
2 DESCRIPTION OF PROPOSED ACTION AND ALTERNATIVES

2.0 DESCRIPTION OF THE PROPOSED ACTION AND ALTERNATIVES

Introduction

This section describes various proposed regulatory changes under consideration as part of the CINMS Management Plan Review. In evaluating alternatives for analysis in the EIS, NOAA considered proposed regulatory changes appropriate for and consistent with achieving increased protection of the ecosystem, improving scientific knowledge of the area, and promoting public understanding of the value of the CINMS resources and qualities. This chapter includes a description of the screening criteria used to develop alternatives considered for the EIS evaluation process, as well as descriptions of the Proposed Action, Alternative 1, No-Action Alternative, and alternatives considered but dismissed from further evaluation.

Alternatives considered in this EIS include:

- Proposed Action: an alternative that contains updates or other changes (including additions) to the regulations that further the CINMS management;
- Alternative 1: an alternative that contains slightly more stringent regulatory language than the Proposed Action, and one new regulation on lightering; and
- No-Action Alternative: an alternative that includes the status quo regulatory scenario, along with a discussion of possible means by which the Sanctuary may augment its planned non-regulatory actions in lieu of the proposed regulatory changes.

It should be noted that the strategies and actions described in Volume I, *Draft Management Plan*, are non-regulatory in nature and not analyzed in this EIS. The DMP's Action Plans 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 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 individually and cumulatively have no potential for 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.

With the proposed regulatory changes, Sanctuary regulations would continue to prohibit a relatively narrow range of activities, set forth procedures and criteria for national marine sanctuary permits to conduct otherwise prohibited activities and set forth procedures for administrative appeal, and establish the Department of Defense activities that would be exempt from the regulations. More specifically, the choice of either the Proposed Action or Alternative 1 would amend the CINMS-specific regulations contained in the NMSA (15 CFR Part 922 Subpart G). A number of the regulatory amendments included in these two alternatives may not be implemented without broadening the Sanctuary's scope of authority, the portion of the Sanctuary's Designation Document (see Vol. II, Appendix D) that describes what the Sanctuary has the authority to regulate. Thus, this section also describes proposed changes to the CINMS Designation Document necessary for implementing either the Proposed Action or Alternative 1.

Screening Criteria

As part of the planning process for developing reasonable alternatives for revising the CINMS regulations, several screening criteria were considered. The criteria for reasonable alternatives included the following:

- Alternatives must satisfy the overarching goals of the NMSA, in essence, meaning they must address resource management issues, generate beneficial environmental effects, and address uses or other activities that have a negative effect (including risk) on CINMS resources.
- Alternatives should meet the goals and objectives of the designation of the CINMS.
- Alternatives should allow for the incorporation and consideration of recent and/or best available data and scientific knowledge.
- Alternatives should maximize environmental benefits while avoiding unnecessary negative socioeconomic impacts.
- Alternatives should remove obsolete requirements and increase the clarity of existing Sanctuary regulations.
- All alternatives should be feasible for the Sanctuary.
- Alternatives should, where appropriate, provide for increased consistency with other national marine sanctuaries' regulations.

This EIS has been prepared in accordance with NEPA and the CEQ implementing regulations. The EIS presents, to the decision maker and the public, information required to understand the potential environmental consequences (discussed in Vol. II, Section 4) of the Proposed Action and other alternatives.

Summary Table 2.1-1, located at the end of this chapter, compares regulatory wording changes provided in the Proposed Action and Alternative 1 with wording of the current regulations (status quo). In addition, the Proposed Action's exact regulatory language is contained in the Proposed Rule (see Vol. II, Appendix D). The following discussion provides a qualitative description and overview of the changes proposed under each alternative.

2.1 PROPOSED ACTION

The following text describes the Proposed Action, which includes the suite of regulatory changes designed to satisfy the above criteria.

2.1.1 CINMS Boundary Description Clarification

Clarifications are proposed for the description of the CINMS boundary (located at 15 CFR 922.70) to provide a more accurate and clear explanation of the existing Sanctuary boundary. One clarification would specify that the submerged lands (i.e., the lands underlying the waters of the Sanctuary) are part of the CINMS boundary. The NMSP has consistently treated submerged lands as part of national marine sanctuaries, and this is reflected in amendments to the NMSA passed in 1984 (16 U.S.C. 1432(3)).

The Sanctuary's outer boundary coordinates and description of the shoreline boundary demarcation are also proposed for clarification and technical corrections. Specifically, the boundary description is proposed to be amended to clarify that the shoreline boundary is the Mean High Water Line (MHWL) of Island shores. In addition, the list of latitude/longitude coordinates for the outer boundary at approximately six NM from Island shores is proposed to be updated with more accurate information, using the North American Datum of 1983.

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. This update would not constitute a change in the geographic area of the sanctuary but rather an improvement in the estimate of its size.

The proposed revised boundary description is presented below, showing added text (underlined) and deleted text (strike-through):

The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of ~~the water off the coast of California of approximately 1243-1252.5~~ approximately 1243 square nautical miles (NM) of coastal and ocean waters, and the submerged lands there under, off the southern coast of California. The Sanctuary boundary begins at the Mean High Water line and extends seaward to a distance of approximately six NM ~~adjacent to~~ 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) ~~extending seaward to a distance of six NM.~~ The seaward boundary coordinates are listed in the Appendix A to this subpart.

2.1.2 Prohibition 1 (Oil and Gas)

One substantive change would be made to the existing (1982) oil and gas regulation in order to remove outdated cleanup requirements. The oil spill contingency equipment technology required in the 1982 regulation would be eliminated, since this technology has become obsolete. The terms of the current lease agreements between MMS and the lessees prescribe a mandatory oil spill contingency plan for both exploration and development that is more stringent than the Sanctuary's previous (1982) requirements. The revised regulation would continue to prohibit the exploration for, development of, or production of hydrocarbons within the Sanctuary, except pursuant to leases executed prior to March 30, 1981, and except for the laying of pipeline pursuant to exploring for, developing, or producing hydrocarbons.

The proposed revised oil and gas activity prohibition is presented below, showing added text (underlined) and deleted text (strike-through):

Exploring for, developing, ~~and or~~ or producing hydrocarbons within the Sanctuary, except pursuant to leases executed prior to March 30, 1981, and except the laying of pipeline pursuant to exploring for, developing, or producing hydrocarbons, ~~if the following oil spill contingency equipment is available at the site of such operations:~~

- (i) ~~1500 feet of open ocean containment boom and a boat capable of deploying the boom;~~
- (ii) ~~One oil skimming device capable of open ocean use; and~~
- (iii) ~~Fifteen bales of oil sorbent material, and subject to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations.~~

Additional exceptions to this prohibition are proposed to be removed as follows, with deleted text in strike-through:

- ~~Except as may be necessary for the national defense~~
- ~~Except as may be necessary to respond to an emergency threatening life, property, or the environment~~
- ~~Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72~~

The above exceptions are not specific to the current regulation, but rather are "boilerplate" generic exceptions to the current prohibitions. The proposed revised regulations fine-tune the exceptions, as has been done in the regulations for more recently designated sanctuaries, such that only if an exception is possibly applicable is it referenced for a particular prohibition. Accordingly, removal of the above exceptions is proposed because the limited exception for hydrocarbon exploration, development, or production is already provided within the regulation itself, because exploring for, developing, and producing hydrocarbons is not envisioned as a necessary activity to respond to an emergency threatening life, property, or the environment, and because such an activity could not meet the permit criteria requirements under 15 CFR 922.48 and 922.72. Department of Defense activities are addressed elsewhere in the regulations. Further, no such exceptions have ever been sought at the CINMS.

2.1.3 Prohibition 2 (Mineral Activities)

Prohibition 2 would be an addition to the existing regulations and would prohibit exploring for, developing, or producing minerals within the Sanctuary, except producing by-products incidental to authorized hydrocarbon production (see Prohibition 1 above). "Mineral" is defined in the program-wide regulations as clay, stone, sand, gravel, metalliferous ore, non-metalliferous ore, or any other solid material or other matter of commercial value.

Mineral extraction activities could involve scraping the Sanctuary's seabed surface and/or excavation of pits and tunnels into the seabed. This prohibition would protect Sanctuary resources and qualities from potentially damaging effects of offshore mining activities, including but not limited to: destruction and direct smothering of the benthic biota; alteration of the seabed surface profile; potential harm to fisheries; introduction of pollutants that could cause interference with the filtering, feeding, or respiratory functions of marine organisms; loss of food sources and habitat for some species; possible lowered photosynthesis and oxygen levels; and degraded appearance of the water itself.

A prohibition on mineral activities within the Sanctuary would be consistent with the prohibition on alteration on or in the submerged lands discussed below (see 2.1.5).

There are other federal laws that deal generally with resources of the submerged lands and outer continental shelf and their development (e.g., Deep Seabed Hard Mineral Resources Act, 30 U.S.C. 1441 *et seq.*; Submerged Lands Act, 43 U.S.C. 1301 *et seq.*; Outer Continental Shelf Lands Act, 43 U.S.C. 1331 *et seq.*). These laws require consideration of environmental impacts prior to issuance of resource development permits, and in some cases require monitoring of environmental impacts associated with any resource development activities. However, the Sanctuary's proposed new regulation to prohibit exploring for, developing or producing minerals within the Sanctuary differs from other federal regulations pertaining to resources on or in submerged lands and the continental shelf in that its purpose is to protect such resources within the Channel Islands National Marine Sanctuary.

The proposed new mineral activity prohibition is presented below:

Exploring for, developing, or producing minerals within the Sanctuary, except producing by-products incidental to hydrocarbon production allowed.

2.1.4 Prohibition 3 (Discharging or Depositing)

Prohibition 3 would amend the existing (1982) regulation that prohibits discharging or depositing any material or other matter in the Sanctuary, with certain exceptions. This prohibition is necessary to protect Sanctuary resources and qualities from the effects of pollutants and other materials. The proposed changes to the existing regulation primarily serve the purposes of achieving increased clarity, providing more consistency with other more recently designated national marine sanctuaries' regulatory language, and helping to protect Sanctuary resources from negative influences originating outside CINMS boundaries.

The proposed revised regulation would prohibit discharging or depositing from within or into the Sanctuary any material or other matter, with a revised list of exceptions. The revised prohibition and revised exceptions would be as follows, with deleted text shown in strike-through and added text shown in underline:

Discharging or depositing from within or into the Sanctuary any material or other matter except:

- Fish, ~~or fish parts, and~~ or chumming materials (bait) used in or resulting from lawful fishing activity within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;
- Biodegradable effluents incidental to vessel ~~use of the Sanctuary~~ and generated by an operable Type I or II marine sanitation devices (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 et seq. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;
- Biodegradable matter from a vessel resulting from deck wash down, vessel engine cooling water, or graywater as defined by section 312 of the FWPCA;
- ~~Meals on board vessels;~~
- Vessel engine or generator exhaust;
- Effluents routinely and necessarily discharged or deposited incidental to hydrocarbon exploration, development, or production ~~and exploitation activities~~ allowed under Prohibition 1 (see above);
- Discharges allowed under section 312(n) of the FWPCA.

These proposed revisions contain language improvements and clarifications including: that the regulation applies to discharges and deposits “from within or into the Sanctuary”; that the exception for fish, fish parts, or chumming materials (bait) applies during the conduct of lawful fishing activity within the Sanctuary; and that the exception for biodegradable effluent discharges from marine sanitation devices applies only to operable Type I or II marine sanitation devices approved by the United States Coast Guard

in accordance with the Federal Water Pollution Control Act. These clarifications and other changes are explained below.

The specification that this regulation applies to discharges or deposits “from within or into the sanctuary” seeks to clarify that not only discharges and deposits originating in the Sanctuary (including from vessels in the Sanctuary), but also discharges and deposits from aircraft above the Sanctuary, from docks and piers extending over the Sanctuary, and from cliffs and other lands adjacent to the Sanctuary, for example, are included in the prohibition.

The specification that the exception for depositing fish, fish parts, or chumming material (bait) would only pertain to lawful fishing activities to clarify that it does not include chumming for purposes of unlawful or non-fishing activities and that it does not include discharge or deposit not occurring during lawful fishing activity and to dumping of fish wastes. Without this clarification the Sanctuary may be vulnerable to a possible increase in chumming practices for recreational or other purposes not associated with lawful fishing activities.

The changes in wording with regard to the exception for vessel sewage discharge (biodegradable effluent) from a marine sanitation device are intended to provide greater clarity and specificity regarding the original intent of the regulation. Although the existing regulation requires that vessel wastes be “generated by a marine sanitation device” and this is meant to prohibit the dumping of untreated sewage into the Sanctuary, the proposed new language provides greater clarity with regard to this by specifying that such discharges are only allowed if generated by Type I or II marine sanitation devices. Type I and II marine sanitation devices treat wastes, while a Type III marine sanitation device does not.

Meals from vessels would no longer be an exception from the prohibition since they are considered marine debris; instead they should be deposited on land or outside the Sanctuary’s seaward boundary, in accordance with other applicable laws. Without this revision existing Sanctuary regulations would continue to allow discharging or depositing food waste within the Sanctuary despite the fact that this conflicts with the more recent (1987) implementing regulations of the Marine Plastic Pollution Research and Control Act (MPPRCA), 33 CFR Part 151 *et seq.*, which prohibits such discharges from 0 to 3 NM from shore, and permits them from 3 to 12 NM from shore only if the food waste has been ground to less than 1 inch. Since the revised regulation would prohibit discharge of food wastes in the entire Sanctuary, Sanctuary regulations would be consistent with the MPPRCA prohibition on discharge of food wastes from 0-3 NM offshore, and would augment the protection afforded by the MPPRCA for the 3-6 NM offshore zone of the Sanctuary by prohibiting discharge of food wastes regardless of whether or not they have been ground to within one inch.

Finally, additional clarity and specificity have been added to the revised exceptions for deck wash down, cooling water, and engine exhaust. These revisions clarify the intent of the exceptions and that they apply strictly to discharges and deposits incidental to vessel use within the Sanctuary.

The revised discharge regulation would also be amended to include a new prohibition on discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except the exceptions listed above and fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity beyond the boundary of the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity there. “Sanctuary resource” is defined at 15 CFR 922.3 as “any living or non-living resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the Sanctuary, including, but not limited to, the substratum of the area of the Sanctuary, other submerged features and the surrounding seabed, carbonate rock, corals

and other bottom formations, coralline algae and other marine plants and algae, marine invertebrates, brine-seep biota, phytoplankton, zooplankton, fish, seabirds, sea turtles and other marine reptiles, marine mammals and historical resources.” “Sanctuary quality” is defined at 15 CFR 922.3 as “any of those ambient conditions, physical-chemical characteristics and natural processes, the maintenance of which is essential to the ecological health of the Sanctuary, including, but not limited to, water quality, sediment quality and air quality.” This revised regulation would apply to situations such as a hazardous substance spill that originates from beyond the boundary of the Sanctuary but subsequently enters and injures CINMS resources.

This modification would provide consistency with other more recently designated sanctuaries' regulatory language. For example, this prohibition is found in the regulations for Monterey Bay, Flower Garden Banks, Stellwagen Bank, Olympic Coast, and the Florida Keys national marine sanctuaries.

While other federal laws regulate dumping of particular types of waste in various regions of U.S. waters, the proposed regulation is unique in its recognition that regardless of the point of discharge or deposit, material or other matter discharged or deposited in the surrounding fluid ocean environment may drift into the Sanctuary and injure CINMS' nationally significant resources and qualities. The proposed regulatory prohibition would afford a legal deterrent through applicability of NMSA civil penalties, and help to protect Sanctuary resources from negative influences outside CINMS boundaries.

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed revised regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as ~~may be permitted by the Director~~ in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.
- Except ~~as may be~~ for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

2.1.5 Prohibition 4 (Altering the Seabed)

The intent of this revised prohibition is to preclude drilling into, dredging, or otherwise altering the submerged lands (the “submerged lands” language is a proposed substitution—see Section 2.1.1 above) of the Sanctuary; or constructing or placing any structure, material, or other matter on or in the submerged lands of the Sanctuary, except as incidental to and necessary to:

- anchor a vessel;
- install an authorized navigational aid;
- conduct lawful fishing activity;
- lay pipeline pursuant to exploring for, developing, or producing hydrocarbons (see Prohibition 1); or
- explore for, develop, or produce hydrocarbons as allowed (under Prohibition 1).

The proposed revised seabed alternation prohibition is presented below, showing added text (underlined) and deleted text (strike-through):

~~Except in connection with the laying of any pipeline as allowed by paragraph (a)(1) of this section, within 2 NM of any Island: (ii) Drilling into through the seabed, (iii) Dredging, or otherwise altering the seabed-submerged lands of the Sanctuary in any way, other than; (i) or C~~Constructing or placing any structure other than a navigation aid, material, or other matter on or in the submerged lands of the Sanctuary, except as incidental to and necessary to:

~~(A)(i) To anchor a vessel;~~

(ii) Install an authorized navigational aid;

~~(B)(iii) To bottom trawl from a commercial fishing vessel~~Conduct lawful fishing activity;

(iv) Lay pipeline pursuant to exploring for, developing, or producing hydrocarbons; or

(v) Explore for, develop, or produce hydrocarbons as allowed by subparagraph (a)(1) of this section.

The most substantive proposed revision to the existing (1982) regulation is its applicability to the entire Sanctuary, rather than merely to the first 2 NM from Island shores as is currently specified. Expanding the geographic extent of this prohibition to the entire Sanctuary area would ensure protection of its diverse accentuated bottom relief, varied substrate and benthic habitats.

Other federal law (e.g., the Rivers and Harbors Act, 33 U.S.C. 401 *et seq.*; and the Wreck Act, 33 U.S.C. 409 *et seq.*) prohibit unauthorized deposits upon, and placement of structures on submerged lands with the intent of prohibiting potential obstructions to navigation. Unlike these other acts, this proposed revised regulation focuses on place-based protection of submerged lands within the Sanctuary and the nationally significant resources on or in them. A further distinction is that the proposed revised regulation protects the submerged lands regardless of whether or not an obstruction to navigation is at issue.

Proposed revisions to this regulation would also replace the term “seabed” with “submerged lands,” to be consistent with the NMSA, and consistent with regulations at more recently designated sanctuaries. Another proposed change to this regulation would modify the exception for “bottom trawling from a commercial vessel” to provide an exception for activities incidental and necessary to “conduct lawful fishing activity.” This broadening of the exception would encompass other bottom-touching gear types, such as pots and traps, which the drafters of the original regulations apparently did not realize could alter the seabed. This proposed change would thus remove any uncertainty about the existing regulation's applicability to such gear types.

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed revised regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as ~~may be permitted by the Director~~ in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.
- Except as ~~may be~~ for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

2.1.6 Prohibition 5 (Abandoning)

This new regulation would prohibit abandoning, by which is meant leaving without intent to remove, any structure, material, or other matter on or in the submerged lands of the Sanctuary. This proposed regulation would add greater specificity to the types of seabed disturbances currently not allowed by adding “abandoning” structures, material, or other matter as a prohibition. This change is important to protect the CIMNS from debris abandoned by Sanctuary users, such as the possibility of a wrecked vessel containing hazardous materials being left in place, or seabed research equipment not being removed after its permitted use is concluded.

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed revised regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.
- Except for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

If a permit has been obtained from the CINMS (pursuant to 15 CFR 922.48 and 922.73 of the NMSA), the terms of such a permit would likely require the eventual removal of such items. Under appropriate circumstances, such as an emergency threatening loss of life or property, the emergency exception could allow for temporary abandonment of an item on the seafloor. For example, this exception could allow for temporary abandonment of an anchor in the event of a boating emergency, or of research or photographic equipment during a dive emergency. However, the responsible party would subsequently have an obligation to remove these items.

The proposed regulation, if adopted, would be the only federal regulation to afford all Sanctuary submerged lands and associated resources complete protection from abandoned structures, material or other matter. The existing Sanctuary regulation that prohibits disturbance of the seabed offers partial protection from abandonment of structures, material or other matter, in so far as it prohibits such activities that disturb the seabed. However, the existing seabed protection regulation only provides protection from disturbance to the seabed from 0 to 2 NM offshore of the Islands, and does not expressly prohibit abandoning any structure, material, or other matter thereupon. National Park Service regulations (36 CFR. 2.22(a)(1)) prohibit abandoning property within units of the National Park System, and as such apply from 0-1 NM offshore of the Islands. As noted under prohibition 4 above, other federal regulations (e.g., the Rivers and Harbors Act, 33 U.S.C. 401 *et seq.*; and the Wreck Act, 33 U.S.C. 409 *et seq.*) prohibit unauthorized deposits upon, and placement of structures on submerged lands with the intent of prohibiting potential obstructions to navigation. Unlike these other acts, this proposed regulation focuses on place-based protection of submerged lands within the Sanctuary and the nationally significant resources on or in them. A further distinction is that the proposed regulation protects the sea floor regardless of whether or not an obstruction to navigation is at issue. Thus, only the proposed regulation offers express protection against abandonment of structures, material or other matter throughout the entire Sanctuary area, and provides added deterrence in the form of NMSA-authorized civil penalties of up to \$130,000 per incident, per day.

The proposed regulation would also be consistent with the U.S. Ocean Action Plan: The Bush Administration's Response to the U.S. Commission on Ocean Policy (2004). In this Action Plan the Administration acknowledges the harmful effects marine debris has on valuable marine resources, and calls for the re-establishment of the Interagency Marine Debris Coordinating Committee (re-established in December 2004), of which NOAA is a member.

2.1.7 Prohibition 6 (Nearshore Operation of Vessels)

This revised regulation would prohibit the operation—within 1 NM of an Island—of:

- Any vessel engaged in the trade of carrying cargo, including but not limited to tankers and other bulk carriers and barges;
- Any vessel engaged in the trade of servicing offshore installations; and
- Any vessel of 300 registered gross tons or more.

The two existing exceptions to this prohibition would be fishing and kelp harvesting vessels, and vessels transporting persons or supplies to or from an Island.

The existing (1982) regulation allows for the legal approach of all vessels that do not fall within the first two categories listed above, regardless of their size, such as cruise ships, privately owned vessels, charter vessels, vessels owned by educational, research or restoration NGOs, and salvage vessels. The proposed regulation differs from the current regulation in that it adds the prohibition regarding vessels of 300 gross tons or more. The intent of this additional prohibition is to protect the sensitive nearshore areas of the islands, including kelp forests, rocky reefs, and other areas, from the potential impacts of large-vessel groundings or collisions, including, but not limited to, cruise ships. The NMSP developed the proposed modified prohibition since it more directly addresses the Sanctuary's concern that very large vessels, regardless of their purpose, not approach and put at risk sensitive nearshore areas of the Sanctuary.

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed revised regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as ~~may be permitted by the Director~~ in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.
- Except as ~~may be~~ for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

These exceptions could allow, for example, a large research vessel to approach within 1 NM of the Islands if a permit for this activity has been obtained from the CINMS (pursuant to 15 CFR 922.48 and 922.73 of the NMSA).

2.1.8 Prohibition 7 (Disturbing a Seabird or Marine Mammal by Aircraft Overflight)

This revised regulation prohibits disturbance of a seabird or marine mammal by flying a motorized aircraft at less than 1,000 feet over the waters within 1 NM of any Island, except if allowed under Prohibition 9 (see below), to engage in kelp bed surveys, or to transport persons or supplies to or from an Island.

The proposed revised regulation is presented below, showing added text (underlined) and deleted text (strike-through):

Disturbing a seabirds or marine mammals by flying motorized aircraft at less than 1000 feet over the waters within one NM of any Island, except, if allowed under subparagraph (a)(9) of this section:

- ~~(i) For enforcement purposes;~~
- (ii) to engage in kelp bed surveys; or
- ~~(iii) to transport persons or supplies to or from an Island.~~

This modification would not result in a regulation substantially different from the corresponding existing regulation. One difference is that this proposed modified regulation includes a new clause to emphasize that the exceptions to this regulation do not override the obligation to comply with proposed Prohibition 9 (taking a marine mammal, seabird, or sea turtle).

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed revised regulation. For example, specified aircraft overflight likely to cause marine mammal or seabird disturbance under 1,000 feet near the Islands could be allowed if the necessary permit(s) have been obtained from the CINMS (pursuant to 15 CFR 922.48 and 922.73 of the NMSA), and any other relevant state or federal authorities.

These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as ~~may be permitted by the Director~~ in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.
- Except as ~~may be~~ for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

2.1.9 Prohibition 8 (Moving, Removing, Possessing or Injuring a Sanctuary Historical Resource)

This revised regulation would prohibit moving, removing, injuring, or possessing, or attempting to move, remove, injure, or possess a CINMS historical resource. Revisions to the existing (1982) regulation include adding “moving” and “possessing”; replacing “damage” with “injure,” a term defined in the program-wide regulations (15 CFR 922.3); and adding “attempting” to move, remove, injure, or possess as a prohibition. In addition, the proposed regulation would also replace “historical or cultural resource” with “Sanctuary historical resource” to be consistent with regulatory language used at several other more-

recently designated national marine sanctuaries (see NMSP definition of “historical resource” at 15 CFR 922.3).

The proposed revised prohibition is presented below, showing added text (underlined) and deleted text (strike-through):

Moving, removing, injuring, or possessing, or attempting to move, remove, injure, or possess ~~or damaging any a Sanctuary~~ historical ~~or cultural~~ resource.

Cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed revised regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as ~~may be permitted by the Director~~ in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.
- Except as ~~may be~~ for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

The intent of this modification is to provide added protection to the fragile, finite, and non-renewable nationally significant historical resources of the Sanctuary so they may be studied, and so appropriate information about them may be made available for the benefit of the public. While the Antiquities Act (16 U.S.C. 431 *et seq.*), the Archaeological Resources Protection Act (16 U.S.C. 470aa *et seq.*), National Park Service Regulations (36 CFR Part 2) and Channel Islands National Park regulations (36 CFR 7.84) collectively prohibit appropriating or possessing, excavating, destroying, injuring, removing, damaging, altering, defacing, displacing, and tampering with cultural, archeological, paleontological and historical resources, ruins or monuments, abandoned water or airborne craft (and cargo pertaining thereto), several aspects of the proposed revised regulation provide unique protection to historical resources of the Sanctuary. Among these unique protections are: special place-based protection to nationally significant historical resources found solely within the Sanctuary, protection afforded to such resources within the entire Sanctuary area (whereas National Park regulations only apply from 0 to 1 NM offshore from the islands), prohibition of *attempting* to move, remove, injure, or possess any Sanctuary historical resource, and civil penalties of up to \$130,000 per incident, per day. This site-specific attention and regulatory authority is seen by the NMSP as essential, and furthermore in need of the slight changes proposed above in order to increase clarity and effectiveness.

2.1.10 Prohibition 9 (Taking a Marine Mammal, Sea Turtle, or Seabird)

This new regulation would prohibit taking any marine mammal, sea turtle, or seabird within or above the CINMS, except as expressly authorized under 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 one of these acts. Per the NMSP program-wide regulations, “take” or “taking” means: (1) for any marine mammal, sea turtle, or seabird listed as either endangered or threatened pursuant to the ESA, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure, or to attempt to engage in any such conduct; (2) for any other marine mammal, sea turtle, or seabird, to harass, hunt, capture, kill, collect or injure, or to attempt to engage in any such conduct. For the purposes of both (1)

and (2) of this definition, this includes, but is not limited to, collecting any dead or injured marine mammal, sea turtle, or seabird, or any part thereof; restraining or detaining any marine mammal, sea turtle, or seabird, or any part thereof, no matter how temporarily; tagging any sea turtle, marine mammal, or seabird; operating a vessel or aircraft or any other act that results in the disturbance or molestation of any marine mammal, sea turtle, or seabird (15 CFR 922.3).

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.
- Except for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

The intent of this regulation is to bring a special focus to protection of the diverse and vital marine mammal and seabird populations found within the CINMS, without complicating existing authorization and permitting procedures and requirements. The MMPA, ESA, and MBTA, and implementing regulations associated with each, prohibit take of certain species unless authorized under certain circumstances. The Sanctuary's proposed regulation would not apply if an activity (including a federally or state-approved fishery) that does or might cause take of marine mammals, seabirds or sea turtles has been expressly authorized to do so under the MMPA, ESA, or MBTA or any implementing regulation promulgated under these acts. With this proposed regulation, if NMFS or the USFWS issues a permit for the take of a marine mammal, seabird, or sea turtle, it would not be regulated by the NMSP and therefore would not require a permit from the Sanctuary unless the activity would also violate another Sanctuary regulation. Unlike the MMPA, ESA, and MBTA, and their implementing regulations, the proposed regulation places special emphasis on providing added protection to the marine mammal, sea turtle and seabird populations of the CINMS. Such area-specific focus is seen by the NMSP as important and complementary to other resource protection agencies, especially given that other federal and state authorities must spread limited resources over much wider geographic areas. In addition, this regulation would provide a greater deterrent per the maximum civil penalty provided under the NMSA (up to \$130,000 per incident, per day) than the penalties provided by the MMPA, ESA and MBTA. Further, the prohibition would cover all marine mammals, sea turtles, and sea birds within or above the Sanctuary. This regulation would be consistent with regulations at the more recently designated national marine sanctuaries established at Monterey Bay, Stellwagen Bank, Olympic Coast, and the Florida Keys.

2.1.11 Prohibition 10 (Possessing a Marine Mammal, Sea Turtle, or Seabird)

This new regulation would prohibit 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.

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed regulation. These exceptions are presented below, using added text

(underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.
- Except for an activity necessary to respond to an emergency threatening life or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

Similar to Prohibition 9, this proposed regulation would serve to provide a greater deterrent against violations of existing laws protecting marine mammals, seabirds and sea turtles. The proposed regulation differs from the MMPA, ESA and MBTA in its special focus on providing added protection to the marine mammal, seabird, and sea turtle populations of the CINMS. Such area-specific focus is seen by the NMSP as important and complementary to other resource protection agencies, especially given that other federal and state authorities must spread limited resources over much wider geographic areas. In addition, this regulation would provide a greater deterrent per the maximum civil penalty provided under the NMSA (up to \$130,000 per incident, per day) than the penalties provided by the MMPA, ESA and MBTA. This proposed regulation would be consistent with more recent regulations adopted by other national marine sanctuaries and would enhance protection provided by Prohibition 9 (see above).

With this proposed regulation, if NMFS or the USFWS issues a permit for the possession of a marine mammal, seabird, or sea turtle, it would not be regulated by the NMSP and therefore would not require a permit from the Sanctuary unless the activity would also violate another Sanctuary regulation.

2.1.12 Prohibition 11 (Tampering with Signs)

This new regulation would prohibit 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.

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

This prohibition is designed to protect Sanctuary property used for signage purposes, including demarcation, enforcement, conveying regulatory information, education, outreach, and research. This new proposed regulation would be consistent with some other national marine sanctuaries' regulations.

2.1.13 Prohibition 12 (Releasing an Introduced Species)

This new regulation would prohibit introducing or otherwise releasing an introduced species from within or into the Sanctuary, except striped bass (*Roccus saxatilis*) released during catch and release fishing activity. A proposed regulatory definition for "Introduced species" is: (1) species (including but not

limited to any of its biological matter capable of propagation) that are non-native to the ecosystem protected by the Sanctuary; or (2) any organism into which genetic matter from another species has been transferred in order that the host organism acquires the genetic traits of the transferred genes.

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

The intent of the prohibition is to prevent injury to Sanctuary resources and qualities, and protect CINMS ecosystem biodiversity and function, all of which are put at risk by introduced species being released or otherwise introduced into the Sanctuary. Introduced species have negatively impacted over 45 percent of listed threatened or endangered species in the United States; the establishment of introduced species is second to habitat loss as the major threat to native species diversity (Government Accounting Office 2002; Kimball 2001; Wilcove *et al.* 1998). At least 500 non-native species have invaded marine and estuarine habitats within the U.S. (deRivera *et al.* 2005). A 2005 report on non-native species monitoring in west coast national marine sanctuaries and National Estuarine Research Reserves identified 16 non-native sessile invertebrate species in the Channel Islands region that were originally introduced elsewhere on the west coast through vectors including shipping (hull-fouling), fisheries (accidental introduction via oysters), and ballast water (deRivera *et al.* 2005). This proposed regulation is also being planned at California's Monterey Bay, Cordell Bank, and Gulf of the Farallones National Marine Sanctuaries and is based on a comparable prohibition in place at the Florida Keys National Marine Sanctuary.

A discussion of the type of impacts introduced species can have on native coastal marine species is presented at Section 3.5.5.

Several existing federal and California laws and regulations address introduced species, but none comprehensively prohibit introducing or otherwise releasing introduced species (as defined above) into all waters within the Sanctuary. The Nonindigenous Aquatic Nuisance Prevention and Control Act, as amended by the National Invasive Species Act, (16 U.S.C. 4701 *et seq.*) focuses on preventing the introduction and spread of aquatic nuisance species through ballast water, and requires ballast water management programs for various federal departments. The Lacey Act (16 U.S.C. 3371 *et seq.*) prohibits the trafficking and possession of any wildlife, fish, or plant taken in violation of domestic, foreign, state, or Indian tribal law. National Park Service regulations in effect at Channel Islands National Park (whose seaward boundary extends to 1 NM offshore from the islands) prohibit introducing wildlife, fish or plants, including their reproductive bodies, into a Park area ecosystem (36 CFR 2.1(a)(2)). California law (Fish and Game Code 15007) prohibits spawning, incubating or cultivating transgenic and exotic species (as defined in the section) in California marine waters (0 to 3 NM offshore). The proposed prohibition differs from these other laws and regulations in its: place-based protections specifically for CINMS, prohibition of transgenic species introductions in both state and federal waters of the Sanctuary, and prohibition of introducing or otherwise releasing species beyond the 1 NM offshore Channel Islands National Park boundary. Furthermore, the proposed Sanctuary regulation establishes a deterrent against intentional and unintentional releases or other introductions of introduced species into the Sanctuary through civil penalty (up to \$130,000 per incident, per day) under the NMSA.

The proposed prohibition includes an exception for striped bass (*Roccus saxatilis*) released during catch and release fishing activity. Striped bass were intentionally introduced in California in 1879, and in 1980 the California Department of Fish and Game initiated a striped bass hatchery program to support the striped bass sport fishery, which according to the California Department of Fish and Game is one of the most important fisheries on the Pacific Coast. The California Department of Fish and Game manages the striped bass fishery through a Striped Bass Management Conservation Plan. (Leet *et al.* 2001) The proposed regulation is intended to acknowledge that striped bass are the focus of an established state-managed sport fishery and since they consequently may be caught within the Sanctuary make an exception for striped bass released during catch and release fishing activity.

2.1.14 Prohibition 13 (Operation of Motorized Personal Watercraft)

This new regulation would prohibit operating a motorized personal watercraft (MPWC) within waters of the Channel Islands National Park (CINP or Park), established by 16 U.S.C. 410(ff), which states that the boundaries of Channel Islands National Park include San Miguel and Prince Islands, Santa Rosa, Santa Cruz, Anacapa and Santa Barbara Islands, including the rocks, islets, submerged lands, and waters within one nautical mile of each island, as depicted on the map entitled, "Proposed Channel Islands National Park" numbered 159-20,008 and dated April 1979. The regulation, including the definition, would mirror the National Park Service regulation (36 CFR sec 1.4(a)): "motorized personal watercraft" refers to a vessel, usually less than 16 feet in length, which uses an inboard, internal combustion engine powering a water jet pump as its primary source of propulsion. The vessel is intended to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the hull. The length is measured from end to end over the deck excluding sheer, meaning a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments, are not included in the measurement. Length is stated in feet and inches."

Several cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except as in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.
- Except for an activity necessary to respond to an emergency threatening life or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

This proposed regulation would mirror an existing National Park Service regulation in place at the CINP, in which use of motorized personal watercraft is banned within CINP waters. The National Park Service and CINP have indicated their support for this proposed Sanctuary prohibition as it would be consistent with the National Park Service ban, and as it would provide added enforcement benefits, for example, higher penalties and those penalties would be levied through an administrative (civil) rather than a criminal process. CINP has observed an increase in use of motorized personal watercraft within the Park over the last several years, and Park staff issue several dozen warnings per year for violation of this ban (Fitzgerald 2005). In combination with the National Park Service ban, this proposed regulation is intended to provide an added deterrence for purposes of ensuring protection of Sanctuary wildlife and habitats.

MPWCs operate in a manner unique among recreational vehicles and pose a threat to wildlife. Their shallow draft enables them to penetrate areas not available to conventional motorized watercraft (NPS 2000, MOCZM 2002). The high speed and maneuverability of MPWCs, along with the tendency to operate them near the shore and in a repeated fashion within a confined area, results in recurring disturbance to animals and habitats (Rodgers and Smith 1997, Snow 1989). Studies have shown that the use of MPWCs in nearshore areas can increase flushing rates, reduce nesting success of certain bird species, impact spawning fish, and reduce fishing success (Burger 1998, Snow 1989). The National Park Service (2000, 2004) identified several of these impacts along with interruption of normal activity, avoidance and displacement, loss of habitat use, interference with movement, direct mortality, interference with courtship, alteration of behavior, change in community structure, elevated noise levels, and damage to aquatic vegetation. Further, offshore marine mammals or surfacing birds may be unaware of the presence of these vehicles due to their low frequency sound; when the inability to detect the vehicles is combined with their high speed and rapid and unpredictable movements, both animals and operators are at risk (Snow 1989).

Water quality concerns related to use of MPWC, and in particular those with two-stroke engines, include discharge of oil and gas, and air pollutants. MPWC using two-stroke engines may discharge as much as 25 percent of their gas and oil emissions directly into the water (NPS 2000). Two-stroke engines may also expel lubricating oil as part of their exhaust, and emit air pollutants such as volatile organic compounds, nitrogen oxides, particulate matter, and carbon monoxide (NPS 2004).

A review of information currently available from MPWC manufacturers indicates that they have made efforts to reduce emissions and noise through use of more efficient four-stroke engines as well as other technology (e.g., Bombardier Recreational Products, Inc. 2005a, 2005b; Personal Watercraft Industry Association 2005). However, it is not clear that such improvements have rendered emission and noise impacts due to motorized personal watercraft insignificant. While industry sponsored studies indicate that MPWCs are no louder than similar motorized vessels under analogous conditions, other studies indicate that because MPWCs travel repeatedly in the same area, continually leaving and reentering the water, they create rapid cycles of noise that disturb humans and wildlife (MOCZM 2002). Industry improvements in noise and other emissions do not address impacts associated with the high speed, maneuverability, shallow draft, and nearshore operation of MPWC.

The area within one NM of island shores experiences the greatest visitor use and impact to sensitive nearshore Sanctuary marine resources. The proposed regulation would serve as an added deterrent to illegal motorized personal watercraft use within the nearshore area and other waters of the Channel Islands National Park, and would carry a maximum civil penalty of \$130,000 per incident, per day.

2.1.15 Department of Defense Military Activities

This proposed revised regulation would update, clarify and otherwise modify the existing exemption for Department of Defense military activities. Specifically, the regulation would provide that prohibitions 3 through 14 above do not apply to military activities carried out by the Department of Defense as of the effective date of the new and revised regulations and specifically identified in Section 3.5.9 of this DEIS, entitled "Department of Defense Activities" ("pre-existing activities"). Other military activities carried out by DOD may be exempted by the Director after consultation between the Director and DOD.

This proposed revised regulation would also state that a military activity carried out by DOD as of the effective date of the new and revised Sanctuary regulations, and specifically identified in the section entitled "Department of Defense Activities" of the FMP/FEIS, is not considered a pre-existing activity if:

- the activity is modified in such a way that requires the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4321 et seq., relevant to a Sanctuary resource or quality;
- the activity is modified, including but not limited to changes in location or frequency, in such a way that its possible adverse effects on Sanctuary resources or qualities are significantly greater than previously considered for the unmodified activity;
- the activity is modified, including but not limited to changes in location or frequency, in such a way that its possible adverse effects on Sanctuary resources or qualities are significantly different in manner than previously considered for the unmodified activity; or
- there are new circumstances or information relevant to a Sanctuary resource or quality that were not addressed in the FEIS/MP.

Consistent with the NMSA, this proposed revised regulation also provides that in the event of destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an incident, including, but not limited to, discharges, deposits, and groundings caused by a Department of Defense activity, the Department of Defense, in coordination with the Director, must promptly prevent and mitigate further damage and must restore or replace the Sanctuary resource or quality in a manner approved by the Director. In addition, this proposed regulation would require that all Department of Defense activities be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities.

2.1.16 Regulation on Permit Procedures and Issuance Criteria

Proposed permitting criteria and procedures for CINMS are more thoroughly and clearly described than the existing regulatory language on permits, introduce some new express requirements for both permittee and CINMS designed to ensure that permitted projects are appropriate for the Sanctuary, and offer additional flexibility for handling various permitting situations that could arise. Below are the proposed revisions to the procedures and issuance criteria for obtaining a permit from the CINMS to conduct an activity otherwise prohibited in the Sanctuary, with deleted text shown in strike-through and added text underlined. Following the proposed revisions is a textual explanation of the difference between the existing and proposed revised permit regulations, as well as an explanation of the reasons for and intent of the proposed revisions.

Proposed revisions to Sanctuary permit procedures and issuance criteria:

- (a) A person may conduct an activity prohibited by 922.72(a)(3) through (10) and (a)(13) if such activity is specifically authorized by, and conducted in accordance with the scope, purpose, terms, and conditions of, a permit issued under 922.48 and this section. ~~Any person in possession of a valid permit issued by the Director in accordance with this section and 922.48 may conduct any activity in the Sanctuary prohibited under 922.71 if such activity is either:~~
- (1) ~~Research related to the resources of the Sanctuary,~~
 - (2) ~~To further the educational value of the Sanctuary; or~~
 - (3) ~~For salvage or recovery operations.~~

- (b) The Director, at his or her sole discretion, may issue a permit, subject to terms and conditions as he or she deems appropriate, to conduct an activity prohibited by 922.72(a)(3) through (10) and (a)(13) if the Director finds that the activity:
- (1) Is appropriate research designed to further understanding of Sanctuary resources and qualities;
 - (2) Will further the educational value of the Sanctuary;
 - (3) Will further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty;
 - (4) Will assist in managing the Sanctuary; or
 - (5) Will further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of California.Permit applications shall be addressed to: Director, Office of Ocean and Coastal Resource Management, ATTN: Manager, Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109.
- (c) The Director may not issue a permit under 922.48 and under this section unless the Director also finds that:
- (1) The proposed activity will have at most short-term and negligible adverse effects on Sanctuary resources and qualities;
 - (2) The applicant is professionally qualified to conduct and complete the proposed activity;
 - (3) The applicant has adequate financial resources available to conduct and complete the proposed activity;
 - (4) The duration of the proposed activity is no longer than necessary to achieve its stated purpose;
 - (5) The methods and procedures proposed by the applicant are appropriate to achieve the goals of the proposed activity, especially in relation to the potential effects of the proposed activity on Sanctuary resources and qualities;
 - (6) The proposed activity will be conducted in a manner compatible with the primary objective of protection of Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any potential indirect, secondary, or cumulative effects of the activity, and the duration of such effects;
 - (7) The proposed activity will be conducted in a manner compatible with the value of the Sanctuary as a source of recreation and as a source of educational and scientific information, considering the extent to which the conduct of the activity may result in conflicts between different users of the sanctuary and the duration of such effects;
 - (8) It is necessary to conduct the proposed activity within the Sanctuary;
 - (9) The reasonably expected end value of the proposed activity furthers Sanctuary goals and purposes and outweighs any potential adverse effects on Sanctuary resources and qualities from the conduct of the activity; and
 - (10) Any other matters the Director deems appropriate do not make the issuance of a permit for the proposed activity inappropriate.In considering whether to grant a permit the Director shall evaluate such matters as:
 - (1) The general professional, and financial responsibility of the applicant;
 - (2) The appropriateness of the methods envisioned to the purpose(s) of the activity;
 - (3) The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information;

- ~~(4) The end value of the activity and~~
- ~~(5) Such other matters as may be deemed appropriate.~~
- (d) Applications.
- (1) Applications for permits should be addressed to the Director, Office of National Marine Sanctuaries; ATTN: Manager, Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109.
- (2) In addition to the information listed in 922.48(b), all applications must include information the Director needs to make the findings in paragraphs (b) and (c) of this section.
- (e) A permit may not be issued for a period exceeding five years. All permits will be reviewed annually to determine the permittee's compliance with the permit scope, purpose, terms, conditions, progress toward reaching the stated goals, and action taken under paragraph (f) of this section if warranted. A permittee may request permit renewal pursuant to the same procedures for applying for a new permit. Upon the permittee's request for renewal, the Director will review all reports submitted by the permittee as required by the permit terms and conditions. In order to renew the permit, the Director must at a minimum find that:
- (1) The activity will continue to further the purposes for which the Sanctuary was designated in accordance with the criteria applicable to the initial issuance of the permit; and
- (2) The activity has not resulted in any unforeseen adverse effects on Sanctuary resources or qualities.
- (f) In addition to any other terms and conditions that the Director deems appropriate, a permit issued pursuant to this section must require that the permittee agrees to hold the United States harmless against any claims arising out of the conduct of the permitted activities.
- (g) A permit issued pursuant to this section may require that the permittee 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. The amount of insurance or security must be commensurate with an estimated value of the Sanctuary resources in the permitted area. A copy of the insurance policy or security instrument must be submitted to the Director.

The regulatory changes proposed above slightly augment the list of activities for which the Director may issue a permit, and specify which Sanctuary prohibitions permits may be applied to. While the existing Sanctuary regulations authorize the Director to issue permits for research, education, and salvage activities, the revised permit regulations add to this list activities that "will assist in managing the Sanctuary." This addition provides a mechanism by which the Director may issue permits for certain otherwise (without a permit) prohibited activities that will assist Sanctuary management. In addition, the revised permit regulations divide "salvage or recovery operations" into two activities for which the Director may issue a permit: those that further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of California; and those that further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty. The modified permit regulations also specify that the Director may only issue permits for those activities that would otherwise (without a permit) violate the prohibitions proposed to be provided in 15 CFR 922.72(a)(3) through (10) and (a)(13): discharging and depositing; altering the submerged lands;

abandoning (structures, material or other matter on the submerged lands); nearshore operation of vessels; disturbing a seabird or marine mammal by aircraft overflight below 1000 feet within 1 NM of the Islands; moving, removing, injuring or possessing, or attempting to move, remove, injure or possess a Sanctuary historical resource; taking any marine mammal, sea turtle or seabird within or above the Sanctuary; possessing within the Sanctuary (regardless of where taken from, moved, or removed from) any marine mammal, sea turtle, or seabird; and operating a motorized personal watercraft within waters of the Channel Islands National Park.

Another proposed modification to the permit regulations strengthens, based on the decades of permitting experience the NMSP now has, and augments the requirement that the Director consider certain criteria when evaluating permit applications. Whereas the existing regulation simply indicates that the Director shall evaluate certain matters in deciding whether to grant a permit, the proposed revised regulation states that the Director may not issue a permit unless the Director makes the findings listed under part (c) above. These findings make express several concepts not explicitly included as review criteria in the existing permit regulations: the proposed activity will have at most short term and negligible adverse effects on Sanctuary resources and qualities; the duration of the proposed activity is no longer than necessary to achieve its stated purpose; and it is necessary to conduct the proposed activity within the Sanctuary. The required findings also include modifications of several concepts that serve as review criteria in the existing regulation. Whereas the existing regulation simply requires the Director to evaluate the general professional and financial responsibility of the applicant, the revised review criteria clarify that the Director must find that the applicant is professionally qualified to conduct and complete the proposed activity; and that the applicant has adequate financial resources available to conduct and complete the proposed activity. In addition to several minor changes to the existing review criteria regarding the appropriateness of the methods proposed to conduct the activity, the revised criteria include a new clause emphasizing the consideration of potential indirect, secondary and cumulative effects of the proposed activity on Sanctuary resources and qualities. In addition to minor modifications to the existing review criteria regarding whether permitted activities may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information, consideration of the extent to which the conduct of the activity may result in conflicts between different users of the Sanctuary, and the duration of such effects, has been added. Finally, in addition to considering the end value of the proposed activity, the modified regulation requires that the Director find that the reasonably expected end value of the proposed activity furthers Sanctuary goals and purposes and outweighs any potential adverse effects on Sanctuary resources and qualities from the conduct of the activity.

The existing permit regulations indicate that the Director must obtain certain information about applicants and their proposed activities in order to evaluate permit applications, but do not expressly indicate to prospective permit applicants what type of information they are required to include in their application. To clarify what information the permit applicant must provide the proposed revised permit regulations indicate that in addition to the information listed in 15 CFR 922.48(b), all permit applications must include information the Director needs to make the required findings described above.

The proposed revised permit regulations also further refine current requirements and procedures from general National Marine Sanctuary Program regulations (15 CFR 922.48(a) and (c)). The proposed modifications also clarify existing requirements for permit applications found in the Office of Management and Budget approved applicant guidelines (OMB Control Number 0648-0141).

The proposed modifications to the permit regulations (see (e) above) expressly require that in addition to any other terms and conditions that the Director deems appropriate, Sanctuary permits must require that the permittee agree to hold the United States harmless against any claims arising out of the permitted activities.

The overall intent of the proposed revised permit regulations is: to clarify, standardize, and make express the permit requirements and procedures, rendering them easier for permit applicants to comply with and for the Director and Sanctuary staff to implement; to ensure that permitted projects are appropriate for the Sanctuary; and to provide a mechanism for issuing permits for activities that may further Sanctuary management but would otherwise be prohibited. In summary the revised permit regulations: augment and clarify the list of activities for which the Director may issue a permit; clarify the list of prohibitions the Director may permit otherwise violations of; clarify the procedures, for submitting, evaluating, issuing, utilizing, reviewing, and renewing Sanctuary permits; and, based on the decades of permitting experience the NMSP now has, and make express the comprehensive set of criteria to be used by the Director when evaluating and reviewing permit applications.

2.1.17 CINMS Designation Document Changes

The CINMS terms of designation were originally set in 1980 upon establishment of the Sanctuary, and per the NMSA (16 U.S.C. 1434(a)(4)) 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. This information is contained within the CINMS Designation Document, which is composed of six articles: Article I, Effect of Designation; Article II, Description of the Area; Article III, Characteristics of the Area That Give it Particular Value; Article IV, Scope of Regulation; Article V, Relation to Other Regulatory Programs; and, Article VI, Alterations to this Designation. The NMSP is proposing several revisions to the Designation Document, which include changes to the description of the area, an updated and more accurate description of characteristics that give the Sanctuary particular value, an updated explanation of the relation to other regulatory programs, and some substantive changes to the Sanctuary's scope of regulations. The complete text of the Sanctuary's proposed Revised Designation Document is presented in Vol. II, Appendix D.

Several revisions are proposed for Article I, Effect of Designation. Among these are minor revisions to the description of the Sanctuary's authorization to issue regulations and the list of activities subject to Sanctuary regulation. In addition, a preamble to the Designation Document declaring the Sanctuary's designation has been replaced with information about the 1980 designation.

Proposed revisions to Article II of the Designation Document, the Description of the Area, include specifying that submerged lands are part of the Sanctuary, as well as correcting some Sanctuary boundary coordinates. At the time the Sanctuary was designated in 1980, Title III of the Marine Protection, Research, and Sanctuaries Act (also now known as the NMSA) characterized national marine sanctuaries as consisting of coastal and ocean waters, but did not expressly mention submerged lands there under. NOAA has consistently interpreted its authority under the NMSA as extending to submerged lands, and amendments to the NMSA in 1984 (Pub. L. 98-498) clarified that submerged lands may be designated by the Secretary of Commerce as part of a national marine sanctuary (16 U.S.C. 1432(3)). Therefore, consistent with the NMSA, the Sanctuary is proposing to include submerged lands in the description of the Sanctuary area and boundary, and to replace the term "seabed" with "submerged lands of the Sanctuary" throughout the Designation Document. In addition, proposed revisions include clarification that the landward boundary of the Sanctuary extends to the Mean High Water Line. Finally, technical corrections to the boundary coordinates are proposed based on the North American Datum of 1983 (NAD 83) in both the Revised Designation Document and in the Sanctuary regulations.

Proposed revisions to Article III of the Designation Document, the Characteristics of the Area That Give it Particular Value, are based on knowledge of Sanctuary resources and qualities gained since the original

1980 designation. This article has been augmented by a significant amount of new text, the intent of which is to provide an up to date, comprehensive yet succinct description of the Sanctuary's physical oceanography, habitats, species, cultural significance, and human use values (including recreational, commercial, scientific and educational values).

A number of the regulatory revisions included in this Proposed Action, as well as in Alternative 1, may not be implemented without broadening the Sanctuary's scope of regulations, the portion of the Sanctuary's Designation Document (Article IV) that describes in detail what the NMSP has the authority to regulate regarding the Sanctuary. Substantive proposed changes to the Sanctuary's Scope of Regulation include adding the following to Section 1 (Activities Subject to Regulation):

- Exploring for, developing, or producing minerals within the Sanctuary (see Prohibition 2);
- Discharging or depositing from beyond the boundary of the Sanctuary (see Prohibition 3);
- Placing or abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary (see Prohibition 5);
- Taking any marine mammal, sea turtle or seabird in or above the Sanctuary (see Prohibition 9);
- Possessing within the Sanctuary (regardless of where taken from, moved, or removed from) any marine mammal, sea turtle or seabird (see Prohibition 10);
- 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 (see Prohibition 11); and
- Introducing or otherwise releasing an introduced species from within or into the Sanctuary (see Prohibition 12).

Substantive proposed changes to the Sanctuary's list of activities subject to regulation also include revising the following within Section 1 (Activities Subject to Regulation):

- Regarding Sanctuary historical resources, changing the activity description that reads "removing or otherwise deliberately harming cultural or historical resources" to "Moving, removing, injuring, possessing or attempting to move, remove, injure, or possess a Sanctuary historical resource" (see Prohibition 8); and
- Regarding altering the seabed, changing the activity description from "Dredging or alteration of, or construction on, the seabed" to "Drilling into, dredging, or otherwise altering the submerged lands of the Sanctuary; or constructing, placing, or abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary."

Article IV, Section 2 (Consistency with International Law) is proposed to be revised with language taken directly from sec. 305(a) of the NMSA, which deals with application of regulations. Also, several clarifications are proposed to Article IV, Section 3 (Emergency Regulations). These changes provide greater clarity to the applicability of Sanctuary emergency regulations.

Article V, Relation to Other Regulatory Programs, is currently made up of three sections: Fishing, Defense Activities, and Other Programs. Proposed revisions to Article 5 are limited to the third section

and include changing its title from “Other Programs” to “Effect on Leases, Permits, Licenses and Rights.” Additional proposed revisions are intended to provide clarity and specificity regarding the effects of Sanctuary designation on valid leases, permits, licenses and other authorizations in existence as of the date of Sanctuary designation. The proposed action presented and analyzed herein *does not* propose changes to the “Fishing” and “Defense Activities” sections of Article V.

Article VI, Alterations to This Designation, is proposed to be updated to reflect the NMSA as currently written.

The proposed revisions to the Sanctuary’s Designation Document provide updated and more accurate descriptions of Sanctuary characteristics, would better enable CINMS to address new and emerging resource management issues, and are necessary in order to ensure the protection and management of the conservation, ecological, recreational, scientific, educational, historical, cultural, archeological, and esthetic resources and qualities of the Sanctuary.

2.2 ALTERNATIVE 1

The regulations under Alternative 1 would be identical to those described for the Proposed Action with the exception of slightly more stringent wording and restrictions on the following regulations:

2.2.1 Prohibition 3 (Discharging and Depositing)

Prohibition 3 (Discharging or Depositing), would be modified to exclude any vessel of 300 gross registered tons or more from discharging treated sewage within the CINMS. For these larger vessels, this slightly more stringent regulation would remove the exception from prohibition for marine sanitation device (MSD) discharge. The purpose would be to prevent the greater quantities of waste associated with larger vessels from being discharged into the Sanctuary. In addition, by prohibiting such treated waste discharges, the intent would be also to reduce the chance of an accident or error occurring that could result in the release of untreated sewage, thereby providing greater protection to the Sanctuary’s water quality, helping to ensure the continued health and function of the ecosystem, and preventing unsightly discharges that could diminish the enjoyment of Sanctuary waters by other users.

This prohibition would augment existing protections afforded by other laws and regulations. The Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 *et seq.*) requires vessels with installed toilet facilities and operating on the navigable waters of the United States to contain operable marine sanitation devices certified as meeting standards and regulations promulgated under Section 312 of that act. In addition, as of January 1, 2005 California Assembly Bill (AB) 2672 banned cruise ships from dumping sewage from toilets within three miles of shore in California waters, which includes the first three miles from Island shores of Sanctuary waters. Finally, California AB 2093 prohibits large passenger vessels of 300 gross registered tons or more from discharging “graywater” in state waters. Graywater in this case is defined as drainage from dishwashers, showers, laundry, bath and washbasins. AB 2093 also establishes specific reporting requirements for releases of graywater in state waters of the four national marine sanctuaries in offshore from California, including CINMS. Collectively these other laws require operable marine sanitation devices for vessels with toilets, and prohibit large passenger vessels from discharging graywater (as defined above) and sewage from toilets while in state waters. However, no existing law or regulation affords special protection for the unique resources and qualities of the Channel Islands National Marine Sanctuary with regard to: sewage discharge by cruise ships within federal waters of the Sanctuary, and sewage discharge by other (non-cruise ship) large vessels in state or federal waters of the Sanctuary.

2.2.2 Prohibition 6 (Nearshore Operation of Vessels)

Prohibition 6 (Nearshore Operation of Vessels), would be modified to exclude any vessel of 150 gross registered tons or more (vs. 300) from operating within 1 NM of the shore in the Sanctuary. This would decrease the proposed vessel size limit from 300 to 150 gross registered tons, thus potentially applying to a greater number of vessels and, as such, further reducing the risk of vessel groundings or collisions in sensitive nearshore areas.

2.2.3 Prohibition 15 (Lightering)

This new regulation would prohibit lightering in the Sanctuary (see exceptions under an emergency below). Per the program-wide regulations, “lightering” means the at-sea transfer of petroleum-based products, materials, or other matter from one vessel to another. The intent of the prohibition is to protect Sanctuary resources and qualities from the adverse effects of spillage that may occur during non-emergency lightering operations.

Additional cross-cutting exceptions, which apply to multiple regulations in the proposed action, are applicable to this proposed regulation. These exceptions are presented below, using added text (underlined) and deleted text (strike-through). Military activity exemptions are discussed separately at 2.1.15.

- Except for an activity necessary to respond to an emergency threatening life, property, or the environment.
- Except for an activity necessary for valid law enforcement purposes in the Sanctuary.

Recurring causes of spills that appear to be directly related to lightering include valve failures, tank overflows, and hose ruptures. Recent United States Coast Guard (USCG) safety data for lightering (from 1984 to 1996) indicate that few spills occurred during lightering on the United States coast, and that, where spills did occur, the average volume was only 26 barrels (1,095 gallons) (NRC 1998). From 1993 to 1997, no spills were reported on the east or west coasts of the United States, and only seven spills (accounting for less than 0.003 percent of the total volume lightered) were reported in the Gulf of Mexico. Although lightering does not currently take place within the Sanctuary, this activity prohibition would preclude this activity from occurring in the future and would therefore protect Sanctuary resources from possible spills.

2.2.4 Designation Document Changes

As with the Proposed Action, Alternative 1 would require that the Sanctuary’s terms of designation be modified in the same manner as summarized in section 2.1.17 above and presented in Appendix D (Vol. II). One additional difference would be adding “lightering” as an activity subject to Sanctuary regulation under the scope of regulations.

2.3 NO-ACTION ALTERNATIVE

The No-Action Alternative would consist of no updates or other changes to any of the existing Sanctuary regulations, and no changes to the Sanctuary’s Designation Document. All existing CINMS-specific regulations would remain as they are currently written and no new regulations would be added. This alternative would not provide for Sanctuary regulation of certain current or possible future activities that pose a threat to Sanctuary resources. In addition, with the No-Action Alternative, some outdated

information would remain in place for CINMS regulations (e.g., technical description of the boundary, obsolete oil spill cleanup equipment requirements). Under a No-Action Alternative scenario the Sanctuary would attempt to address new or emerging resource protection issues by continuing to use status-quo non-regulatory approaches. Those status quo non-regulatory approaches are described here.

2.3.1 Prohibition 1 (Oil and Gas)

A status quo, non-regulatory approach to the proposed change in language to the Sanctuary's existing (1982) oil and gas regulation, which is proposed in order to remove outdated cleanup requirements, would be to leave the regulatory language unchanged. In this case, the language actually provides for outdated cleanup equipment standards, and as such is inappropriate given current technologies and the terms of existing oil spill contingency plans.

2.3.2 Prohibition 2 (Mineral Activities)

A status quo, no regulatory action approach to the proposed prohibition on exploring for, developing, or producing minerals within the Sanctuary, except producing by-products incidental to authorized hydrocarbon production, would be to rely on other existing Sanctuary regulations to provide some level of protection against the potential damaging environmental effects of mining activities. The existing Sanctuary regulation on seabed protection within the first 2 NM from the Islands, and possibly the Sanctuary's existing regulation prohibiting discharge and deposit of materials and matter, might serve as a limited deterrent to mining operations being conducted within the CINMS. However, such regulation would be indirect and leave the possibility that mining operations might be permissible in a large portion of the Sanctuary (i.e., beyond 2 NM from the Islands).

2.3.3 Prohibition 3 (Discharging or Depositing)

A status quo, non-regulatory approach to the proposed revision of the Sanctuary's discharge regulation that would clarify that discharges allowed from marine sanitation devices (MSDs) apply only to Type I and Type II MSDs would be to leave the existing regulation in place as written and rely on boater outreach and education efforts. As written, the existing Sanctuary regulation on discharge is intended to prohibit the release of raw sewage from vessels by requiring treatment from an MSD before discharge. However, the wording is not optimal because the specific type of MSD is not listed, and a Type III MSD does not actually provide any treatment to waste. Consequently, the no-action alternative would rely on status quo approaches to educational and outreach efforts explaining to boaters that, consistent with the original intent of the existing regulation, dumping of raw sewage within the Sanctuary is not permissible. Such ongoing education efforts would likely also involve helping boaters to understand where waste pumpout stations are located, and that discharge from a Type III MSD beyond the 6 NM outer Sanctuary boundary is not a violation of Sanctuary regulations. Consultation and assistance would also be sought from Sanctuary enforcement partners with the U.S. Coast Guard, National Park Service, California Department of Fish and Game, and the NOAA Office for Law Enforcement. These types of status quo education, outreach and agency coordination efforts would, however, also take place if the revised regulation were adopted to help raise awareness of and compliance with the discharge regulation. However, maintaining the regulation as it is currently written allows for potential confusion with some boaters not understanding the intent of the existing Sanctuary regulation and as a result engaging in raw sewage discharge into Sanctuary waters.

A status quo, non-regulatory approach to the proposed revision of the Sanctuary's existing discharge regulation that would specify that the exception for discharging or depositing fish, fish parts, or chumming materials (bait) applies only to lawful fishing activities within the Sanctuary would be to

employ existing education and consultative measures to promote voluntary compliance with the desired prohibition. With this non-regulatory approach, Sanctuary staff would use existing educational tools and take awareness building measures to encourage Sanctuary users to refrain from chumming Sanctuary waters for recreational or other purposes not associated with lawful fishing practices, and to not dump fish wastes from lawful fishing activity outside the Sanctuary. Although the action would not be illegal under this no-action alternative, efforts to explain to boaters the potential negative impacts of such an activity might help reduce the possibility of such practices taking place. Overall, this no regulatory action alternative would leave the Sanctuary more vulnerable to a possible increase in chumming practices for non-fishing purposes and to fish waste dumping because such an activity would not be prohibited and, as such, there would be no legal deterrent against it.

A status quo, non-regulatory approach to the proposed revision of the Sanctuary's discharge regulation that would remove an exception for discharging or depositing meals on board vessels would be to retain the existing exception and work through existing education and outreach measures to promote voluntary refraining from discharging meals on board vessels. With this non-regulatory approach, Sanctuary staff would use status quo educational tools and take awareness-building measures to encourage Sanctuary boaters to refrain from discharging food scraps into Sanctuary waters and to apprise them of Marine Plastic Pollution Research and Control Act of 1987 requirements. Although such discharges would not violate Sanctuary regulations under this alternative, efforts to explain to boaters the potential negative impacts of depositing food into the marine environment could help reduce the possibility of such practices taking place within the Sanctuary. Overall, this alternative would leave the Sanctuary more vulnerable to the effects of food waste disposal practices because such an activity would not be specifically prohibited and, as such, there would be no legal deterrent provided against it. In addition, this no-action alternative would leave in place the confusing nature of the existing Sanctuary discharge regulation, which provides an exception for the deposit of meals on board vessels within the Sanctuary despite the fact that the Marine Plastic Pollution Research and Control Act of 1987 (see 33 CFR Part 151) prohibits such discharges within 0 to 3 NM from shore, and permits the activity from 3 to 12 NM from shore only if food waste has been ground to less than 1 inch.

A status quo, non-regulatory approach to the proposed revision of the Sanctuary's discharge regulation that would prohibit discharges and 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 would be to work through existing education and consultative measures to promote voluntary compliance with the intent of the prohibition. With this non-regulatory alternative, Sanctuary staff would use status quo educational tools to encourage various entities operating outside of Sanctuary boundaries to avoid the intentional or accidental release of material or matter into the marine environment that could likely end up drifting into the Sanctuary and harming its resources and qualities. In addition, on a case by case basis, Sanctuary staff could consult with the proponents of new maritime-related projects that hold the potential to discharge, spill or otherwise release potentially harmful matter into waters near the Sanctuary, and request that such risks be reduced through appropriate project design or implementation measures. Similarly, this type of status quo consultation and commenting could be directed to other agencies that serve as authorizing agents for such projects. Overall, this non-regulatory educational and consultative approach may succeed in somewhat reducing threats to Sanctuary resources from discharges and deposits originating outside the Sanctuary boundary, but would lack a legal deterrent and civil penalty mechanism that the proposed regulatory prohibition would afford.

2.3.4 Prohibition 4 (Altering the Seabed)

A status quo, no new regulatory action approach to the proposed submerged lands protection regulation considered by the NMSP would be to address the risk of impacts to the Sanctuary from alteration of

submerged lands through existing Sanctuary regulations and non-regulatory management activities. The existing Sanctuary regulation prohibiting altering the submerged lands of the Sanctuary within the first 2 NM from Island shores (with exceptions for anchoring and commercial fishing bottom trawling) offers partial protection from seabed alteration. Other federal regulations prohibit unauthorized deposits upon, and placement of structures on, submerged lands with the intent of prohibiting potential obstructions to navigation. In addition to relying upon status quo regulations, the Sanctuary would use existing status quo education and outreach materials targeted at Sanctuary users to discourage them from conducting activities that may alter the submerged lands of the Sanctuary from the 2-6 NM zone offshore from the Islands. The proposed regulation, however, is the only alternative that explicitly protects the submerged lands of the Sanctuary in its 2-6 NM zone.

2.3.5 Prohibition 5 (Abandoning)

A status quo non-regulatory approach to the proposed abandoning prohibition considered by the NMSP would be to attempt to address the risk of impacts to the Sanctuary from abandoned structures or materials through existing Sanctuary regulations and other existing non-regulatory management programs. The existing Sanctuary regulation prohibiting the discharge of any material or matter, and the existing Sanctuary regulation prohibiting disturbance of the seabed within 2 NM of the Islands, may offer partial protection from abandoned structures, material or other matter. It is unlikely, however, that the Sanctuary's existing prohibition on discharge or deposit would apply to all possible abandonment situations. For example, research equipment left inserted into the sea floor of the Sanctuary may not clearly constitute a discharge or deposit. In addition, the Sanctuary's existing seabed protection regulation only provides protection from disturbance to the seabed in the portion of Sanctuary sea floor extending from the Islands to 2 NM offshore. In addition, existing non-regulatory management strategies could be employed to attempt to address threats from abandonment of structures, material, or other matter on or in the submerged lands of the Sanctuary. Educational outreach could be conducted to explain to boaters the importance of recovering any grounded vessel, and of not scuttling a vessel within the Sanctuary. Similarly, scientists conducting research upon or in the Sanctuary's sea floor could be encouraged to remove all equipment after such projects are completed. Overall, this alternative would lack the additional specificity and clarity that the proposed regulation brings to the issue of abandoning material or other matter within the Sanctuary, and would also not provide the added deterrence from abandonment activities that the proposed regulation would provide with NMSA-authorized civil penalties of up to \$130,000 per incident, per day.

2.3.6 Prohibition 6 (Nearshore Operation of Vessels)

A status quo, no new regulatory action approach to the proposed revised nearshore vessel operation regulation would involve operating under the status quo regulatory scenario. Existing Sanctuary regulations prohibit operating within 1 NM of an Island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations, except to transport persons or supplies to or from an Island. This regulation allows for the legal operation of all other types of vessels, regardless of their size, such as cruise ships, privately owned vessels, charter vessels, vessels owned by educational, research or restoration NGOs, and salvage vessels. The status quo regulation does not apply to fishing or kelp harvesting vessels. The NMSP could use status quo approaches to target vessels from the non-prohibited categories, and that fall within the 300 gross registered ton or larger size class, with educational messages aimed at informing them of the potential dangers and environmental harm that may be caused by their operation within 1 NM of the Islands, and to request that they voluntarily anchor farther offshore and utilize smaller vessels to approach within 1 NM of the Islands. The proposed modified prohibition is

preferable since it more directly addresses the NMSP's concern that very large vessels, regardless of their purpose, not approach and therefore endanger sensitive nearshore areas of the Sanctuary.

2.3.7 Prohibition 7 (Disturbing a Seabird or Marine Mammal by Aircraft Overflight)

A status quo, no new regulatory action approach to the proposed revision of this regulation would lack an important clarification explaining that exceptions to this regulation do not override the obligation to comply with proposed Prohibition 9 (taking a marine mammal, seabird, or sea turtle). The status quo regulation would continue to prohibit disturbance of a seabird or marine mammal by flying a motorized aircraft at less than 1,000 feet over the waters within 1 NM of any Island, except to engage in kelp bed surveys or to transport persons or supplies to or from an Island.

2.3.8 Prohibition 8 (Moving, Removing, Possessing, or Injuring a Sanctuary Historical Resource)

A status quo, non regulatory action approach to revising and strengthening the Sanctuary's existing regulation prohibiting removing or damaging any historical or cultural resource such that it would more comprehensively represent a "hands-off" prohibition (i.e., add prohibitions on possessing, injuring or attempting to move, remove, or injure any Sanctuary historical resource) would require reliance upon the existing regulation. With this no action alternative, status quo educational and outreach activities could be conducted by Sanctuary staff to raise awareness about the detrimental impacts that can result not only from prohibited activities (i.e., removing or damaging), but other types of unregulated handling as well, such as possession of or attempting to move a historical resource. These educational efforts could be partially successful in reducing the possibility of such potentially damaging actions from occurring. Overall, this non-regulatory alternative would lack the legal deterrence and civil penalty mechanism provided by the proposed prohibition with regard to Sanctuary historical resources.

2.3.9 Prohibition 9 (Taking a Marine Mammal, Sea Turtle, or Seabird) and Prohibition 10 (Possessing a Marine Mammal, Sea Turtle, or Seabird)

A status quo non-regulatory approach to the proposed prohibitions would involve operating under the status quo regulatory scenario. No existing Sanctuary regulations prohibit take or possession of marine mammals, sea turtles, or seabirds. However, unauthorized take is prohibited by the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), the Endangered Species Act (16 U.S.C. 1531 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*), and regulations promulgated under these acts. Thus, unauthorized take or possession of such animals, to the extent those acts apply, would remain prohibited within the Sanctuary regardless of whether the Sanctuary's proposed prohibition is implemented. However, the status quo scenario does not afford special protection for and civil penalty deterrence from take or possession of the abundant marine mammal and seabird populations found in the CINMS, nor special protection for sea turtles occasionally found within the Sanctuary. Added civil penalty deterrence cannot be accomplished without an added rule such as that proposed. As part of status quo operations, the NMSP would continue to consult with, and where appropriate, seek cooperating agency status under the National Environmental Policy Act, to discuss permit criteria and conditions with those agencies authorized to issue take permits under the aforementioned acts and regulations, as amended, promulgated there under. However, the NMSP would not have the authority to utilize its locally focused resources to enforce protection of marine mammals, sea turtles, and seabirds and would be required to rely on the enforcement efforts of non-locally focused agencies. The proposed modified prohibitions are preferred since they would authorize the NMSP to directly address take and possession of marine mammals, sea turtles, and seabirds of the CINMS, and since they would not add burden to the existing

permit/authorization structure under the Marine Mammal Protection Act, Endangered Species Act, and Migratory Bird Treaty Act.

2.3.10 Prohibition 11 (Tampering with Signs)

A status quo, non-regulatory approach to the proposed Sanctuary regulation prohibiting 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 would be to not regulate such activities and leave to chance the fate of such signs to acts of vandalism, theft or other damage. In addition, as new signs or markers are developed by the NMSP, Sanctuary staff could work with manufacturers to create products that are more resistant to demarcation or removal. Overall, this non-regulatory alternative would differ from the proposed new regulation in that it would lack the legal deterrence mechanism provided by the proposed prohibition.

2.3.11 Prohibition 12 (Releasing an Introduced Species)

A status quo non regulatory approach to the proposed prohibition on introduced species would involve operating under the status quo regulatory scenario. No existing Sanctuary regulations prohibit introducing or otherwise releasing introduced species from within or into the Sanctuary. Other rules establish federal programs to help prevent introduced species introductions via ballast water, and spawning, incubating or cultivating transgenic and exotic species is prohibited in California marine waters (Fish and Game Code 15007). Since existing rules do not afford prohibitions against non-transgenic introduced species introductions in state waters, and against any form of introduced species introductions in federal waters, the NMSP could proceed in a status quo manner to assist in non-regulatory reactive efforts to try to remove introduced species in harbors along the adjacent mainland coast, and proactive efforts distributing educational materials to users to inform them about problems associated with introduced species and how they can help prevent the spread of introduced species along California, and in CINMS. However, regulatory authority and associated civil penalties would likely be the most effective deterrent against introductions of introduced species into the Sanctuary.

2.3.12 Prohibition 13 (Operation of Motorized Personal Watercraft)

A status quo, no new regulatory action approach to the proposed Sanctuary regulation prohibiting the operation of motorized personal watercraft within waters of the Channel Islands National Park would be to rely on the existing National Park Service prohibition of this activity currently applicable to the same marine area (36 CFR 3.24). In addition, this status quo approach could involve status quo educational efforts by Sanctuary staff to help riders of motorized personal watercraft learn about the National Park Service prohibition, and assist with enforcement of that prohibition by reporting any sightings of illegal personal watercraft operation to appropriate law enforcement personnel, such as rangers with the Channel Islands National Park. What this alternative would lack (that the proposed Sanctuary prohibition would provide) is a stronger legal deterrent afforded by civil penalties applicable to violations of Sanctuary regulations, as authorized by the NMSA.

2.3.13 Regulation on Department of Defense Activities

A status quo, no new regulatory action approach to the proposed revised regulation on Department of Defense (DOD) activities would involve operating under the status quo scenario. Under the current DOD Sanctuary regulation, military activities that were described in the CINMS 1982 FEIS are exempt from the current Sanctuary regulations. However, the list of activities exempted no longer reflects current military activities in and around the Sanctuary, and as such the exemption is outdated from the standpoint

of both the DOD and the CINMS. Further, what constitutes a new activity is not clear. In addition, a no action alternative would mean that the current DOD regulation would not be expressly consistent with the NMSA, which has been reauthorized several times since the existing DOD regulation went into effect (1982), e.g., with regard to the requirements of prevention, mitigation, and restoration. For these reasons, the proposed revised regulation on DOD activities is preferred.

2.3.14 Regulation on Permit Procedures and Issuance Criteria

A status quo, no new regulatory action approach to the proposed revised permit regulation would involve operating under the status quo regulatory scenario. Existing Sanctuary regulations authorize the Director of the NMSP to issue permits for research, education, and salvage activities. They also guide the Director to evaluate such matters as: the general professional, and financial responsibility of the applicant; the appropriateness of the methods envisioned to the purpose(s) of the activity; the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information; the end value of the activity; and such other matters as may be deemed appropriate. These regulations do not provide a clear mechanism by which the Sanctuary may achieve its objective of issuing permits for activities that would further Sanctuary management, but otherwise be prohibited. These regulations also imply certain types of information the Director requires in order to evaluate permit applications, but do not expressly indicate to prospective permit applicants what type of information they will be required to submit. Nor, for example, are the current regulations always as explicit about the review criteria as might be desirable. While these and other details the NMSP would like to clarify could be included in the permit application instructions and the actual Sanctuary permit text, codifying such details in the regulations provides a clear set of guidelines that are legally binding for the NMSP and CINMS as the permit issuing bodies, and for permit applicants. As such the proposed modified permit regulation is preferable.

2.4 ALTERNATIVES CONSIDERED BUT DISMISSED

Addition of a prohibition on extractive bioprospecting for commercial purposes was considered but dismissed from further consideration. Biodiversity prospecting, or bioprospecting, is the activity of seeking a useful application, process, or product from nature. In many cases, bioprospecting is a search for useful organic compounds in microorganisms, plants, and fungi (NPS 2001). Bioprospecting in the ocean can provide products other than seafood, such as ornamental marine life, raw materials, and medicines. For example, through marine bioprospecting an extract (arabinosides) was collected from the sponge *Tethya crypta* that led to more than \$50 million in annual sales of derived antiviral medicines (NMFS 2001; Norse 1993). The most common use of materials from marine bioprospecting is for the production of pharmaceuticals. Marine bioprospecting may lead to include sampling and can lead to extraction of a living marine resource for commercial purposes.

There is no known bioprospecting within the Sanctuary at this time. However, there are research projects funded by MMS in which the potential beneficial properties of marine life attached to the submerged structure of a sample of offshore oil platforms in the Santa Barbara Channel are being investigated.

Because removing marine life or plants for bioprospecting may potentially lead to habitat and ecosystem alterations, prohibition of bioprospecting in the Sanctuary was considered. The implications of marine bioprospecting within the Sanctuary are not clearly understood. This regulation was dismissed from further consideration for this management plan update.

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update**

<p>No Action (Status Quo)</p>	<p>Proposed Action Underlined (new) and strike through (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>Sanctuary Boundary (15 CFR 922.70). The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of the waters off the coast of California of approximately 1252.5 square nautical miles (NM) adjacent to 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) extending seaward to a distance of six NM. The boundary coordinates are listed in appendix A to this subpart.</p>	<p>Sanctuary Boundary. The Channel Islands National Marine Sanctuary (Sanctuary) consists of an area of the waters off the coast of California of approximately 1252.51243 square nautical miles (NM) of coastal and ocean waters, and the submerged lands thereunder, 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 adjacent to <u>from</u> 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) extending seaward to a distance of six NM. The <u>seaward</u> boundary coordinates are listed in the a<u>Appendix</u> A to this subpart.</p>	<p>Sanctuary Boundary. Same as Proposed Action</p>
<p>1. Oil and Gas. Prohibited: Exploring for, developing, and producing hydrocarbons except pursuant to leases executed prior to March 30, 1981, and except the laying of pipeline, if the following oil spill contingency equipment is available at the site of such operations: (i) 1500 feet of open ocean containment boom and a boat capable of deploying the boom; (ii) One oil skimming device capable of open ocean use; and (iii) Fifteen bales of oil sorbent material, and subject to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations. Other Exceptions: • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</p>	<p>1. Oil and Gas. Prohibited: Exploring for, developing, and/or producing hydrocarbons <u>within the Sanctuary</u>, except pursuant to leases executed prior to March 30, 1981, and except the laying of pipeline <u>pursuant to exploring for, developing, or producing hydrocarbons</u>, if the following oil spill contingency equipment is available at the site of such operations: (i) 1500 feet of open ocean containment boom and a boat capable of deploying the boom; (ii) One oil skimming device capable of open ocean use; and (iii) Fifteen bales of oil sorbent material, and subject to all prohibitions, restrictions and conditions imposed by applicable regulations, permits, licenses or other authorizations and consistency reviews including those issued by the Department of the Interior, the Coast Guard, the Corps of Engineers, the Environmental Protection Agency and under the California Coastal Management Program and its implementing regulations. Other Exceptions: • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment; • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72</p>	<p>1. Oil and Gas. Same as Proposed Action</p>
<p>2. Mineral Activities. No existing regulation</p>	<p>2. Mineral Activities. Prohibited: <u>Exploring for, developing, or producing minerals within the Sanctuary, except producing by-products incidental to hydrocarbon production allowed by paragraph (a)(1) of this section [see #1 above].</u></p>	<p>2. Mineral Activities. Same as Proposed Action</p>

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**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

<p>No Action (Status Quo)</p>	<p>Proposed Action <u>Underlined</u> (new) and strike through (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>3. Discharging or Depositing. Prohibited: Discharging or depositing any material or other matter except: (i) Fish or fish parts and chumming materials (bait); (ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary generated by: (A) Marine sanitation devices; (B) Routine vessel maintenance, e.g., deck wash down; (C) Engine exhaust; or (D) Meals on board vessels; (iii) Effluents incidental to hydrocarbon exploration and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above].</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 	<p>3. Discharging or Depositing. Prohibited: Discharging or depositing <u>from within or into the Sanctuary</u> any material or other matter except: <u>(A)(i) Fish, or fish parts, and or chumming materials (bait) used in or resulting from lawful fishing activity within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;</u> <u>(B)(ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary and generated by:</u> <u>(A) an operable Type I or II marine sanitation devices (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 et seq. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;</u> <u>(B)(C) Routine vessel maintenance, e.g., Biodegradable matter from a vessel resulting from deck wash down, vessel engine cooling water, or graywater as defined by section 312 of the FWPCA;</u> (C)(D) Vessel eEngine or generator exhaust; or (D) Meals on board vessels; (iii) (E) Effluents routinely and necessarily discharged or deposited incidental to hydrocarbon exploration, development, or production and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above]; <u>(F) Discharges allowed under section 312(n) of the FWPCA; or</u> <u>(ii) Discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except those listed in subparagraphs (a)(3)(i)(B) through (F) of this section and fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity beyond the boundary of the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity there.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be permitted by the Director in accordance with <u>the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment. • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>3. Discharging or Depositing. Prohibited: Discharging or depositing <u>from within or into the Sanctuary</u> any material or other matter except: <u>(A)(i) Fish, or fish parts, and or chumming materials (bait) used in or resulting from lawful fishing activity within the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity within the Sanctuary;</u> <u>(B)(ii) Water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary and generated by: (A) an operable Type I or II marine sanitation devices (U.S. Coast Guard classification) approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended, (FWPCA), 33 U.S.C. 1321 et seq. excluding any vessel of 300 gross registered tons or more. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;</u> <u>(B)(C) Routine vessel maintenance, e.g., Biodegradable matter from a vessel resulting from deck wash down, vessel engine cooling water, or graywater as defined by section 312 of the FWPCA;</u> (C)(D) Vessel eEngine or generator exhaust; or (D) Meals on board vessels; (iii) (E) Effluents routinely and necessarily discharged or deposited incidental to hydrocarbon exploration, development, or production and exploitation activities allowed by paragraph (a)(1) of this section [see #1 above]; <u>(F) Discharges allowed under section 312(n) of the FWPCA; or</u> <u>(ii) Discharging or depositing from beyond the boundary of the Sanctuary any material or other matter that subsequently enters the Sanctuary and injures a Sanctuary resource or quality, except those listed in subparagraphs (a)(3)(i)(B) through (F) of this section and fish, fish parts, or chumming materials (bait) used in or resulting from lawful fishing activity beyond the boundary of the Sanctuary, provided that such discharge or deposit is during the conduct of lawful fishing activity there.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be permitted by the Director in accordance with <u>the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment. • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.]

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**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

<p>No Action (Status Quo)</p>	<p>Proposed Action <u>Underlined</u> (new) and struckthrough (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>4. Altering the Seabed. Prohibited: Except in connection with the laying of any pipeline as allowed by paragraph (a)(1) of this section, within 2 NM of any Island: (i) Constructing any structure other than a navigation aid, (ii) Drilling through the seabed, or (iii) Dredging or otherwise altering the seabed in any way, other than (A) To anchor vessels, or (B) To bottom trawl from a commercial fishing vessel. Other Exceptions: <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment, • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 </p>	<p>4. Altering the Submerged Lands. Prohibited: Except in connection with the laying of any pipeline as allowed by paragraph (a)(1) of this section, within 2 NM of any Island: (ii) Drilling into through the seabed, (iii) Dredging, or otherwise altering the seabed <u>submerged lands of the Sanctuary in any way, other than: (i) or</u> Constructing or placing any structure other than a navigation aid, material, or other matter on or in the submerged lands of the Sanctuary, except as incidental to and necessary to: (A)(i) To anchor a vessels; (ii) <u>Install an authorized navigational aid;</u> (B) (iii) To bottom trawl from a commercial fishing vessel <u>Conduct lawful fishing activity;</u> (iv) <u>Lay pipeline pursuant to exploring for, developing, or producing hydrocarbons; or</u> (v) <u>Explore for, develop, or produce hydrocarbons as allowed by subparagraph (a)(1) of this section [see #1 above].</u> Other Exceptions: <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment. • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] </p>	<p>4. Altering the Submerged Lands. Same as Proposed Action</p>
<p>5. Abandoning. No existing regulation</p>	<p>5. Abandoning. Prohibited: <u>Abandoning any structure, material, or other matter on or in the submerged lands of the Sanctuary.</u> Exceptions: <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] </p>	<p>5. Abandoning. Same as Proposed Action</p>

Table 2.1-1, Page 3 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

<p>No Action (Status Quo)</p>	<p>Proposed Action Underlined (new) and struckthrough (deleted) text show differences from No Action (Status Quo)</p>	<p>Alternative 1 (bold text is different from Proposed Action)</p>
<p>6. Nearshore Operation of Vessels.</p> <p>Prohibited: Except to transport persons or supplies to or from an Island, operating within one NM of an Island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations. In no event shall this section be construed to limit access for fishing (including kelp harvesting), recreational, or research vessels.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment, • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 	<p>6. Nearshore Operation of Vessels.</p> <p>Prohibited: Except to transport persons or supplies to or from any Island, operating within one NM of any Island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations, <u>or any vessel of three hundred gross registered tons or more, except.</u> In no event shall this section be construed to limit access for fishing (including or kelp harvesting), recreational, or research vessels.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>6. Nearshore Operation of Vessels.</p> <p>Prohibited: Except to transport persons or supplies to or from any Island, operating within one NM of any Island any vessel engaged in the trade of carrying cargo, including, but not limited to, tankers and other bulk carriers and barges, or any vessel engaged in the trade of servicing offshore installations, or any vessel of one hundred fifty gross registered tons or more, except. In no event shall this section be construed to limit access for fishing (including or kelp harvesting), recreational, or research vessels.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.]
<p>7. Disturbing a Seabird or Marine Mammal by Aircraft.</p> <p>Prohibited: Disturbing seabirds or marine mammals by flying motorized aircraft at less than 1000 feet over the waters within one NM of any Island except:</p> <p>(i) For enforcement purposes;</p> <p>(ii) To engage in kelp bed surveys; or</p> <p>(iii) To transport persons or supplies to or from an Island.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 	<p>7. Disturbing a Seabird or Marine Mammal by Aircraft.</p> <p>Prohibited: Disturbing a seabirds or marine mammals by flying a motorized aircraft at less than 1000 feet over the waters within one NM of any Island, <u>except, if allowed under subparagraph (a)(9) of this section [see #9 below]:</u></p> <p>(i) For enforcement purposes;</p> <p>(ii) (i) to engage in kelp bed surveys; or</p> <p>(iii) (ii) to transport persons or supplies to or from an Island.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>7. Disturbing a Seabird or Marine Mammal by Aircraft.</p> <p>Same as Proposed Action</p>

Table 2.1-1, Page 4 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	Proposed Action <u>Underlined</u> (new) and struck through (deleted) text show differences from No Action (Status Quo)	Alternative 1 (bold text is different from Proposed Action)
<p>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</p> <p>Prohibited: Removing or damaging any historical or cultural resource.</p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • Except as may be necessary for the national defense • Except as may be necessary to respond to an emergency threatening life, property, or the environment, • Except as may be permitted by the Director in accordance with 15 CFR secs. 922.48 and 922.72 	<p>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</p> <p>Prohibited: <u>Moving, Removing, injuring, or possessing, or attempting to move, remove, injure, or possess or damaging any a Sanctuary historical or cultural resource.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> • <u>Except as may be permitted by the Director in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR secs. 922.48 and 922.723.</u> • <u>Except as may be for an activity</u> necessary to respond to an emergency threatening life, property, or the environment. • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>8. Moving, Removing, or Injuring a Sanctuary Historical Resource.</p> <p>Same as Proposed Action</p>
<p>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</p> <p>No existing regulation</p>	<p>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</p> <p>Prohibited: <u>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 the MMPA, ESA, or MBTA.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>9. Taking a Marine Mammal, Sea Turtle, or Seabird.</p> <p>Same as Proposed Action</p>
<p>10. Possessing a Marine Mammal, Sea Turtle, or Seabird.</p> <p>No existing regulation</p>	<p>10. Possessing a Marine Mammal, Sea Turtle, or Seabird.</p> <p>Prohibited: <u>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.</u></p> <p>Other Exceptions:</p> <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>10. Possessing a Marine Mammal, Sea Turtle, or Seabird</p> <p>Same as Proposed Action</p>

Table 2.1-1, Page 5 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	Proposed Action <u>Underlined (new) and strikethrough (deleted) text show differences from No Action (Status Quo)</u>	Alternative 1 (bold text is different from Proposed Action)
<p>11. Tampering with Signs</p> <p>No existing regulation</p>	<p>11. Tampering with Signs</p> <p>Prohibited: <u>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.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>11. Tampering with Signs</p> <p>Same as Proposed Action</p>
<p>12. Releasing an Introduced Species</p> <p>No existing regulation</p>	<p>12. Releasing an Introduced Species</p> <p>Prohibited: <u>Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except striped bass (<i>Roccus saxatilis</i>) released during catch and release fishing activity.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • [See Department of Defense at the end of this table.] <p>Proposed definition (at Sec. 922.71): <u>Introduced species means (1) a species (including but not limited to any of its biological matter capable of propagation) that is non-native to the ecosystems protected by the Sanctuary; or (2) any organism into which genetic matter from another species has been transferred in order that the host organism acquires the genetic traits of the transferred genes.</u></p>	<p>12. Releasing an Introduced Species</p> <p>Same as Proposed Action</p>
<p>13. Operation of Motorized Personal Watercraft</p> <p>No existing regulation</p>	<p>13. Operation of Motorized Personal Watercraft</p> <p>Prohibited: <u>Operating a motorized personal watercraft within waters of the Channel Islands National Park, established by 16 U.S.C. 410(ff).</u></p> <p>Proposed definition (at Sec. 922.71): <u>Motorized personal watercraft means a vessel, usually less than 16 feet in length, which uses an inboard, internal combustion engine powering a water jet pump as its primary source of propulsion. The vessel is intended to be operated by a person or persons sitting, standing or kneeling on the vessel, rather than within the confines of the hull. The length is measured from end to end over the deck excluding sheer, meaning a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments, are not included in the measurement. Length is stated in feet and inches.</u></p> <p>Exceptions:</p> <ul style="list-style-type: none"> • <u>Except in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to 15 CFR 922.48 and 922.73.</u> • <u>Except for an activity necessary to respond to an emergency threatening life, property, or the environment.</u> • <u>Except for an activity necessary for valid law enforcement purposes in the Sanctuary.</u> • [See Department of Defense at the end of this table.] 	<p>13. Operation of Motorized Personal Watercraft</p> <p>Same as Proposed Action</p>

Table 2.1-1, Page 6 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	Proposed Action <u>Underlined</u> (new) and struckthrough (deleted) text show differences from No Action (Status Quo)	Alternative 1 (bold text is different from Proposed Action)
<p>14. Lightering</p> <p>No existing regulation</p>	<p>14. Lightering</p> <p>No regulation proposed</p>	<p>14. Lightering</p> <p>Prohibited: Lightering in the Sanctuary.</p> <p>Note: Sanctuary regulations define lightering as at-sea transfer of petroleum-based products, materials, or other matter from vessel to vessel (15 CFR 922.3).</p> <p>Exceptions:</p> <ul style="list-style-type: none"> • Except for an activity necessary to respond to an emergency threatening life, property, or the environment. • Except for an activity necessary for valid law enforcement purposes in the Sanctuary. • [See Department of Defense at the end of this table.]
<p>Department of Defense Activities.</p> <p>All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to the prohibitions in this section. The exemption of additional activities having significant impact shall be determined in consultation between the Director and the Department of Defense.</p>	<p>Department of Defense Activities.</p> <p>(b) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to the prohibitions in this section. The exemption of additional activities having significant impact shall be determined in consultation between the Director and the Department of Defense.</p> <p><u>(b)(1) The prohibitions in paragraphs (a)(3) through (13) do not apply to military activities carried out by DOD as of the effective date of these regulations and specifically identified in section 3.5.9 (Department of Defense Activities) of the Final Channel Islands National Marine Sanctuary Management Plan/Environmental Impact Statement (FMP/FEIS), Volume II: Environmental Impact Statement, 200 [year of completion of the FMP/FEIS will be entered here], authored and published by NOAA ("pre-existing activities"). Copies of the document are available from the Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109. Other military activities carried out by DOD may be exempted by the Director after consultation between the Director and DOD.</u></p> <p><u>(2) A military activity carried out by DOD as of the effective date of these regulations and specifically identified in the section entitled "Department of Defense Activity" of the FMP/FEIS is not considered a pre-existing activity if:</u></p> <p><u>(A) it is modified in such a way that requires the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4321 et seq., relevant to a Sanctuary resource or quality;</u></p> <p><u>(B) it is modified, including but not limited to changes in location or frequency, in such a way that its possible adverse effects on Sanctuary resources or qualities are significantly greater than previously considered for the unmodified activity;</u></p> <p><u>(C) it is modified, including but not limited to changes in location or frequency, in such a way that its possible adverse effects on Sanctuary resources or qualities are significantly different in manner than previously considered for the unmodified activity; or</u></p> <p><u>(D) there are new circumstances or information relevant to a Sanctuary resource or quality that were not addressed in the FMP/FEIS.</u></p> <p><u>(3) In the event of destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an incident, including, but not limited to, discharges, deposits, and groundings, caused by a DOD activity, DOD, in coordination with the Director, must promptly prevent and mitigate further damage and must restore or replace the Sanctuary resource or quality in a manner approved by the Director.</u></p> <p><u>(4) All DOD activities must be carried out in a manner that avoids to the maximum extent practicable any adverse impacts on Sanctuary resources and qualities.</u></p>	<p>Department of Defense Activities.</p> <p>Same as Proposed Action.</p>

Table 2.1-1, Page 7 of 9

**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	Proposed Action <u>Underlined</u> (new) and struckthrough (deleted) text show differences from No Action (Status Quo)	Alternative 1 (bold text is different from Proposed Action)
<p>Permit Procedures and Issuance Criteria.</p> <p>(a) Any person in possession of a valid permit issued by the Director in accordance with this section and Sec.922.48 may conduct any activity in the Sanctuary prohibited under Sec. 922.71 [see above] if such activity is either:</p> <p>(1) Research related to the resources of the Sanctuary,</p> <p>(2) To further the educational value of the Sanctuary; or</p> <p>(3) For salvage or recovery operations.</p> <p>(b) Permit applications shall be addressed to: Director, Office of Ocean and Coastal Resource Management, ATTN: Manager, Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109.</p> <p>(c) In considering whether to grant a permit the Director shall evaluate such matters as:</p> <p>(1) The general professional, and financial responsibility of the applicant;</p> <p>(2) The appropriateness of the methods envisioned to the purpose(s) of the activity;</p> <p>(3) The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information;</p> <p>(4) The end value of the activity and</p> <p>(5) Such other matters as may be deemed appropriate.</p> <p>The Director may observe any permitted activity and/or require the submission of one or more reports of the status or progress of such activity. Any information obtained shall be available to the public.</p>	<p>Permit Procedures and Issuance Criteria.</p> <p>(a) Any person in possession of a valid permit issued by the Director in accordance with this section and Sec.922.48 may conduct any activity in the Sanctuary prohibited under by 922.71+2(a)(3) through (10), (a)(12), and (a)(13) if such activity is either:</p> <p>(1) <u>Research related to the resources of the Sanctuary;</u></p> <p>(2) <u>To further the educational value of the Sanctuary; or</u></p> <p>(3) <u>For salvage or recovery operations specifically authorized by, and conducted in accordance with the scope, purpose, terms, and conditions of, a permit issued under 922.48 and this section.</u></p> <p>(b) <u>The Director, at his or her sole discretion, may issue a permit, subject to terms and conditions as he or she deems appropriate, to conduct an activity prohibited by 922.72(a)(3) through (10), (a)(12), and (a)(13) if the Director finds that the activity:</u></p> <p>(1) <u>Is appropriate research designed to further understanding of Sanctuary resources and qualities;</u></p> <p>(2) <u>Will further the educational value of the Sanctuary;</u></p> <p>(3) <u>Will further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty;</u></p> <p>(4) <u>Will assist in managing the Sanctuary; or</u></p> <p>(5) <u>Will further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of California.</u></p> <p>(c) <u>In considering whether to grant a permit the Director shall evaluate such matters as: The Director may not issue a permit under 922.48 and this section unless the Director also finds that:</u></p> <p>(1) <u>The general professional, and financial responsibility of the applicant;</u></p> <p>(2) <u>The appropriateness of the methods envisioned to the purpose(s) of the activity;</u></p> <p>(3) <u>The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, or as a source of educational or scientific information;</u></p> <p>(4) <u>The end value of the activity and</u></p> <p>(5) <u>Such other matters as may be deemed appropriate.</u></p> <p>(1) <u>The proposed activity will have at most short-term and negligible adverse effects on Sanctuary resources and qualities;</u></p> <p>(2) <u>The applicant is professionally qualified to conduct and complete the proposed activity;</u></p> <p>(3) <u>The applicant has adequate financial resources available to conduct and complete the proposed activity;</u></p> <p>(4) <u>The duration of the proposed activity is no longer than necessary to achieve its stated purpose;</u></p> <p>(5) <u>The methods and procedures proposed by the applicant are appropriate to achieve the goals of the proposed activity, especially in relation to the potential effects of the proposed activity on Sanctuary resources and qualities;</u></p> <p>(6) <u>The proposed activity will be conducted in a manner compatible with the primary objective of protection of Sanctuary resources and qualities, considering the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, any potential indirect, secondary, or cumulative effects of the activity, and the duration of such effects;</u></p> <p>(7) <u>The proposed activity will be conducted in a manner compatible with the value of the Sanctuary as a source of recreation and as a source of educational and scientific information, considering the extent to which the conduct of the activity may result in conflicts between different users of the Sanctuary and the duration of such effects;</u></p> <p>(8) <u>It is necessary to conduct the proposed activity within the Sanctuary;</u></p>	<p>Permit Procedures and Issuance Criteria.</p> <p>Same as Proposed Action</p>

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**Table 2.1-1
Regulatory Alternatives Considered for the CINMS Management Plan Update (Continued)**

No Action (Status Quo)	<p align="center">Proposed Action</p> <p>Underlined (new) and struckthrough (deleted) text show differences from No Action (Status Quo)</p>	<p align="center">Alternative 1</p> <p align="center">(bold text is different from Proposed Action)</p>
	<p><u>(9) The reasonably expected end value of the proposed activity furthers Sanctuary goals and purposes and outweighs any potential adverse effects on Sanctuary resources and qualities from the conduct of the activity; and</u></p> <p><u>(10) Any other matters the Director deems appropriate do not make the issuance of a permit for the proposed activity inappropriate.</u></p> <p><u>(d) Applications.</u></p> <p><u>(b)(1) Permit a</u>Applications for permits shall should be addressed to: <u>the Director, Office of Ocean and Coastal Resource Management National Marine Sanctuaries;</u> ATTN: Manager, Channel Islands National Marine Sanctuary, 113 Harbor Way, Santa Barbara, CA 93109.</p> <p><u>(2) In addition to the information listed in 922.48(b), all applications must include information the Director needs to make the findings in paragraphs (b) and (c) of this section.</u></p> <p><u>(e) In addition to any other terms and conditions that the Director deems appropriate, a permit issued pursuant to this section must require that the permittee agrees to hold the United States harmless against any claims arising out of the conduct of the permitted activities.</u></p>	

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