environment	Biological Environment	Cultural/Historical Resources	Human Use										
				Oil & Gas	Tele-communications	Minerals Mining	Vessels & Harbors	Commercial Fishing	Recreation & Tourism (consumptive and non-consumptive)	Marine Salvage Businesses	Motorized Personal Watercraft	Aviation	Research & Education	Department of Defense
<ul style="list-style-type: none"> <li>- No impact</li> <li>&lt; Less than significant adverse impact</li> <li>&gt; Significant adverse impact</li> <li>+ Beneficial impact</li> </ul> <p><u>Note: Proposed regulatory changes are summarized</u></p>														
Extend from 2 NM to 6 NM from Islands the existing prohibition on alteration of the submerged lands of the Sanctuary	+	+	+	-	<	<	-	+	+	-	-	-	+	-
Prohibition 5 (new): Abandoning any structure, material or other matter on or in the submerged lands of the Sanctuary	+	+	+	-	-	-	<	+	+	+	-	-	+	-
Prohibition 6 (modification): Nearshore Operation of Vessels														
Prohibit vessels of 300 gross registered tons or more (excluding fishing and kelp harvesting vessels) from approaching within 1 NM of the Islands	+	+	+	-	-	-	-	+	<	-	-	-	<	-
Prohibition 7 (modification): Disturbing a Seabird or Marine Mammal by Aircraft Overflight – minor wording changes	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Prohibition 8 (modification): Moving, Removing, or Injuring a Historical Resource														
Revise and strengthen to prohibit “moving, possessing, injuring or attempting to move, remove, or injure any Sanctuary historical resource”	-	-	+	-	-	-	-	-	+	-	-	-	+	-
Prohibition 9 (new): Taking a Marine Mammal, Sea Turtle, or Seabird except as authorized under the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act	-	+	-	-	-	-	-	-	+	-	-	-	+	-
Prohibition 10 (new): Possessing Marine Mammals, Sea Turtles, or Seabirds except as authorized under	-	+	-	-	-	-	-	-	+	-	-	-	+	-



Legend	Physical Environment	Biological Environment	Cultural/Historical Resources	Human Use										
				Oil & Gas	Tele-communications	Minerals Mining	Vessels & Harbors	Commercial Fishing	Recreation & Tourism (consumptive and non-consumptive)	Marine Salvage Businesses	Motorized Personal Watercraft	Aviation	Research & Education	Department of Defense
<ul style="list-style-type: none"> <li>- No impact</li> <li>&lt; Less than significant adverse impact</li> <li>&gt; Significant adverse impact</li> <li>+ Beneficial impact</li> </ul> <p><u>Note: Proposed regulatory changes are summarized</u></p>														
the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act														
Prohibition 11 (new): Protection of Sanctuary Signs and Markers	+	+	+	-	-	-	-	-	-	-	-	-	-	-
Prohibition 12 (new): Releasing an Introduced Species within or into the Sanctuary	+	+	+	-	-	-	-	+	+	-	-	-	+	-
Prohibition 13 (new): Operation of Motorized Personal Watercraft within Channel Islands National Park	+	+	-	-	-	-	-	-	-	-	-	-	-	-
Sanctuary Boundary Description and Coordinates Clarifications (modifications)	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Exemptions and Requirements for Department of Defense Activities (modifications)	<	<	<	-	-	-	-	<	<	-	-	-	<	-
Permit Procedures and Issuance Criteria (modifications)	-	-	-	-	-	-	-	-	-	-	-	-	-	-

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