



Client Alert 18-2019
October 22, 2019
California Ballast Water Requirements
Marine Invasive Species Act Update

On October 2, 2019, Governor Gavin Newsom signed Assembly Bill (AB) 912 into law. The bill, which takes effect on January 1, 2020, makes some minor changes to California’s Marine Invasive Species Act which may require action by our clients. The changes take effect on January 1, 2020,

The California State Lands Commission (CSLC) sent out the attached notice, highlighting changes which include:

- Extending the southern boundary of the Pacific Coast Region (PCR) from 25° N to 20° N. The Pacific Coast Region will include the ports of Cabo San Lucas, Mazatlán, and Puerto Vallarta as well as Gulf of California. This update only applies to vessels that have not reached their BWMS compliance date that load ballast in the extended PCR area and then discharge ballast in California.
- Authorizes the California State Lands Commission to sample ballast water and biofouling for research purposes.
- Establishes documentation and notification requirements for the ballast water management safety exemption. Vessel masters requesting a safety exemption will need to notify and submit documentation to the California State Lands Commission.
- Mandates that the California State Lands Commission create regulations to enforce the U.S. Coast Guard ballast water discharge performance standards. These regulations, which could take up to one year to adopt, will also include requirements for vessels to notify CSLC and get approval before discharging ballast when a BWTS is inoperable.
- Defines “land” for purposes of the Marine Invasive Species Act. The definition includes any offshore rock outcroppings or islands.
- Delays implementation of the California interim and final ballast water discharge performance standards until January 1, 2030, and January 1, 2040.

Please direct all enquiries and comments to our general mailbox at ecm@ecmmaritime.com

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October 11, 2019

File Ref: W9777.234

Dear Shipping Agents and Interested Parties:

On October 2, 2019, Governor Gavin Newsom signed Assembly Bill (AB) 912 into law. AB 912 will go into effect on January 1, 2020. The full text of the law is available at

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB912.

AB 912 makes the following changes to the Marine Invasive Species Act (Pub. Res. Code section 71200 et seq.):

- 1) Delays implementation of the California interim and final ballast water discharge performance standards until January 1, 2030, and January 1, 2040, respectively.** (Pub. Res. Code section 71205.3, subsec. (a))

In 2018, the Commission found that no ballast water treatment technologies were available to enable implementation of the California interim ballast water discharge performance standards on January 1, 2020. AB 912 addresses this problem by delaying implementation of the California interim ballast water discharge performance standards until January 1, 2030, and the final standards until January 1, 2040. The Commission is required to prepare a new assessment of the availability of ballast water treatment technologies to meet the California performance standards at least 18 months in advance of each implementation date.

- 2) Mandates that the Commission adopt regulations to enforce the U.S. Coast Guard ballast water discharge performance standards.** (Pub. Res. Code section 71205.3, subsec. (a))

Effective January 1, 2020, AB 912 requires the Commission to adopt regulations that require owners and operators of vessels arriving at California ports to comply with the U.S. Coast Guard ballast water discharge performance standards set forth in Section 151.2030(a) of Title 33 of the Code of Federal Regulations based on the vessel implementation schedule set forth in Section 151.2035(b) of Title 33 of the Code of Federal Regulations. Proposed regulations to implement the

performance standards and establish a process to assess vessel discharge compliance will be published for public comment in the California Regulatory Notice Register in early 2020.

3) Changes the boundaries of the Pacific Coast Region (PCR) (Pub. Res. Code section 71200, subsec. (l))

AB 912 changes the definition of the Pacific Coast Region to “all coastal waters on the Pacific Coast of North America east of 154 degrees W longitude and north of 20 degrees N latitude, inclusive of the Gulf of California.” (See attached Pacific Coast Region Maps.) For vessel operators who manage their vessel’s ballast water through exchange, this change will decrease the distance from shore that some vessels must travel prior to exchanging ballast water and subsequently discharging ballast water in California waters. As a reminder, vessels whose last port of call is inside the PCR and that are carrying ballast sourced from within the PCR are required to conduct ballast water exchange at least 50 nautical miles from land prior to discharge in California waters.

4) Defines “land” for purposes of the Marine Invasive Species Act (Pub. Res. Code section 71200, subsec. (i))

AB 912 defines “land” as “the material of the earth, whether soil, rock, or other substances, that sits landward of, or at an elevation higher than, the mean high-tide line of the ocean, including any rock outcroppings or islands located offshore.” This change is for clarification and consistency with existing regulations. When vessel operators calculate their distance from land for purposes of ballast water exchange, they must consider the presence of islands and rock outcroppings in their calculation.

5) Establishes documentation and notification requirements for the ballast water management safety exemption (Pub. Res. Code section 71203, subsec. (b))

Vessels are exempt from California’s ballast water management methods if the vessel master determines that the practice would threaten the safety of the vessel, its crew, or its passengers. If the vessel master determines that the vessel cannot manage ballast water for safety reasons, AB 912 establishes that, in addition to taking all feasible measures to minimize the discharge of ballast water in California waters, the master must:

- 1) document the reason in the ballast water log;
- 2) notify the Commission at the earliest practicable time; and
- 3) make the information in the ballast water log available to Commission staff upon request.

6) Authorizes the Commission to sample ballast water and biofouling for research purposes. (Pub. Res. Code section 71213, subsec. (b))

Effective January 1, 2020, the Commission will have authority to board vessels to sample ballast water and biofouling for research purposes. Previously, the Commission's sampling authority was restricted to compliance assessment.

If you have any questions about AB 912 or the changes to the Marine Invasive Species Act, do not hesitate to contact me.

Sincerely,

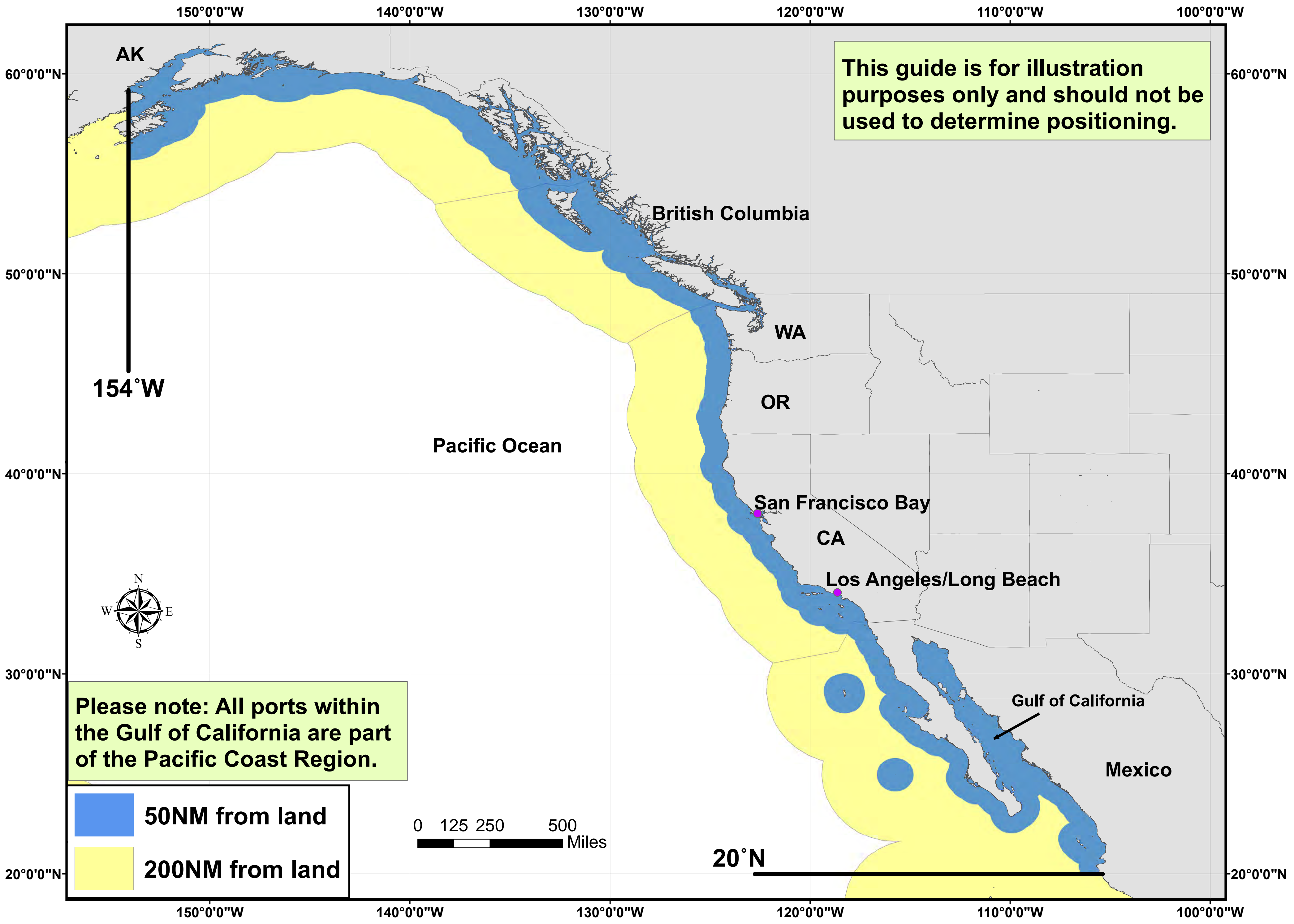


Nicole Dobroski
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Attachment: Pacific Coast Region Maps

cc: Chris Beckwith, Chief, Marine Environmental Protection Division
Patrick Huber, Staff Attorney
Emma Kennedy, Staff Attorney

PACIFIC COAST REGION (Effective January 1, 2020)



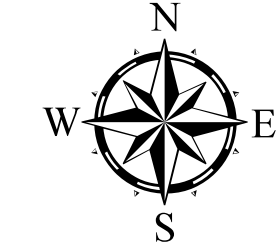
This guide is for illustration purposes only and should not be used to determine positioning.

Please note: All ports within the Gulf of California are part of the Pacific Coast Region.

50NM from land
200NM from land

0 125 250 500 Miles

20°N



154°W

150°0'0"W

140°0'0"W

130°0'0"W

120°0'0"W

110°0'0"W

100°0'0"W

60°0'0"N

60°0'0"N

50°0'0"N

50°0'0"N

40°0'0"N

40°0'0"N

30°0'0"N

30°0'0"N

20°0'0"N

20°0'0"N

150°0'0"W

140°0'0"W

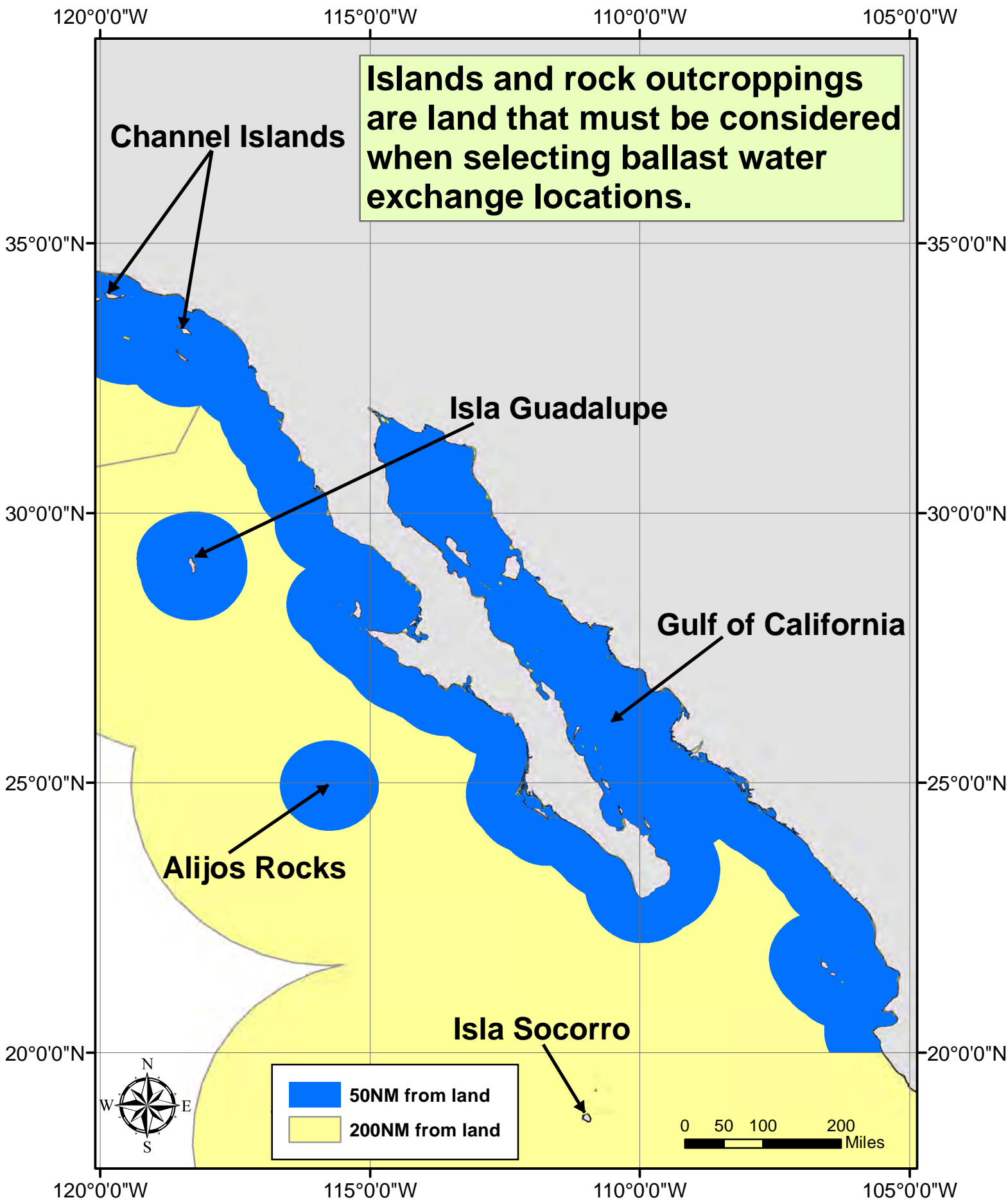
130°0'0"W

120°0'0"W

110°0'0"W

100°0'0"W

Southern Portion of the Pacific Coast Region



Islands and rock outcroppings are land that must be considered when selecting ballast water exchange locations.