described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Harriet Alexander Field, Salida, CO.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

## PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the FAA Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007 is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

**ANM CO E5 Salida, CO [New]**

Harriet Alexander Field, CO
(Lat. 38°32′18″ N., long. 106°02′55″ W.)

That airspace extending upward from 700 feet above the surface within a 9.5-mile radius of Harriet Alexander Field.

* * * * *

Issued in Seattle, Washington, on March 17, 2008.

**Kevin Nolan,**

*Acting Manager, System Support Group, Western Service Area.*

[FR Doc. E8–6317 Filed 3–27–08; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 15 CFR Part 922

**[Docket No. 080311420–8412–01]**

**RIN 0648–AT17**

## Revisions to Channel Islands National Marine Sanctuary Regulations

**AGENCY:** National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Proposed rule.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) previously published a proposed rule (71 FR 29096, May 19, 2006) to adopt a revised set of regulations for the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). This currently pending proposed rule includes both new regulations and changes to existing regulations, including the discharge prohibition. After reviewing public comments, considering the California Coastal Commission's federal consistency review (per the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*), and further analyzing vessel discharge issues, NOAA has decided to revise the Sanctuary's proposed discharge regulation to: (1) Limit the exception for treated sewage discharges to vessels less than 300 gross registered tons (GRT); (2) limit the exception for graywater discharges to vessels less than 300 GRT, and oceangoing ships without sufficient holding tank capacity to hold graywater while within the Sanctuary; and (3) provide definitions for "oceangoing ship," "graywater," and "cruise ship".

**DATES:** Comments will be considered if received by May 30, 2008.

**ADDRESSES:** Copies of the Supplemental Draft Environmental Impact Statement (SDEIS) and this supplemental proposed rule are available at Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, California and on the web at *http://www.channelislands.noaa.gov.* Comments on the SDEIS and this supplemental proposed rule, identified by RIN 0648–AT17, may be submitted by any of the following methods:

- *Federal e-Rulemaking Portal*: *http://www.regulations.gov.* Follow the instructions for submitting comments for docket NOAA–NOS–2007–0846.
- *E-mail: cinms.mgtplan@noaa.gov.*
- *Fax:* (805) 568–1582.
- *Mail:* Chris Mobley, Superintendent, Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, California 93109.
- *Hand Delivery/Courier:* Channel Islands National Marine Sanctuary, 113 Harbor Way, Suite 150, Santa Barbara, California 93109.

**FOR FURTHER INFORMATION CONTACT:** Michael Murray, Sanctuary Management Plan Coordinator, at (805) 884–1464 or *michael.murray@noaa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Introduction

Pursuant to section 304(e) of the National Marine Sanctuaries Act (NMSA, 16 U.S.C. 1434(e)), NOAA conducted a review of the management plan and regulations for CINMS, which is located off the coast of southern California. The review resulted in a proposed new CINMS management plan, some proposed changes to existing CINMS regulations, some proposed new CINMS regulations, and some proposed changes to the CINMS terms of designation. "Discharge and deposit" was one of the existing CINMS regulations subject to proposed changes. The May 2006 proposed rule clarified that:

- The discharge regulation's exception for discharges from marine sanitation devices is only applicable to discharges from Type I and Type II marine sanitation devices; and
- The discharge regulation's exception for water (including cooling water) and other biodegradable effluents incidental to vessel use of the Sanctuary includes graywater as defined by section 312 of the Federal Water Pollution Control Act (Clean Water Act or CWA).

The Draft Environmental Impact Statement (DEIS) for the currently pending proposed rule included three alternatives consisting of NOAA's proposed action, alternative "1," and a no-action alternative. With regard to vessel discharges, NOAA's proposed action would clarify that a type I or II marine sanitation device (MSD) is required of all vessels for discharge of treated sewage within the Sanctuary, and proposes that graywater discharge from all vessels be excepted from the discharge prohibition. DEIS alternative 1 also proposes a graywater exception from the prohibition for all vessels, but would prohibit discharge into the Sanctuary of treated or untreated sewage from large vessels (300 gross registered tons or more). The DEIS no-action alternative would retain the status quo regulation on discharge, which is

ambiguous with regard to graywater and imprecise with regard to the type of MSD required for vessel sewage discharge within the Sanctuary.

After receiving comments on the DEIS and proposed rule, NOAA determined that this range of alternatives needed to be modified to better address potential impacts of sewage and graywater discharges from large vessels (300 GRT or greater). Thus, the SDEIS modifies the range of regulatory changes under consideration and discusses the potential environmental consequences of a revised discharge regulation. The revisions set forth in this supplemental proposed rule are now incorporated into the original proposed action and constitute NOAA's "revised proposed action." NOAA is not taking final action with the SDEIS and this supplemental proposed rule, but rather is analyzing and putting forth for public review and comment a revision to its discharge regulation proposed in the DEIS and the proposed rule (71 FR 29096). Final CINMS regulations will be issued after NOAA has released the Final Management Plan/Final EIS.

*Background*

NOAA released the Draft Management Plan (DMP)/DEIS and published the proposed rule on May 19, 2006. Comments were accepted through July 21, 2006. During the public review period NOAA received a wide range of comments, including substantial public and agency comments about changes proposed for Sanctuary regulation of sewage and graywater discharges from large vessels. (Herein "large vessel" refers to a vessel 300 GRT or more). Comments included a request that NOAA adopt the discharge regulation under alternative "1," which would prohibit any sewage discharges from large vessels, whether treated or untreated. Comments also included a request that NOAA prohibit cruise ship discharges in Sanctuary waters. In addition, there were suggestions that NOAA implement recommendations contained in the water quality needs assessment developed by a working group of the Sanctuary Advisory Council (Polgar *et al.* 2005; available online at *http://www.channelislands.noaa.gov/sac/pdf/10-17-5.pdf*), which provides a comprehensive evaluation of water quality threats and provides a broad range of management advice. This assessment includes a recommendation that NOAA prohibit cruise ship discharges in Sanctuary waters. In addition, comments from California state agencies and environmental non-governmental organizations indicated that NOAA's proposed exception for graywater discharges is inconsistent with the California Clean Coast Act (California Public Resources Code Sec 72420–72422), which prohibits graywater discharges from vessels 300 GRT or more within state waters. The comments received on this issue were submitted by the Channel Islands National Park, three state agencies (California Resources Agency, State Water Resources Control Board, and California Coastal Commission), three non-governmental organizations (Bluewater Network, Environmental Defense Center, and Santa Barbara Channelkeeper), and the Sanctuary Advisory Council and its Conservation Working Group. The types of comments described above were the only types of comments received on the issues of graywater and sewage discharge from large vessels.

In May 2006 NOAA submitted its Coastal Zone Management Act consistency determination to the California Coastal Commission (Commission), in compliance with federal consistency regulations (15 CFR part 930). In July 2006 the Commission conditionally concurred with NOAA's determination that the proposed revised Sanctuary management plan and regulations are consistent to the maximum extent practicable with the enforceable policies of the California Coastal Management Program. The Commission voted to concur with the consistency determination on the condition that NOAA revise the proposed discharge and deposit regulation to prohibit vessels of 300 GRT or more from discharging sewage or graywater into the waters of the Sanctuary. Also, the California State Water Resources Control Board requested that NOAA prohibit graywater and sewage discharges, among others, from cruise ships and other oceangoing vessels in California national marine sanctuaries.

After reviewing the comments received, considering the Coastal Commission's action, and further analyzing the vessel discharge issues raised, NOAA decided to revise the Sanctuary's proposed discharge regulation. The revised proposed discharge regulation would: (1) Limit the exception for treated sewage discharges to vessels less than 300 GRT; (2) limit the exception for graywater discharges to vessels less than 300 GRT, and oceangoing ships without sufficient holding tank capacity to hold graywater while within the Sanctuary; and (3) propose definitions for "oceangoing ship," "graywater," and "cruise ship" (see next paragraph). These new definitions would, through their operation, result in the prohibition of discharge of graywater from cruise ships. The graywater discharge exception for oceangoing ships that do not have sufficient holding tank capacity to hold graywater while within the Sanctuary is proposed because many oceangoing ships were designed without the ability to retain graywater, particularly those constructed prior to the early 1990s (personal communication, S. Young, U.S. Coast Guard). While many of these older ships, particularly those calling on U.S. ports, have since been modified to allow graywater retention, some must still discharge graywater directly as it is produced (personal communication, S. Young, U.S. Coast Guard).

The proposed definition of "oceangoing ship" would read as follows: "Oceangoing ship means a private, commercial, government, or military vessel of 300 gross registered tons or more, not including cruise ships." The proposed definition of "graywater" would read as follows: "Graywater means galley, bath, or shower water." Section 312 of the CWA, as amended (33 U.S.C. 1321 *et seq.*), is the basis for NOAA's definition of graywater. Other discharges, such as those from laundry facilities, are not included in this definition of graywater. The proposed definition of "cruise ship" would read as follows: "Cruise ship means a vessel with 250 or more passenger berths for hire." These three definitions would be added to the other CINMS terms proposed to be defined at 15 CFR 922.71 in the currently pending proposed rule. NOAA is not proposing to define "sewage" in the CINMS regulations because the regulations do not use this term; however, herein sewage, also referred to as "blackwater," means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes.

The primary purpose of this revised regulation is to prevent potentially harmful effects of large-vessel sewage and graywater discharges on Sanctuary resources and qualities. To meet this purpose, the revised proposed regulation seeks to maximize protection of Sanctuary water quality from large-vessel sewage and graywater discharges. Furthermore, NOAA seeks to maintain the Sanctuary's nationally significant esthetic and recreational qualities, and to manage activities affecting the Sanctuary in a manner that complements existing regulatory authorities, as envisioned by the NMSA.

The California Clean Coast Act prohibits graywater discharges into

marine waters of the state from large passenger vessels and oceangoing ships with sufficient holding tank capacity. This act is also intended to prohibit releases of sewage and sewage sludge into marine waters of the state (including state waters within a national marine sanctuary) from both large passenger vessels and oceangoing ships with sufficient holding tank capacity. This revised proposed action would make the Sanctuary regulations consistent with the standards of the California Clean Coast Act.

The proposed revisions described herein affect two of the exceptions to the prohibition on discharging or depositing material or other matter into the Sanctuary: The exception for treated sewage and the exception for biodegradable matter including graywater. Proposed revisions would result in substantive changes regarding sewage and graywater, and would also result in minor, non-substantive changes in wording and organization regarding deck wash down and vessel engine cooling water.

In this supplemental proposed rule, NOAA is not proposing to revise any other section of the DEIS proposed action or currently pending proposed rule, including other clauses of the discharge prohibition. As noted above, NOAA will publish the final CINMS regulations after reviewing all comments on the currently pending proposed rule and this supplemental proposed rule.

*Sanctuary Environment*

The Channel Islands area is a national treasure with a rich cultural history and unique environment. The Sanctuary's cultural values stem largely from its rich array of maritime heritage resources (e.g., shipwrecks, aircraft wrecks, material associated with wharves, piers and landings, prehistoric archaeological sites and their associated artifacts, and paleontological remains). The Sanctuary also contains a wealth of Chumash Native American artifacts dating back 13,000 years. (The oldest human remains yet discovered in North America were found on Santa Rosa Island.)

Adjacent to the Channel Islands land mass is located a spectacular, unique, nationally significant marine environment, including kelp forests, surfgrass and eelgrass beds, intertidal, nearshore subtidal, deep-water benthic, and pelagic habitats. This marine environment supports rich biological communities possessing extensive conservation, recreational, commercial, ecological, historical, research, educational, and esthetic values.

Two bioregions come together in and around the Sanctuary resulting in a unique and highly diverse array of marine life. Hundreds of species of plants and fish, thousands of invertebrate species, more than 27 species of cetaceans (whales and dolphins), five species of pinnipeds (seals and sea lions), four sea turtle species, and more than 60 species of birds may be found in the Sanctuary. Included among these are several endangered species, including blue, humpback and sei whales, southern sea otters, white abalone, leatherback sea turtles, California brown pelicans, and California least terns.

The ecological and cultural values of the Channel Islands and surrounding waters are recognized by several special designations. In 1980, the United States not only designated the Sanctuary, but also designated Anacapa, San Miguel, Santa Barbara, Santa Cruz, and Santa Rosa islands (and the rocks, islets, submerged lands, and waters within one nautical mile of each island) as the Channel Islands National Park. In addition, the United Nations Educational, Scientific and Cultural Organization's (UNESCO) Man and the Biosphere Program designated the Sanctuary as a Biosphere Reserve in 1986. In 1991, in recognition of the need to protect Sanctuary resources and qualities from the potential damage from ship traffic, the International Maritime Organization designated an area to be avoided, or ATBA, around the Sanctuary for all cargo vessels, including tankers, bulk carriers, and barges, in order to avoid pollution risks within the CINMS. The State of California recognizes portions of the state waters surrounding the Channel Islands as "Areas of Special Biological Significance/State Water Quality Protection Areas."

The uniqueness of the Sanctuary region and its proximity to several major ports and harbors along the mainland coast make it a popular destination for numerous recreational and commercial activities. Sportfishing, diving, snorkeling, whale watching, pleasure boating, kayaking, surfing, and sightseeing are all popular pastimes within the Sanctuary, which is often referred to as "the Galapagos of North America." Other human uses that occur adjacent to and in the Sanctuary are oil and gas activities, shipping, Departments of Defense and Homeland Security activities, scientific research, and education.

*Vessel Traffic and Discharges*

The Santa Barbara Channel, in which part of the Sanctuary is located, is also a major thoroughfare for oceangoing ships traveling between domestic and international ports along the Pacific coast of North America, and for large vessels traveling between ports in North America and Asia. Vessels calling at California ports identify the following last ports of call prior to arriving in California: Nearly 40 percent identify a Far Eastern port such as Japan, China, or Korea; 20 percent identify a North American port such as Canada or Mexico; and 13 percent identify a South American port (California State Lands Commission 2001).

The Sanctuary is located about 70 miles northwest of the Port of Los Angeles/Long Beach (LA/Long Beach), which is the busiest container port in North America. The containerized trade at LA/Long Beach grew 150 percent from 1990 to 2002 (Port of Long Beach 2003), and the Santa Barbara Channel is a main thoroughfare for this trade. Approximately 75 percent of the departing vessel traffic from LA/Long Beach leaves northbound and 65 percent of arriving vessel traffic comes southbound, passing through the Santa Barbara Channel.

While transiting the Santa Barbara Channel large vessel traffic is encouraged to use the Santa Barbara Channel Traffic Separation Scheme (TSS), both lanes of which traverse a small portion (approximately 4%) of the Sanctuary. The Santa Barbara Channel TSS is described at 33 CFR 167.450–167.452, and includes northwest and southeast-bound lanes, with a separation zone between the lanes. The distance through Sanctuary waters that vessels transit when in the northwest-bound lane is approximately 18 nmi, while in the southeast-bound lane it is approximately 37 nmi. The average container ship that travels at 25 knots would spend less than one hour in Sanctuary waters when using the northwest-bound lane, and approximately one-and-a-half hours when using the southeast-bound lane.

For the year 2006, an estimated 6,980 vessels (including container ships and other large vessels) going to or coming from the ports of LA/Long Beach transited the Santa Barbara Channel and CINMS, with approximately 3,500 inbound to LA/Long Beach and 3,480 outbound (McKenna 2007). These "transit" numbers include multiple trips by the same vessel.

The expansion of the global economy has resulted in a substantial increase in oceangoing ship traffic in the Santa Barbara Channel, and consequently in the Sanctuary. The average growth rate in container traffic at the Port of LA/Long Beach was 9.9% per year over the

years 1990–2003. According to the Port of Long Beach Master Plan, the Los Angeles Port Authority plans to expand capacity of the harbor, which will increase both the number and size of the vessels that use the Santa Barbara Channel (Port of Long Beach 2003). The Los Angeles Port Authority plans to increase capacity by 100 percent by the year 2020. During the same time frame the size of the commercial vessels that use the Santa Barbara Channel is expected to increase with the 4,000 to 4,999 twenty-foot equivalent units (TEU; a measure of containerized cargo capacity equal to one standard 20 ft long x 8 ft wide x 8 ft 6 in high container) class, currently the most common size class, being supplemented by vessels as large as 10,000 to 12,000 TEU that are currently under construction (Mercator Transport Group 2005). The bulk of these larger vessels are expected to make their first port call at the Port of LA/Long Beach. This is because the Port of Oakland, the other large vessel port in California, will not be able to accommodate them due to the shallowness of San Francisco Bay. The expected tonnage carried by commercial vessels is also expected to increase from 75 million tons in 1980 to 202 million tons by the year 2020 (Temple et al. 1988; USACE 1984). With anticipated high import growth and expansion of the Panama Canal, the Port of LA/Long Beach forecasts that port calls by container vessels in 2020 could be nearly double that experienced in 2004, going from 3,224 to 6,292 (Mercator Transport Group 2005).

Port Hueneme, the deep-water international port closest to the Sanctuary, also generates vessel traffic. In 2006, 410 cargo vessels, typically carrying automobiles or bananas, docked at Port Hueneme (Oxnard Harbor District 2007). Approximately 158 supply vessel trips are made each year to regional oil and gas facilities (Oxnard Harbor District 2002).

NOAA's assessment of data collected by California in 2006, pursuant to California Senate Bill 771, indicates that on average oceangoing ships typically have crews of approximately twenty people, but may range from five to fifty people. Oceangoing ships are not passenger carrying vessels so crew sizes may be used to represent the total number of people on board. Based on the significantly lower number of people on board oceangoing ships compared with cruise ships, oceangoing ships are not likely to generate the large volume of sewage and graywater generated by cruise ships.

At this time, cruise ships occasionally transit through the waters of the Sanctuary using the TSS, but are not known to stop in the Sanctuary. The Sanctuary Aerial Monitoring and Spatial Analysis Program (SAMSAP) surveys (which are not conducted at night, in foul weather, or when a pilot or aircraft is not available) have observed only two cruise ships since such flights began in 1997, and those two vessels were traveling within the TSS. These observations demonstrate that cruise ships do use the TSS, but may not be representative of the total number of cruise ships using the TSS because of the limitations on flight time. Direct observation by staff with the Channel Islands National Park indicates that more than 12 years ago cruise ship operation within the Sanctuary (and outside the TSS) did occasionally take place (Channel Islands National Park 2006, personal communication with J. Fitzgerald), but such operation has not been noted since. Thus, while cruise ships have stopped in the Sanctuary in the past (and the cruise line industry could do so again in the future), they are not presently known to stop in the Sanctuary.

Given that cruise ships travel at between 15 to 20 knots, they should only be in Sanctuary waters for approximately one hour when transiting north in the TSS, and approximately two to two-and-a-half hours when transiting south in the TSS.

Cruise ships occasionally visit the City of Santa Barbara while transiting between destinations to the north and south of the city and in doing so are likely to spend time in the Santa Barbara Channel TSS. Between 2002 and May 7, 2007 Santa Barbara received eight cruise ship visits from six different cruise ships (Santa Barbara Waterfront Department 2007, personal communication with B. Slagle). According to data that these ships provided to the City's Waterfront Department, they ranged in size from 16,927 to 116,000 GRT, and carried between 296 and 3,700 people ("total passenger/crew") on board.

According to the Cruise Line Industry Association, Inc. (CLIA), the cruise industry is the fastest growing segment of the travel industry, with 2,100% growth since 1970 (CLIA 2007), and an average annual passenger growth rate of 8.2% per year since 1980 (CLIA 2006b). By the end of 2007 about 100 new cruise ships will have been introduced since 2000 (CLIA 2007). The worldwide cruise ship fleet includes more than 230 ships, with vessel capacities of 3,000 passengers and crew not uncommon (U.S. EPA 2006a). A consistent increase in the size of cruise ships has occurred over the past three decades. The largest vessel currently in service is Royal Caribbean's Freedom of the Seas (3,634 passengers). However, the same cruise line has ordered two 5,400 passenger-capacity cruise ships as part of its "Genesis Project," with vessel deliveries expected in 2009 and 2010 (Royal Caribbean Cruises 2007). Although most of the largest vessels are destined for operation in the Caribbean, the general trend in the industry is toward increased vessel size. The cruise industry is building its capacity based on its growth potential and untapped markets (CLIA 2007). This overall growth trend in the industry could yield increased cruise ship traffic through the Santa Barbara Channel, and consequently the Sanctuary.

Cruise ships can produce and discharge extensive sewage wastes on par with some small cities, yet they are not subject to the same environmental regulations and monitoring requirements that land based facilities are required to comply with, such as obtaining discharge permits, meeting numerous permit conditions, and monitoring effluent discharges (NOAA 2003c). Estimates of blackwater production from large cruise ships range from a low of 5–7 gallons per person per day to a high of 17 gallons per person per day (EPA 2006c, d, e, f). The volume of treated blackwater generated and discharged varies considerably from ship to ship and region to region. Much of the variation depends on the treatment process.

A typical 7–10 day cruise ship voyage produces more than one million gallons of graywater, making it by far the largest source of liquid waste on a cruise ship (Sweeting and Wayne 2003). The average large cruise ship with 2,500 passengers and crew onboard produces 211,200 gallons of wastewater per day, and 90–95% of this wastewater is graywater (Alaska Department of Environmental Conservation 2004a). The average small cruise ship with 100 passengers and crew onboard produces 2,500 gallons of wastewater per day (Alaska Department of Environmental Conservation 2004a).

Some vessels mix graywater with blackwater where it gets treated in the blackwater treatment system or advanced treatment system. If graywater is retained in an MSD and, consequently, mixed with any sewage, it is considered blackwater.

**Summary of the Proposed Revised Regulatory Amendments**

*Regulation of Vessel Sewage*

The revised regulation would amend the exception to the prohibition on

discharging or depositing sewage from within or into the Sanctuary. The revised exception would apply exclusively to small vessels (less than 300 GRT) that generate sewage effluent treated by an operable Type I or II marine sanitation device. Consequently, large vessels would not be allowed to discharge sewage whether treated or untreated.

The revised regulation would address NOAA's concerns about possible impacts from large volumes of sewage discharges in the Sanctuary, whether treated or not, from large vessels (such as cruise ships). Vessel sewage discharges are more concentrated than domestic land-based sewage. They may introduce disease-causing microorganisms (pathogens), such as bacteria, protozoans, and viruses, into the marine environment (EPA 2007). They may also contain high concentrations of nutrients that can lead to eutrophication (the process that can cause oxygen-depleted "dead zones" in aquatic environments), and may yield unpleasant esthetic impacts to the Sanctuary (diminishing Sanctuary resources and its ecological, conservation, esthetic, recreational and other qualities).

The revised regulation would also address additional concerns NOAA has about failure of conventional MSDs on large vessels to adequately treat sewage waste streams, and lack of monitoring of those waste streams. Type II MSDs, used in approximately 75% of the large oceangoing vessels that called on California ports in 2006, have been found to generate waste streams that exceed federal standards (40 CFR part 140). While these devices are designed to lower fecal coliform bacteria counts and reduce total suspended solids, studies in Alaska of cruise ship waste water discharges have shown high rates of failure in the ability of conventional MSDs to meet legal discharge standards (Alaska Department of Environmental Conservation 2004). Furthermore, monitoring and testing of MSD discharges (outside of Alaska) is not legally required of large vessel operators, so reductions in treatment effectiveness may go undetected. Consequently, NOAA has determined that it is appropriate to require large vessels to hold both treated and untreated sewage while within the Sanctuary.

At this time, NOAA is less concerned with treated sewage discharges from small vessels (less than 300 GRT). Although the exception for treated sewage discharge from Type I or II MSDs would be applicable to small vessels, most small vessels in the Sanctuary do not have Type I or II MSDs and as such remain prohibited from discharging their sewage in the Sanctuary. The U.S. Coast Guard's Marine Safety Detachment office in Santa Barbara has informed NOAA that most small vessels operating in the Sanctuary have Type III MSDs, discharges from which are prohibited throughout the Sanctuary, or no MSD at all. Additionally, single point sewage discharges from the few small vessels that have Type I or II MSDs are far less in quantity than those from cruise ships, thus discharging fewer nutrients, bacteria, and potential pathogens.

*Regulation of Vessel Graywater*

The revised regulation would amend the exception to the prohibition on discharging graywater from within or into the Sanctuary. The revised regulation would provide that the exception for graywater is only applicable to small vessels (less than 300 GRT), and to oceangoing ships without sufficient holding tank capacity to hold graywater while within the Sanctuary. Accordingly, the revised regulation would in effect prohibit the discharge of graywater by, for example, cruise ships when operating in the Sanctuary.

Per this supplemental proposed rule, the proposed CINMS definition of "graywater" to be added to the National Marine Sanctuary Program regulations at 15 CFR part 922.71 would read as follows: "Graywater means galley, bath, or shower water." Other discharges, such as those from laundry facilities, are not included in this definition, which is based on section 312 of the CWA. NOAA's May 2006 proposed rule (71 FR 29096) referred to the definition of graywater codified by the CWA; however, NOAA is proposing to provide the definition of graywater in the CINMS regulations so that Sanctuary users do not have to refer to the CWA for this definition.

The revised regulation would address NOAA's concerns about the potential impacts of graywater discharges from large vessels in the Sanctuary. Graywater can contain a variety of substances including (but not limited to) detergents, oil and grease, pesticides and food wastes (Eley 2000). Very little research has been done on the impacts of graywater on the marine environment, but many of the chemicals commonly found in graywater are known to be toxic (Casanova *et al.* 2001). These chemicals have been implicated in the occurrence of cancerous growths in bottom-dwelling fish (Mix 1986). Furthermore, studies of graywater discharges from large cruise ships in Alaska (prior to strict state effluent standards for cruise ship graywater discharges) found very high levels of fecal coliform in large cruise ship graywater (well exceeding the federal standards for fecal coliform from Type II MSDs). These same studies also found high mean total suspended solids in some graywater sources (exceeding the federal standards for total suspended solids from Type II MSDs).

Unlike cruise ships, many oceangoing ships were designed without the ability to retain graywater, particularly those constructed prior to the early 1990s (personal communication, S. Young, U.S. Coast Guard). While many of these older ships, particularly those calling on U.S. ports, have since been modified to allow graywater retention, some must still discharge graywater directly as it is produced (personal communication, S. Young, U.S. Coast Guard). Consequently, given that many older vessels are still in operation, NOAA proposes an exception for graywater discharge from oceangoing ships without sufficient holding tank capacity to retain graywater while in the Sanctuary. The California State Water Resources Control Board staff's preliminary review of 2006 survey data found that approximately 20% of oceangoing ships have sufficient holding tank capacity to hold graywater while within marine waters of the state (State Water Resources Control Board 2006, personal communication with R. Jauregui). This represents the best available data, and as such indicates that it is possible that the exception could apply to 80% of the oceangoing ships transiting the Sanctuary. However, given that the holding tank requirements for retaining graywater within all state marine waters are much greater than that which would be required for transiting the Sanctuary, NOAA believes the number of oceangoing vessels that would not have sufficient holding tank capacity to retain graywater within the Sanctuary would be much less than the possible 80% figure derived from state-collected data. Furthermore, the quantity of graywater generated by oceangoing ships, which typically have an average crew size of approximately twenty people, but may range from five to fifty people, is far less than the volume of graywater generated by cruise ships. As a general rule, large cruise ships generate 180 liters (50 gallons) of graywater per person per day. The average large cruise ship with 2,500 passengers and crew onboard produces 211,200 gallons of wastewater per day, and 90–95% of this wastewater is graywater (Alaska Department of

Environmental Conservation 2004a). The average small cruise ship with 100 passengers and crew onboard produces 2,500 gallons of wastewater per day (Alaska Department of Environmental Conservation 2004a). Due to the much lower number of people on board oceangoing ships (as noted above, on average oceangoing ships carry crews of approximately twenty people, but may range from five to fifty people), graywater from oceangoing ships is not expected to contain the larger volume of possible harmful chemicals that can be found in cruise ship graywater (NOAA 2003c).

To summarize, the revised proposed discharge regulation would in effect prohibit the following discharges from within or into the Sanctuary: (1) Sewage from vessels 300 GRT or more, including cruise ships and oceangoing ships; (2) graywater from cruise ships; and (3) graywater from oceangoing ships with sufficient holding tank capacity to hold graywater while within the Sanctuary.

For consistency purposes, NOAA is proposing to adopt, in part, the existing California Clean Coast Act definition of "oceangoing ship" (California Public Resources Code sec. 72410(j)). The proposed CINMS definition of "oceangoing ship" to be added to the National Marine Sanctuary Program regulations at 15 CFR part 922.71 would read as follows: "Oceangoing ship means a private, commercial, government, or military vessel of 300 gross registered tons or more, not including cruise ships."

The California Clean Coast Act definition is the same with one additional phrase at the end: "Calling on California ports or places." The Sanctuary definition excludes this phrase since ships of this general description may traverse the Santa Barbara Channel TSS, and thereby the Sanctuary, without stopping in California ports or places.

Also for consistency, NOAA is proposing application of the proposed Monterey Bay National Marine Sanctuary definition of "cruise ship" (71 FR 59050–59066). Therefore, the proposed CINMS definition of "cruise ship" to be added to the National Marine Sanctuary Program regulations at 15 CFR 922.71 would read as follows: "Cruise ship means a vessel with 250 or more passenger berths for hire."

*Summary of Anticipated Impacts of This Rule*

Revisions to the treated sewage discharge exception are expected to have beneficial impacts on the Sanctuary's physical, biological, and recreational resources. In addition, prohibiting large volumes of sewage (treated and untreated) from being discharged in the Sanctuary may have beneficial esthetic impacts on certain Sanctuary users. For example, boating, paddle sports, fishing, and diving may benefit from not encountering large volume sewage wastewater plumes in the Sanctuary.

The proposed revision to the treated sewage discharge exception is expected to create less than significant adverse socioeconomic impacts to operators of large vessels. Large vessels using the shipping lanes within the Santa Barbara Channel would only be required to hold sewage on board for a distance of 18 nmi (less than an hour at 25 knots) when transiting northwest across the CINMS, and for 37 nmi (approximately an hour and a half at 25 knots) when traveling southeast. Additionally, a portion of the southeast-bound shipping lane that transits through the Sanctuary also passes through state waters, where large vessel sewage discharge is already prohibited pursuant to the California Clean Coast Act.

Revisions to the graywater discharge exception are expected to have cumulative beneficial impacts on the Sanctuary's physical, biological, and recreational resources. In addition, prohibiting large volumes of graywater from being discharged in the Sanctuary may have beneficial esthetic impacts on certain Sanctuary users. For example, boating, paddle sports, fishing, and diving may benefit from not encountering large volume graywater discharges in the Sanctuary.

The proposed revision to the graywater discharge exception is expected to create less than significant adverse socioeconomic impacts on operators of large vessels. Potential socioeconomic impacts to large vessel operators are reduced given (1) the limited time these vessels spend in the Sanctuary, and (2) the proposed exception to the graywater discharge prohibition for oceangoing ships that do not have sufficient holding tank capacity to hold graywater while within the Sanctuary.

An analysis of environmental consequences of the regulatory changes proposed in this rule is provided in the associated SDEIS. For information on how to obtain a copy of the SDEIS please see the **ADDRESSES** section of this proposed rule.

**Miscellaneous Rulemaking Requirements**

*National Environmental Policy Act*

NOAA has prepared a SDEIS to evaluate the proposed revisions to the discharge/deposit regulation analyzed in the DEIS. Copies of the SDEIS are available at the address and Web site listed in the **ADDRESSES** section of this proposed rule. Responses to comments received on the SDEIS will be published in the Final Management Plan (FMP)/FEIS and preamble to the final rule.

*Coastal Zone Management Act*

Based upon discussions with staff for the California Coastal Commission, NOAA believes this proposed action meets the conditional concurrence issued by the Commission on July 18, 2006. NOAA will continue to consult with the Commission to ensure full compliance with all applicable requirements of the Coastal Zone Management Act.

*Executive Order 12866: Regulatory Impact*

This proposed rule has been determined to be not significant within the meaning of Executive Order 12866.

*Executive Order 12612: Federalism Assessment*

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612. Sanctuary staff have consulted with members of the Sanctuary Advisory Council, California Coastal Commission staff, and California State Water Resources Control Board staff during the development of the revised proposed discharge regulation.

*Regulatory Flexibility Act*

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows:

Small business concerns operating within the Sanctuary include over 500 commercial fishermen, approximately 28 consumptive recreational charter businesses, approximately 27 non-consumptive recreational charter businesses, one motorized personal watercraft business, approximately 20 marine salvage companies, and one aviation business. The approximately 40 small organizations operating within the

Sanctuary include non-governmental organizations (NGO's) and/or non-profit organizations (NPO's) dedicated to environmental education, research, restoration, and conservation concerning marine and maritime heritage resources. There are no small governmental jurisdictions in the Sanctuary.

Limiting the sewage discharge exception to vessels less than 300 GRT would not have a significant adverse impact on small entities. No small entities operate vessels 300 GRT or more within the Sanctuary, including cruise ships and oceangoing ships.

The graywater discharge exception for vessels less than 300 GRT, and oceangoing ships 300 GRT or more without sufficient holding tank capacity to hold graywater while within the Sanctuary would not have a significant adverse impact on small entities. No small entities operate vessels 300 GRT or more within the Sanctuary, including cruise ships and oceangoing ships.

Because this action would not have a significant economic impact on a substantial number of small entities, no initial regulatory flexibility analysis was prepared.

*Request for Comments*

NOAA is requesting comments on the amendments concerning vessel discharges of sewage and graywater made by this proposed rule to its May 2006 currently pending proposed rule (71 FR 29096).

**List of Subjects in 15 CFR Part 922**

Administrative practice and procedure, Coastal zone, Historic preservation, Intergovernmental relations, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Wildlife.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

**References**

A complete list of all references cited herein is available upon request (see **ADDRESSES** section).

Dated: March 21, 2008.

**Steve Kozak,**

*Chief of Staff for Ocean Services and Coastal Zone Management.*

Accordingly, for the reasons set forth above, the proposed rule published at 71 FR 29096, May 19, 2006, is proposed to be further amended as follows:

## PART 922—NATIONAL MARINE SANCTUARY PROGRAM REGULATIONS

1. The authority citation for part 922 continues to read as follows:

**Authority:** 16 U.S.C. 1431 *et seq.*

2. Amend § 922.71 by adding the following paragraphs in alphabetical order:

**§ 922.71 Definitions.**

* * * * *

*Cruise ship* means a vessel with 250 or more passenger berths for hire.

*Graywater* means galley, bath, or shower water.

*Oceangoing ship* means a private, commercial, government, or military vessel of 300 gross registered tons or more, not including cruise ships.

3. In § 922.72, revise paragraphs (a)(3)(i)(B) and (C) to read as follows:

**§ 922.72 Prohibited or otherwise regulated activities.**

(a) * * *

(3)(i) * * *

(B) Biodegradable effluent incidental to vessel use and generated by an operable Type I or II marine sanitation device (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.*, from a vessel less than 300 gross registered tons. Vessel operators must lock all marine sanitation devices in a manner that prevents discharge of untreated sewage;

(C) Biodegradable matter from:

(1) Vessel deck wash down;

(2) Vessel engine cooling water;

(3) Graywater from a vessel less than 300 gross registered tons;

(4) Graywater from an oceangoing ship without sufficient holding tank capacity to hold graywater while within the Sanctuary;

* * * * *

[FR Doc. E8–6178 Filed 3–27–08; 8:45 am]

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 40

**[Docket No. RM08–3–000]**

## Mandatory Reliability Standard for Nuclear Plant Interface Coordination

March 20, 2008.

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** Pursuant to section 215 of the Federal Power Act, the Commission proposes to approve the Nuclear Plant Interface Coordination Reliability Standard developed by the North American Electric Reliability Corporation (NERC). The proposed Reliability Standard requires a nuclear power plant operator and its suppliers of back-up power and related transmission and distribution services to coordinate concerning nuclear licensing requirements for safe nuclear plant operation and shutdown and system operating limits. The Commission also proposes to accept four related definitions for addition to the NERC Glossary of Terms and to direct various changes to proposed violation risk factors, which measure the potential impact of violations of the Reliability Standard on the reliability of the Bulk-Power System. The proposed rule would benefit the Reliable Operation of the Bulk-Power System by facilitating the provision of off-site power to ensure reliable and safe nuclear power plant operation and shutdown.

**DATES:** Comments are due April 28, 2008.

**ADDRESSES:** Interested persons may submit comments, identified by Docket No. RM08–3–000, by any of the following methods:

- *eFiling:* Comments may be filed electronically via the eFiling link on the Commission's Web site at: *http://www.ferc.gov*. Documents created electronically using word processing software should be filed in the native application or print-to-PDF format and not in a scanned format. This will enhance document retrieval for both the Commission and the public. The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Attachments that exist only in paper form may be scanned. Commenters filing electronically should not make a paper filing. Service of rulemaking comments is not required.
- *Mail/Hand Delivery:* Commenters that are not able to file electronically must mail or hand deliver an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

*Instructions:* For detailed instructions on submitting comments and additional information on the rulemaking process,