

## STAFF SUMMARY FOR OCTOBER 19-20, 2016

**7. TRIBAL TAKE IN MPAS****Today's Item****Information** **Action** 

Discuss proposed changes to regulations regarding tribal take in marine protected areas (MPAs)

**Summary of Previous/Future Actions**

- FGC direction to initiate rulemaking Apr 13-14, 2016; Santa Rosa
- Notice hearing Aug 24-25, 2016; Folsom
- Consultations with tribes Oct 17-18, 2016, Eureka
- **Today's Discussion hearing** **Oct 19-20, 2016; Eureka**
- Adoption hearing Dec 7-8, 2016; San Diego

**Background**

Existing regulations in Section 632, Title 14, provide definitions, and site-specific area classifications, boundary descriptions, commercial and recreational take restrictions, and other restricted/allowed uses, including exemptions from the area and take regulations for those tribes in the north coast region that submitted factual records of historic and current uses in specific geographies.

The regulatory text in subsection 632(b)(6) is proposed to be amended to add two tribes, Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria, to the list of tribes exempt from the area and take regulations for Reading Rock State Marine Conservation Area, based on the factual records and requests of the tribes.

Tribal consultations with the Yurok Tribe, Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria are scheduled for the two days before the meeting regarding this proposed change.

In addition, the regulatory text in subsections 632(b)(1) and 632(b)(2) is proposed to be updated to reflect Smith River Rancheria's name change to Tolowa Dee-Ni' Nation.

Please refer to the staff summary for the Aug 24-25, 2016, FGC meeting for additional background information (Exhibit 1).

**Significant Public Comments (N/A)****Recommendation (N/A)****Exhibits**

1. [Staff Summary for Aug 24-25, 2016, FGC meeting, Item 11](#)
2. [Initial Statement of Reasons](#)

**Motion/Direction (N/A)**

## STAFF SUMMARY FOR AUGUST 24-25, 2016

**11. TRIBAL TAKE IN MPAS****Today's Item**Information Action 

Authorize publication of notice of intent to change regulations regarding tribal take in marine protected areas (MPAs).

**Summary of Previous/Future Actions**

- FGC direction to initiate rulemaking Apr 13-14, 2016; Sacramento
- **Today's Notice hearing Aug 24-25, 2016; Folsom**
- Discussion hearing Oct 19-20, 2016; Eureka
- Adoption hearing Dec 7-8, 2016; San Diego

**Background**

Existing regulations in Section 632, Title 14, provide definitions, and site-specific area classifications, boundary descriptions, commercial and recreational take restrictions, and other restricted/allowed uses, including tribal take allowances within select MPAs in recognition of traditional tribal uses in the north coast region.

The originally proposed language of the 2012 MPA rulemaking included the Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria in the list of tribes exempt from the area and take regulations for Reading Rock State Marine Conservation Area (SMCA) based on their submitted factual records (exhibits 2 and 3). However, FGC ultimately adopted the no-change alternative concerning these tribes in this area and listed the Yurok Tribe as the only federally-recognized tribe exempt from regulations within the SMCA.

Following the adoption of the 2012 regulations, Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria requested that FGC reconsider adding an exemption for their respective Tribes in the Reading Rock SMCA, based on their status as independent federally recognized Sovereign Tribal Nations and their fulfillment of FGC's requirement for documentation of historic or current uses of the area through a factual record (exhibits 4-6).

After vetting in the Tribal Committee and before FGC in 2014 and 2015, FGC provided direction to staff in Apr 2016 to begin to prepare a rulemaking package that would add Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria to the list of tribes exempt from the area and take regulations for Reading Rock SMCA (subsection 632(b)(6)).

In addition, FGC directed staff to update MPAs that include an exemption for Smith River Rancheria. The tribe notified FGC that in 2015 Smith River Rancheria changed its name to Tolowa Dee-ni' Nation and requested that the regulations be updated to reflect the change. The regulatory text in subsections 632(b)(1) and 632(b)(2) is proposed to be updated to reflect Smith River Rancheria's name change to Tolowa Dee-Ni' Nation. Other changes are proposed for clarity and consistency (Exhibit 1).

In Jun 2016, the Yurok Tribe submitted a comment letter (Exhibit 7) requesting formal consultation before action is considered. FGC Executive Director Valerie Termini sent a letter responsive to the request to the Yurok Tribe, as well as letters to Cher-Ae Heights Indian Community of the Trinidad

## STAFF SUMMARY FOR AUGUST 24-25, 2016

Rancheria and Resighini Rancheria offering similar opportunities for consultation, and offered to schedule the consultations in Oct (adjacent to Oct FGC meeting).

**Significant Public Comments**

1. Letter from Yurok Tribe opposing the change at Reading Rock and requesting formal consultation between FGC and the Yurok Tribe before any action is taken on the requests from Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria (Exhibit 7).

**Recommendation**

**FGC staff:** The proposed changes have been discussed before FGC for several years. As such, staff recommends going to notice at this meeting while concurrently engaging in consultation with the Yurok, Cher-Ae Heights Indian Community of Trinidad Rancheria and Resighini Rancheria.

**Exhibits**

1. Executive Director memo and draft proposed regulatory language, dated Aug 16, 2016
2. Factual Record of Current and Historical Uses by the Cher-Ae Heights Indian Community of the Trinidad Rancheria, dated Aug 29, 2011
3. Letter and Factual Record from Resighini Rancheria, received Oct 31, 2011
4. Letter from Resighini Rancheria, received Aug 20, 2012
5. Letter from Cher-Ae Heights Indian Community of the Trinidad Rancheria, dated Apr 10, 2012
6. Letters from Cher-Ae Heights Indian Community of the Trinidad Rancheria, received Aug 14, 2013
7. Letter from Yurok Tribe, received Jun 30, 2016

**Motion/Direction**

Moved by \_\_\_\_\_ and seconded by \_\_\_\_\_ that the Commission authorizes publication of a notice of its intent to amend Section 632, Title 14, California Code of Regulations, related to tribal take in marine protected areas.



### *Regional Implementation of Marine Life Protection Act*

The statewide network was assembled in an incremental series of regional public planning processes, known as the MLPA Initiative, across the coastline of California. The central coast, north central coast, south coast, and north coast regional regulations were implemented on September 21, 2007, May 1, 2010, January 1, 2012, and December 19, 2012, respectively. San Francisco Bay, the final region for consideration under the MLPA, is currently on hold until planning efforts in the Sacramento-San Joaquin River Delta have been completed.

### *Implementation of Marine Life Protection Act in North Coast Region*

North coast regional MPA planning was conducted under the MLPA Initiative. See the Initial Statement of Reasons (ISOR) for Rulemaking File No. 2012-1005-02s (available at <http://www.fgc.ca.gov/regulations/2012/index.aspx#632nc>) for background of the MLPA Initiative process for developing the regional MPAs proposal submitted to the Fish and Game Commission (Commission) for consideration in February 2011. The submitted proposal included, among other things, modifications to accommodate tribal take allowances within select MPAs in recognition of traditional non-commercial tribal take in the north coast region and the need for a potential tribal take category within MPAs.

### *Tribal take*

On June 6, 2012, the Commission adopted regulations that designated 20 MPAs and 7 special closures within the north coast region. The adopted regulations exempted specific federally-recognized tribes from the MPA area and take regulations in specified MPAs. For a tribe to be identified as eligible for “tribal take” within specific MPAs, as defined in subsection 632(a)(11), the tribe must be federally-recognized and submit a factual record of current or historic uses that demonstrates a current or historic use within specified geographies proposed as MPAs.

The originally proposed language in the ISOR for Rulemaking File No. 2012-1005-02s included the Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria in the list of tribes exempt from the area and take regulations for Reading Rock State Marine Conservation Area (SMCA) based on their submitted factual records. However, the Commission adopted regulatory language that listed the Yurok Tribe as the only federally-recognized tribe exempt from regulations within Reading Rock SMCA.

Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria subsequently requested that the Commission reconsider adding an exemption for their respective tribes in the Reading Rock SMCA. Their status as independent, federally recognized sovereign tribal nations and their fulfillment of the Commission's requirement for documentation of historic or current uses of the area through a factual record is the foundation for the request.

In addition, the adopted regulations included a tribal take exemption for Smith River Rancheria in two SMCAs. In 2015, Smith River Rancheria changed its name to Tolowa Dee-ni' Nation and has requested that the regulations be updated to reflect the name change.

**Proposed Amendments:**

*Tribal Take in Reading Rock SMCA:* The regulatory text in subsection 632(b)(6) is proposed to be amended to add Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria to the list of tribes exempt from the area and take regulations for Reading Rock SMCA<sup>a</sup> (Figure 1), consistent with Rulemaking File No. 2012-1005-02s.

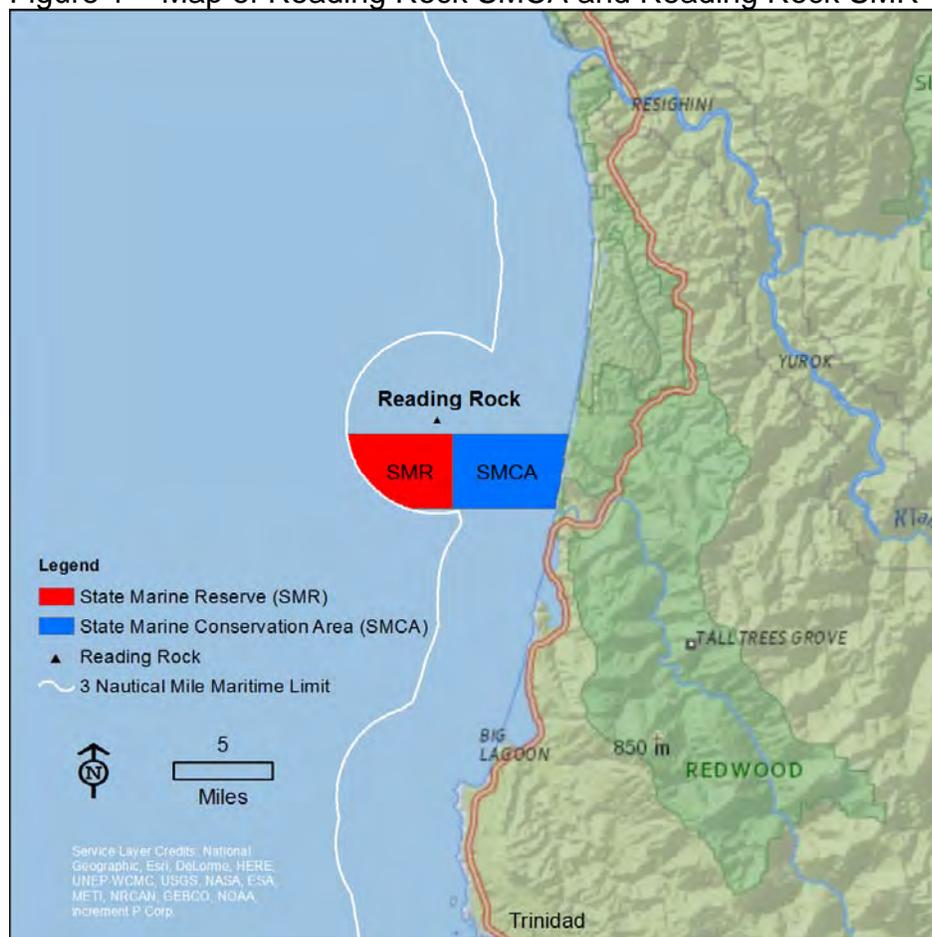
*Tribal Name Change:* The regulatory text in subsections 632(b)(1) and 632(b)(2) is proposed to be updated to reflect Smith River Rancheria's name change to Tolowa Dee-Ni' Nation.

*Other:* Other changes are proposed for clarity and consistency.

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<sup>a</sup> Reading Rock SMCA is located shoreward from Reading Rock State Marine Reserve to the mainland coast, and does not encompass the geographic feature called Reading Rock.

Figure 1 – Map of Reading Rock SMCA and Reading Rock SMR



### **Goals and Benefits of the Proposed Regulations**

The proposed regulations will provide clarity and consistency within the regulations and will align current exemptions from the area and take regulations in the north coast region with factual records of historic and current uses submitted by federally recognized tribes to the Commission.

- (b) Authority and Reference Sections from Fish and Game Code and Public Resources Code for Regulation:

Authority: Sections 200, 202, 205(c), 220, 240, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code.

Reference: Sections 200, 202, 205(c), 220, 240, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None
- (d) Identification of Reports or Documents Supporting Regulation Change:

Marine Life Protection Act, North Coast Study Region, Final EIR,  
California Fish and Game Commission/California Department of Fish and  
Game, May 2012.

(Available at [http://www.dfg.ca.gov/marine/mpa/impact\\_nc.asp](http://www.dfg.ca.gov/marine/mpa/impact_nc.asp))

Factual Record of Current and Historical Uses by the Cher-Ae Heights  
Indian Community of the Trinidad Rancheria Submission to the California  
Fish and Game Commission, August 29, 2011.

Letter received October 31, 2011, from the Resighini Rancheria to the  
California Fish and Game Commission: Resighini Rancheria Factual  
Record of Historic or Current Uses in North Coast Marine Protected  
Areas.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

The topic of tribal take in MPAs was discussed during the following  
meetings of the Commission's Tribal Committee:

- April 7, 2015, Santa Rosa
- June 9, 2015, Mammoth Lakes
- October 6, 2015, Los Angeles

The topic was also discussed at the following Commission meetings:

- October 7, 2015, Los Angeles: received the Tribal Committee's  
recommendation
- December 9, 2015, San Diego: received and discussed draft  
regulations
- February 10-11, 2016, Sacramento: received update on proposed  
draft rulemaking
- April 13-14, 2016, Santa Rosa: directed staff to initiate a rulemaking
- June 22-23, 2016, Bakersfield: received an update on the progress  
of the rulemaking

#### IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

No alternatives were identified by or brought to the attention of  
Commission staff that would have the same desired regulatory effect.

(b) No Change Alternative:

The no-change alternative would not include Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria in the list of tribes exempt from the area and take regulations for Reading Rock SMCA. The no-change alternative is inconsistent with the regulations allowing for tribal take exemptions for those tribes in the north coast region that submitted factual records of historic and current uses in specific geographies. In addition, the no-change alternative would not reflect the recent name change of the Smith River Rancheria to Tolowa Dee-Ni' Nation.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

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

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed amendments will neither increase nor decrease recreational or commercial fishing opportunities within marine protected areas.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to

the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

The Commission does not anticipate any impacts on the creation or elimination of jobs, creation of new businesses, elimination of existing businesses or expansion of businesses in California because these changes will neither increase nor decrease recreational or commercial fishing opportunities within marine protected areas.

The Commission does not anticipate any benefits to the health and welfare of California residents, to worker safety, or the environment.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

(e) Nondiscretionary Costs/Savings to Local Agencies: None.

(f) Programs Mandated on Local Agencies or School Districts: None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.

(h) Effect on Housing Costs: None.

VII. Economic Impact Assessment:

The proposed regulations will add Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria to the list of tribes exempt from the area and take regulations for Reading Rock SMCA, and will reflect Smith River Rancheria's name change to Tolowa Dee-Ni' Nation.

(a) Effects of the Regulation on the Creation or Elimination of Jobs Within the State:

The Commission does not anticipate any significant impacts on the creation or elimination of jobs, because the regulatory action only affects tribal take of marine species by members of the specified tribes.

- (b) Effects of the Regulation on the Creation of New Businesses or the Elimination of Existing Businesses Within the State:

The Commission does not anticipate any significant impacts on the creation of new business or the elimination of existing businesses in California, because the regulatory action only affects tribal take of marine species by members of the specified tribes.

- (c) Effects of the Regulation on the Expansion of Businesses Currently Doing Business Within the State:

The Commission does not anticipate any significant impacts on the expansion of businesses currently doing business in California, because the regulatory action only affects tribal take of marine species by members of the specified tribes.

- (d) Benefits of the Regulation to the Health and Welfare of California Residents:

The Commission does not anticipate benefits to the health and welfare of California residents, generally; however, members of the affected tribes may realize health and welfare benefits related to consumption of seafood.

- (e) Benefits of the Regulation to Worker Safety:

The Commission does not anticipate any benefits to worker safety because this regulatory action will not impact working conditions or worker safety.

- (f) Benefits of the Regulation to the State's Environment:

The Commission does not anticipate any benefits to the State's environment because the regulatory action only affects tribal take of marine species by members of the specified tribes pursuant to current seasonal, bag, possession, gear, and size limits in Fish and Game Code statutes and regulations of the Commission.

- (g) Other Benefits of the Regulation:

The Commission anticipates benefits to federally-recognized tribes with a factual record showing in specified areas historic and current traditional fishing, gathering, and harvesting uses, because the regulatory action will allow continued take, including for ceremonial, cultural and stewardship uses.

## Informative Digest/Policy Statement Overview

The Marine Life Protection Act (Fish and Game Code Sections 2850-2863) established a programmatic framework for designating marine protected areas (MPAs) in the form of a statewide network. The Marine Managed Areas Improvement Act (Public Resources Code Sections 36600-36900) standardized the designation of marine managed areas (MMAs), which include MPAs. The overriding goal of these acts is to protect, conserve, and help sustain California's valuable marine resources including maintaining natural biodiversity through adaptive management.

Existing regulations in Section 632, Title 14, California Code of Regulations (CCR) provide definitions, and site-specific area classifications, boundary descriptions, commercial and recreational take restrictions, and other restricted/allowed uses, including exemptions from the area and take regulations for those tribes in the north coast region that submitted factual records of historic and current uses in specific geographies.

### Proposed Amendments:

The regulatory text in subsection 632(b)(6) is proposed to be amended to add Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria to the list of tribes exempt from the area and take regulations for Reading Rock State Marine Conservation Area.

The regulatory text in subsections 632(b)(1) and 632(b)(2) is proposed to be updated to reflect Smith River Rancheria's name change to Tolowa Dee-Ni' Nation.

Other changes are proposed for clarity and consistency

### Goals and Benefits of the Proposed Regulations

The proposed regulations will provide clarity and consistency within the regulations and will align current exemptions from the area and take regulations in the north coast region with factual records of historic and current uses submitted by federally recognized tribes to the Fish and Game Commission.

### Consistency with Other State Regulations

The proposed regulations are consistent with regulations concerning sport and commercial fishing and kelp harvest found in Title 14, CCR. The State Water Resources Control Board may designate State Water Quality Protection Areas and the State Park and Recreation Commission may designate State Marine Reserves, State Marine Conservation Areas, State Marine Recreational Management Areas, State Marine Parks and State Marine Cultural Preservation Areas; however, only the Fish and Game Commission has authority to regulate commercial and recreational fishing and any other taking of marine species in MMAs. Fish and Game Commission staff has searched the

CCR and has found no other regulations pertaining to authorized activities in MPAs and therefore has determined that the proposed amendments are neither inconsistent, nor incompatible, with existing state regulations.

## Proposed Regulatory Language

Section 632, Title 14, CCR, is amended to read:

### § 632. Marine Protected Areas (MPAs), Marine Managed Areas (MMAs), and Special Closures.

(a) General Rules and Regulations:

The areas specified in this section have been declared by the commission to be marine protected areas, marine managed areas, or special closures. Public use of marine protected areas, marine managed areas, or special closures shall be compatible with the primary purposes of such areas. MPAs, MMAs, and special closures are subject to the following general rules and regulations in addition to existing Fish and Game Code statutes and regulations of the commission, except as otherwise provided for in subsection 632(b), areas and special regulations for use. Nothing in this section expressly or implicitly precludes, restricts or requires modification of current or future uses of the waters identified as marine protected areas, special closures, or the lands or waters adjacent to these designated areas by the Department of Defense, its allies or agents.

**[No changes to subsections (a)(1) through (a)(10)]**

**[Subsection (a)(11) is provided below for context only and no changes are proposed]**

(11) Tribal Take. For purposes of this regulation, “federally recognized tribe” means any tribe on the *List of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs*, published annually in the Federal Register. Any member of a federally recognized tribe authorized to take living marine resources from an area with area-specific take restrictions in subsection 632(b), when engaging in take within an authorized area shall possess on his person, in his immediate possession, or where otherwise specifically required by law to be kept, any valid license, report card, tag, stamp, validation, permit, or any other entitlement that is required in the Fish and Game Code, or required by other state, federal, or local entities, in order to take living marine resources. Members shall possess a valid photo identification card issued by a federally recognized tribe that contains expiration date, tribal name, tribal member number, name, signature, date of birth, height, color of eyes, color of hair, weight, and sex; and display any of the items listed above upon demand to any peace officer. Members taking living marine resources under this provision are subject to current seasonal, bag, possession, gear and size limits in existing Fish and Game Code statutes and regulations of the commission, except as otherwise provided for in subsection 632(b). No member, while taking living marine resources pursuant to this section, may be assisted by any person who does not possess a valid tribal identification card and is not properly licensed to

take living marine resources. Nothing in the regulation is intended to conflict with, or supersede, any state or federal law regarding the take of protected, threatened or endangered species.

**[No changes to subsection (a)(12)]**

(b) Areas and Special Regulations for Use. Pursuant to the commission's authority in Fish and Game Code Section 2860 to regulate commercial and recreational fishing and any other taking of marine species in MPAs, Fish and Game Code Sections 10500(f), 10500(g), 10502.5, 10502.6, 10502.7, 10502.8, 10655, 10655.5, 10656, 10657, 10657.5, 10658, 10660, 10661, 10664, 10666, 10667, 10711, 10801, 10900, 10901, 10902, 10903, 10904, 10905, 10906, 10907, 10908, 10909, 10910, 10911, 10912, 10913, and 10932 are superseded as they apply to designations in Subsection 632(b). All geographic coordinates listed use the North American Datum 1983 (NAD83) reference datum:

(1) Pyramid Point State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

42° 00.000' N. lat. 124° 12.735' W. long.;

42° 00.000' N. lat. 124° 19.814' W. long.; thence southward along the three nautical mile offshore boundary to

41° 57.500' N. lat. 124° 17.101' W. long.; and

41° 57.500' N. lat. 124° 12.423' W. long.

(B) Area restrictions defined in subsection 632(a)(1)(C) apply, with the following specified exceptions:

1. The recreational take of surf smelt [Section 28.45] by dip net or Hawaiian type throw net [Section 28.80] is allowed.

2. The following federally recognized ~~tribes (listed alphabetically)~~ tribe is exempt from the area and take regulations found in subsection 632(b)(1) of these regulations and shall comply with all other existing regulations and statutes:

~~Smith River Rancheria~~ Tolowa Dee-Ni' Nation.

(2) Point St. George Reef Offshore State Marine Conservation Area.

(A) This area is bounded by straight lines connecting the following points in the order listed except where noted:

41° 52.000' N. lat. 124° 23.189' W. long.;

41° 52.000' N. lat. 124° 25.805' W. long.; thence southward along the three nautical mile offshore boundary to

41° 49.000' N. lat. 124° 26.252' W. long.;

41° 49.000' N. lat. 124° 23.189' W. long.; and

41° 52.000' N. lat. 124° 23.189' W. long.

(B) Area restrictions defined in subsection 632(a)(1)(C) apply, with the following specified exceptions:

1. The recreational take of salmon by trolling [subsection 27.80(a)(3)]; and Dungeness crab by trap is allowed.
2. The commercial take of salmon with troll fishing gear [subsection 182(c)(4)]; and Dungeness crab by trap is allowed.
3. The following federally recognized tribes (listed alphabetically) are exempt from the area and take regulations found in subsection 632(b)(2) of these regulations and shall comply with all other existing regulations and statutes:  
Elk Valley Rancheria, and  
~~Smith River Rancheria~~ Tolowa Dee-Ni' Nation.

**[No changes to subsections (b)(3) through (b)(5)]**

- (6) Reading Rock State Marine Conservation Area.
  - (A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:  
41° 20.100' N. lat. 124° 04.911' W. long.;  
41° 20.100' N. lat. 124° 10.000' W. long.;  
41° 17.600' N. lat. 124° 10.000' W. long.; and  
41° 17.600' N. lat. 124° 05.399' W. long.
  - (B) Area restrictions defined in subsection 632(a)(1)(C) apply, with the following specified exceptions:
    1. The recreational take of salmon by trolling [subsection 27.80(a)(3)]; surf smelt [Section 28.45] by dip net or Hawaiian type throw net [Section 28.80]; and Dungeness crab by trap, hoop net or hand is allowed.
    2. The commercial take of salmon with troll fishing gear [subsection 182(c)(4)]; surf smelt by dip net; and Dungeness crab by trap is allowed.
    3. The following federally recognized ~~tribe is~~tribes (listed alphabetically) are exempt from the area and take regulations found in subsection 632(b)(6) of these regulations and shall comply with all other existing regulations and statutes:  
Cher-Ae Heights Indian Community of the Trinidad Rancheria,  
Resighini Rancheria, and  
Yurok Tribe of the Yurok Reservation.

**[No changes to subsections (b)(7) through (b)(147)]**

Note: Authority cited: Sections 200, 202, 205(c), 220, 240, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code. Reference: Sections 200, 202, 205(c), 220, 240, 2861, 5521, 6653, 8420(e) and

8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e),  
Public Resources Code.