

**TITLE 14. Fish and Game Commission
Notice of Proposed Changes in Regulations**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code; and to implement, interpret or make specific sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 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, proposes to amend Section 632, Title 14, California Code of Regulations, relating to marine protected areas.

Informative Digest/Policy Statement Overview

The Marine Life Management Act (MLMA, Stats. 1998, ch. 1052) created a broad programmatic framework for managing fisheries through a variety of conservation measures, including Marine Protected Areas (MPAs). The Marine Life Protection Act (MLPA, Stats. 1999, ch. 1015) established a programmatic framework for designating such MPAs in the form of a statewide network. AB 2800 (Stats. 2000, ch. 385) enacted the Marine Managed Areas Improvement Act (MMAIA), among other things, to standardize the designation of Marine Managed Areas (MMAs), which include MPAs. The overriding goal of these acts is to ensure the conservation, sustainable use, and restoration of California's marine resources. Unlike previous laws, which focused on individual species, the acts focus on maintaining the health of marine ecosystems and biodiversity in order to sustain resources.

Existing regulations (the no-project alternative) provide for 42 MPAs covering an area of 181.5 square miles, representing 7.7 percent of the state waters within the south coast region. Of this, 89 percent of the area protected is within no-take state marine reserves covering 161 square miles or 6.9 percent of the state waters within the south coast study region.

The proposed regulation change is intended to meet the goals described in the Marine Life Protection Act (MLPA, Stats. 1999, ch. 1015) within a portion of California's State waters. The area covered in this proposal is the south coast region, defined as State waters from Point Conception in Santa Barbara County to the California-Mexico border. The MLPA goals address an overall concept of ecosystem-based management and the intent to improve upon California's existing array of marine protected areas (MPAs). The MLPA specifically requires that the Department of Fish and Game (Department) prepare a master plan and that the Fish and Game Commission (Commission) adopt regulations based on the plan to achieve the MLPA goals.

The MLPA requires that the Commission adopt a Marine Life Protection Program that, in part, contains an improved marine reserve (now state marine reserve) component [Fish and Game Code subsection 2853(c)(1)] and protects the natural diversity of marine life and the structure, function, and integrity of marine ecosystems [Fish and Game Code subsection 2853(b)(1)]. This protection may help provide sustainable resources as well as enhance functioning ecosystems that provide benefits to both consumptive and non-consumptive user groups. The program may include areas with various levels of protection (LOP), through marine protected areas (MPAs) that allow for specified commercial and recreational activities. These activities include but are not limited to fishing for certain species but not others, fishing with certain practices but not others, and kelp harvesting, provided that these activities are consistent with the objectives of the area and the goals and guidelines of the MLPA.

Regional implementation of the Marine Life Protection Act:

Important in developing the proposed regulation was the consideration for the south coast MPAs to form a component of a statewide biological network. The concept of designing a statewide network is outlined in the Commission's draft master plan for Marine Protected Areas (draft master plan), consistent with the guidance provided in the MLPA [Fish and Game Code subsection 2853(b)(6)]. Rather than attempting to design a single network for the entire state at one time, the draft master plan envisions the assembly of a statewide network from a series of regional processes across four coastal study regions and the San Francisco Bay region. The central and north central coast regional regulations were adopted in April 2007 and August 2009, respectively. Further background on the concept of regional networks, biological connectivity, ecosystem protection, MPA classifications, as well as the legislative history and context, are included in the rulemaking files for the central coast (OAL File ID # 07-0711-01S) and north central coast (OAL File ID #2010-0413-02SR). The south coast is the third of five study regions to be implemented through the MLPA.

The proposed regulation establishes a network component of MPAs for the south coast designed to include all representative south coast habitats and major oceanic conditions. Unique and critical habitats were considered separately to guarantee both representation and protection. From an ecological perspective, the proposed regulation creates a network component of MPAs in the south coast consistent with the goals of the MLPA. From an economic and social perspective, the proposed regulation attempts to minimize potential negative socio-economic impacts and optimize potential positive socio-economic impacts for all users, to the extent possible.

PROPOSED REGULATION:

The proposed regulation, also known as the Commission's Integrated Preferred Alternative (IPA), includes a total of 35 MPAs for the south coast region (Figure 1, Table 1). Sub-options have been included in the proposed regulation that may increase the number of MPAs up to a total of 39. It should be noted that MPAs in the northern Channel Islands and Santa Barbara Island were designed and adopted prior to the implementation of the south coast regional MLPA planning process. These 13 MPAs and two special closures, adopted in 2004, were re-evaluated at the onset of the south coast regional planning process relative to the goals of the MLPA by applying the SAT guidelines. These MPAs were found to meet the goals of the MLPA, and were incorporated into the south coast regional proposals without modification, at the direction of the Commission. They are reflected in Figure 1, but are not included in Table 1.

Additionally, two federal Safety Zones (military closures enacted by the United States Coast Guard and managed by the United States Navy) off of San Clemente Island were recognized in the MPA proposals as contributing to the ecological goals of the south coast MPA network. These federal Safety Zones were designated in federal regulations concurrent with the south coast MPA planning process. Although these areas are not proposed for formal designation as MPAs, they prohibit public access and act as no-fishing zones. These zones cover approximately 37 square miles and were identified by the MLPA Science Advisory Team to encompass several unique and rare marine life habitats. Due to the significant biological value of these non-fishing areas, the BRTF made a motion to include federal Safety Zones in MPA proposals and to consider their contributions to the ecological goals of the MPA network in the south coast study region without a formal MPA designation. Thus, while the federal Safety Zones, as well as the northern Channel Islands MPAs, are part of the overall design of the MPA network, they are not under consideration for regulatory action. The Department will develop monitoring and management agreements with the Department of Defense pursuant to an MOU

subsequent to this rulemaking and will be addressed formally in an update to the draft master plan.

Although changes to the northern Channel Islands MPAs are not under consideration, an error was identified in the existing regulations for the San Miguel Island Special Closure. A typographical error in the original rulemaking resulted in an incorrect longitudinal coordinate for Judith Rock, which is the eastern boundary of the San Miguel Island Special Closure. Thus, in subsection 632(b)(80), Title 14, California Code of Regulations (CCR) of the proposed regulation, 120° 23.30' W. longitude is corrected to 120° 25.30' W. longitude as intended in the original rulemaking.

The three classifications of MPAs used in California to reflect differing allowed uses are: state marine reserve (SMR), state marine conservation area (SMCA), and state marine park (SMP). Public Resources Code Section 36710 lists the restrictions applied in these classifications. The Commission has the statutory authority to designate SMRs and SMCAs; however the third MPA classification, SMP, may only be created, modified, or deleted under the authority of the State Park and Recreation Commission [Public Resources Code 36725(b)].

One MPA (Kashtayit) was recommended for designation as an SMP by stakeholders and the BRTF, with restrictions consistent with this designation. Pursuant to Commission authority [Public Resources Code 36725(a)], it would be adopted as an SMCA, although it could subsequently be designated as an SMP at the discretion of the State Park and Recreation Commission. If adopted, the draft master plan will be amended to reflect that it is intended to be a park, but will require action by the State Park and Recreation Commission.

Pre-existing activities and artificial structures including but not limited to wastewater outfalls, piers and jetties, maintenance dredging, and beach nourishment occur throughout the heavily urbanized south coast study region. These are activities that may result in incidental take. However, these activities are regulated by other federal, state, and local agencies, whose jurisdiction cannot be pre-empted through designation of MPAs under MLPA. Out of the 35 MPAs in the proposed regulation, 23 have been identified as having various existing activities regulated by other agencies (refer to Table 1). These activities are specified within the proposed MPA regulations to make explicit that these regulated activities are allowed to continue under current permits.

The Commission has previously incorporated descriptions of permitted activities into regulations for specific MPAs. There are examples of how ongoing activities are authorized within existing Title 14, CCR. Most recently, in 2008 the Commission adopted language for the Morro Bay State Marine Recreational Management Area that specifies activities permitted by other entities [subsections 632(b)(69)(C)(4) and 632(b)(69)(C)(5), Title 14, CCR]. In addition, permitted activities are also authorized in Ecological Reserves (Section 630, Title 14, CCR, and repeated for MPAs inside the Ecological Reserves in Section 632, Title 14, CCR). In line with this precedence, the proposed regulation incorporates allowances for specific ongoing activities in 23 MPAs (see Table 1). It should be noted, however, that in cases where a State Marine Reserve (SMR) is proposed over the area of activity, designation as a State Marine Conservation Area (SMCA) is more appropriate than an SMR due to the incidental take associated with those activities, which conflicts with an SMR designation. Ten of the 23 MPAs with identified activities were proposed as SMRs by stakeholders. Therefore, the designation is changed from SMR to SMCA that only allows take associated with those activities identified. For purposes of this discussion, these are referred to as “no-take SMCAs” and reflected as a different color shown in Figure 1.

The proposed regulation for MPAs within Ecological Reserves adds a reference to activities authorized pursuant to Section 630. Therefore, text that duplicates text in Section 630, Title 14, CCR, is deleted and a cross reference to Section 630 is provided.

Mandated water quality monitoring activities required under the federal Clean Water Act and California Water Code have been identified as occurring throughout the southern California region, and include monitoring stations within the majority of MPAs proposed in this regulation. Monitoring includes sampling of water, sediments, and marine organisms using a variety of methods. The MLPA specifically states that monitoring and research are permissible in all MPA designations. Therefore, under existing regulations, water quality monitoring may be authorized in any MPA pursuant to a scientific collecting permit issued by the Department, and therefore an allowance does not need to be specified within individual MPA regulations. However, to make explicit that the provision for monitoring in MPAs applies to water quality monitoring, the proposed regulation adds a general provision to Section 632(a), Title 14, CCR, to clarify that this activity is authorized in all MPAs pursuant to a scientific collecting permit.

For purposes of the MLPA, wastewater discharge permitted by the state water quality control board is not considered to involve “take” within MPAs. A clarification will be added to the draft master plan that, for purposes of MPA management, the relation of wastewater discharge to allowable take is at the discretion and jurisdiction of the state and regional water quality control boards.

Military activities have been identified in three of the proposed MPAs, at Point Conception SMR, Begg Rock SMR, and South La Jolla SMCA. Existing regulations in the preamble to Section 632, Title 14, CCR, state that “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.” Therefore, military operations are already exempt within all MPAs under existing law.

The proposed regulation retains the existing San Diego-Scripps Coastal SMCA. This MPA provides for the specified scientific institution to manage and conduct research, education, and scientific collecting activities for its faculty, students, and affiliates without a scientific collecting permit. The proposed regulation adds a requirement that scientific research may only be conducted pursuant to a scientific collecting permit issued by the Department, which is consistent with regulatory requirements at the existing Dana Point SMR and Catalina Island Marine Institute SMR (renamed Blue Caverns SMCA in the proposed regulation).

The IPA forwarded to the Commission by the BRTF includes Bolsa Chica SMCA and Bolsa Chica SMR. Due to ongoing activities that are incompatible with a SMR designation, Bolsa Chica SMR must be re-designated as an SMCA. Because this change results in two proposed MPAs with the same name, in order to avoid confusion, the proposed regulation includes modified names for each MPA, based on the geographic reference for each portion of the bay. Therefore, Bolsa Chica SMCA and Bolsa Chica SMR are re-named as “Bolsa Bay SMCA” and “Bolsa Chica Basin SMCA” respectively, to avoid confusion.

Regulatory sub-options

At the Commission’s March 4, 2010 meeting, the Commission directed the Department to develop regulatory sub-options for eleven of the proposed MPAs within the Commission’s

preferred alternative, to provide alternatives to either boundaries or take regulations in the IPA that address Department feasibility concerns, or requested by the California Department of Parks and Recreation (State Parks). The Commission also added sub-options for two existing MPAs not included in the IPA at the request of State Parks, for a total of thirteen MPAs with sub-options. These sub-options included the following choices:

Arrow Point to Lion Head Point (Catalina Island) SMCA boundaries-

The proposed MPA utilizes the seaward boundary of a long-standing special closure, which is represented by an undulating line based on a specific distance from the coastline. Note that existing coordinates are updated in the proposed regulation to reflect more precise GIS coordinates using modern technology. However, the seaward boundary does not meet Department feasibility guidelines.

Option 1: Retain coordinates as proposed.

Option 2: Use straight lines between coordinates to approximate the distance offshore. Straight-line coordinates are recommended to facilitate enforcement and public understanding. The proposed straight lines intentionally avoid inclusion of Eagle Reef, a popular destination for recreational lobster diving.

Casino Point and Lover’s Cove SMCAs proposed permitted activities-

Feeding of fish in the area offshore from the City of Avalon is a long-standing practice associated with local tourism, where fish are provided food in order to attract the local species to enhance marine life viewing. In the general rules and provisions governing MPAs in subsection 632(a), Title 14, CCR, feeding of fish is prohibited except in relation to fishing allowances within SMCA and state marine recreational management areas. As such, designation of an MPA at Casino Point and Lover’s Cove would prevent the practice from continuing. This was not considered during the SCRSG planning process, so the proposed regulation provides an option to allow or disallow this practice to continue within specific MPAs as follows:

Option 1: Do not allow the feeding of fish.

Option 2: Allow for the feeding of fish for the purpose of marine life viewing.

Proposed option 2 requires an addition to the regulations in the general rules and provisions (subsection 632(a), Title 14, CCR) that allows for feeding of fish for marine life viewing purposes to be specified within regulations for individual MPAs.

Laguna Beach SMR boundaries and designation-

A wastewater outfall pipe crosses the southern boundary of the proposed SMR. Although the discharge end of the outfall pipe falls outside the boundaries of the proposed MPA, operation and maintenance activities associated with the portion of the outfall pipe that is within the proposed MPA are incompatible with the SMR designation. However, the only area within the proposed Laguna Beach SMR that would be affected by these operations lies within the southernmost 1.25 miles of coastline. Therefore, options are provided to allow for the continued operation of the outfall pipe by either a) revising the entire designation to an SMCA (option 1), b) dividing the geography into two no-fishing MPAs with an SMR designation along the majority of the area, with an SMCA designated along the southernmost 1.25 miles of the area which would increase the number of MPAs by one (option 2), or c) modifying the south-eastern boundary of the SMR to exclude the pipeline area (option 3). In addition, options are incorporated to address feasibility concerns raised in public comment and by Department enforcement and local enforcement partners. The proposed SMR boundaries adhere to Department feasibility guidelines; however, feedback received from the public and local MPA management partners indicates that the angle of the coastline in this geography does not work well with strict north/south – east/west boundaries. This is particularly true for user groups accessing the area

from shore, who generally fish without the aid of Global Positioning System units to identify coordinate-based boundaries. Therefore, options are provided to address feasibility of boundaries by modifying the northern and southern boundaries to be oriented perpendicular to the shore, in two different configurations (Options 4 and 5). A summary of Options 1-5 are provided below:

Option 1: Retain coordinates as proposed and change designation to a non-fishing SMCA that allows for wastewater outfall operation and maintenance.

Option 2: Divide Option 1 geography into two MPAs, with an SMR north of the wastewater outfall pipe and create a non-fishing SMCA band at the southern portion of the proposal boundary, including the wastewater outfall pipe, which allows for operation and maintenance of the outfall. This option would increase the number of MPAs by one.

Option 3: Modify the southern boundary to exclude the pipe, by moving the southeast corner of the SMR northward to the nearest prominent rocks, which results in a nearshore line perpendicular to shore.

Option 4: Use the southern boundary in Option 3, and also modify the northern boundary in the nearshore area to be perpendicular to shore. Seaward, the boundaries adhere largely to the size and shape of the IPA (Option 1). This shape excludes the wastewater outfall pipe.

Option 5: This is a variation of option 4 in which the northern and southern boundaries extend perpendicular from shore out to the state waters boundary.

Robert E. Badham SMCA name option-

This existing MPA is subsumed into Crystal Cove SMCA in the IPA. However, the history of the naming of this existing MPA is relevant for consideration of whether to retain the historic name or not.

This MPA, originally designated as the Newport Beach Marine Life Refuge, was renamed as Robert E. Badham Marine Life Refuge (reclassified as an SMCA per the MLPA) in response to Senate Resolution No. 17, adopted by the California Senate in 1999. In light of this history, two options are provided:

Option 1: As proposed in the IPA, removes existing MPA name and subsumes area into Crystal Cove SMCA (Links to Crystal Cove Boundary Options 1 and 2).

Option 2: Retains existing MPA name. Divides the proposed Crystal Cove SMCA area into two distinct MPAs to retain the historic name Robert E. Badham for the area north of the Crystal Cove State Park land boundary (Links to Crystal Cove Boundary Options 3 and 4).

Crystal Cove SMCA boundaries and name options-

Since this MPA shares a boundary with the Laguna Beach SMR, some of the Laguna options will result in a change to the southern boundary of this MPA (Boundary Options 1 and 2 below).

Options for Robert E. Badham will also affect the northern boundary of this MPA (in Boundary Options 3 and 4 below).

Boundary Option 1: Retains coordinates as proposed in the IPA (Links to Laguna Options 1, 2, and 3, and Robert E. Badham Option 1).

Boundary Option 2: Modifies the southern boundary (Links to Laguna Options 4 and 5, and Robert E. Badham Option 1).

Boundary Option 3: Divides the Option 1 geography into two MPAs, with the northern boundary of Crystal Cove SMCA terminating at the State Park boundary, and the remaining area within the geography north of the boundary would retain the original name of Robert E. Badham SMCA (Links to Laguna Options 1, 2, and 3, and Robert E. Badham Option 2). This option would increase the number of MPAs by one.

Boundary Option 4: Divides the Option 2 geography into two MPAs, with the northern boundary of Crystal Cove SMCA terminating at the State Park boundary, and the remaining area within the geography north of the boundary would retain the original name of Robert E.

Badham SMCA (Links to Laguna Options 4 and 5, and Robert E. Badham Option 2). This option would increase the number of MPAs by one.

Crystal Cove SMCA take regulations-

Crystal Cove SMCA as proposed in the IPA prohibits fishing except for recreational take of finfish by hook and line or by spearfishing, lobster, and sea urchin; and commercial take of coastal pelagic species by round haul net, spiny lobster by trap, and sea urchin. However, State Parks has requested that the Commission consider prohibiting all commercial fishing based on the rationale that commercial take conflicts with the adjacent Crystal Cove State Park General Plan for enhancing recreational activities and potential future designation as a State Marine Park. Therefore, take options are provided for Crystal Cove as follows:

Take Option A: Allows commercial and recreational take as proposed in the IPA.

Take Option B: Prohibits commercial take.

Dana Point SMCA boundaries-

Since this MPA shares a boundary with the Laguna Beach SMR, some of the Laguna options will result in a change to the northern boundary of this MPA (Boundary Options 1 and 2).

Boundary Option 1: Retain coordinates as proposed (Links to Laguna Options 1 and 2).

Boundary Option 2: Modifies the northern boundary (Links to Laguna Options 3, 4 and 5).

Dana Point SMCA other access and collecting restrictions-

The existing Dana Point SMCA contains language derived from legislation passed in 1993 to increase protection in the originally-established Dana Point Marine Life Refuge (reclassified as an SMCA per the MLPA). The legislation prohibited entry into the intertidal zone for purposes of taking or possessing any species of fish, plant, or invertebrate, except under a scientific collecting permit issued by the Department, and an additional approval obtained from the director of the Dana Point SMCA to collect within the SMCA. The existing SMCA covers the geographic area around the Dana Point Headlands. However, the proposed regulation expands the coastal coverage of the Dana Point SMCA northward by over three linear miles, and adds an allowance for recreational take from the shore. This proposed allowance would be in conflict with the existing restrictions on entering the intertidal area to fish. Therefore, the proposed regulation includes two options.

Access Option A: Remove existing restrictions to entry into the intertidal zone, and scientific collecting oversight by the director of the Dana Point SMCA.

Access Option B: Retain existing restrictions to entry into the intertidal zone and scientific collecting oversight by the director of the Dana Point SMCA. This restriction would be limited to a defined area that corresponds to the area around the Dana Point Headlands which is southward of a line at latitude 33° 27.74' N.

Swami's SMCA boundaries-

The proposed northern and southern boundaries for this MPA fall in the middle of beaches without visible and permanent landmarks. Because these beaches have very high visitation rates of more than three million people annually, many of whom fish from the beach, Department enforcement have raised concerns that the public may find it difficult to locate the boundaries unless aligned with landmarks. To facilitate public understanding, the Department recommended moving the northern boundary northward to align with Cottonwood Creek (Option 2), and State Parks recommended moving the southern boundary southward to the edge of State Parks land (end of state beach) (Option 3 and 4). It should be noted that a movement of the southern boundary in Options 3 and 4 would encompass the discharge end of the San Elijo wastewater discharge pipe.

Boundary Option 1: Retain coordinates as proposed in IPA.

Boundary Option 2: Move northern boundary northward to Cottonwood Creek.

Boundary Option 3: Move southern boundary south to align with State Parks Beach boundary.

Boundary Option 4: Move northern boundary per Option 2 and southern boundary per Option 3.

Swami's SMCA take regulations-

Additionally, State Parks has requested the consideration of sub-options for this proposed MPA due to conflicts with current Parks unit management. State Parks states that the proposed modification of the existing MPA conflicts with State Beach classification and general plans. The proposed MPA will affect both Cardiff and San Elijo State Beaches. More than three million people visit these beaches annually. San Elijo State Beach provides 172 campsites. The classification of a State Park System unit forms the foundation on which all management and development policies are based. State Beaches are a class of State Recreational Areas, which are operated to provide outdoor recreation opportunities. State Beaches provide swimming, boating, fishing, and other beach-oriented recreational activities. An SMCA that prohibits shore fishing would conflict with one of the primary purposes of these park units. Therefore, State Parks recommends allowing shore-based fishing. The proposed regulation provides sub-options that add shore-based fishing with hook and line gear as an allowed recreational take method in the SMCA (see sub-options for allowed take in Options 3, and 4). These options meet Department feasibility guidelines but reduce the SAT LOP from high to moderate-low.

Take Option A: Recreational fishing regulations as proposed in IPA.

Take Option B: Adds shore-base fishing with hook and line gear as an allowed recreational take method in the SMCA.

San Diego Scripps Coastal and Matlahuayl SMCA boundaries-

In the IPA proposal, the Scripps Pier cuts diagonally across the boundary between these two proposed MPAs. Although the pier is not a fishing pier, it is common for recreational anglers fishing from boats to target fish for bait underneath the pier structure, presenting difficulties for enforcement and public understanding. The boundary as proposed will require re-designation of Matlahuayl from a SMR to a SMCA to allow for operation and maintenance of the pier structure. Therefore, the proposed regulation adds an option to move the shared boundary between the two MPAs southward to below the pier, as follows:

San Diego-Scripps Coastal SMCA Option 1: Retain coordinates as proposed in the IPA (Linked to Matlahuayl Option 1).

San Diego-Scripps Coastal SMCA Option 2: Move the southern boundary south to below the base of Scripps Pier (Linked to Matlahuayl Option 2).

Matlahuayl SMCA Option 1: Change designation to SMCA; retain coordinates as proposed in IPA (Linked to San Diego-Scripps Coastal SMCA Option 2).

Matlahuayl SMR Option 2: Retain SMR designation, move northern boundary south below base of pier (Linked to San Diego-Scripps Coastal SMCA Option 2).

South La Jolla SMR/SMCA-

This inshore/offshore MPA complex has a shared northern and southern boundary. As proposed in the IPA, the northern boundary bisects an intertidal reef that is popular for recreational harvest of invertebrates at low tide. Additionally, the southern boundary falls in the middle of a public beach without a permanent and visible landmark. Both of these boundaries may lead to enforcement and public understanding challenges. Therefore, boundary options are provided to address feasibility concerns for the northern and southern boundaries:

Option 1: Retain coordinates as proposed in IPA.

Option 2: Move northern boundary to north of the intertidal reef to align with Palomar Avenue.

Option 3: Move southern boundary one block south to align with Missouri Street.

Option 4: Move both northern and southern boundaries per Options 2 and 3.

State Parks request to retain two existing MPAs

Two existing MPAs (Refugio SMCA and Doheny Beach SMCA) are not retained in the original IPA of 35 MPAs submitted by the BRTF to the Commission for the proposed regulation.

However, State Parks requests that these MPAs be retained, and has provided the following rationale:

Refugio SMCA-

Proposed removal of this existing MPA would decrease protection and open up the area to potential increased commercial extraction. The area includes significant natural values as well as sensitive archeological sites. The shallow relief reefs and interspersed sand substrate environments of this site contribute to high biological diversity. Culturally diverse as well, the area was once a popular trading ship anchorage, and prehistoric Chumash stone bowls have been found within this site. Refugio State Beach receives over 100,000 visitors each year and is popular for SCUBA diving, swimming, recreational fishing and sea kayaking. Existing interpretive programs include kayak and tidepool tours. The existing Refugio State Beach is impacted by commercial lobster trapping. Parks staff must regularly remove lobster traps that drift too close inshore and abandoned traps that lay within the park lease. Therefore, the following options are included in the proposed regulation:

Option 1: Remove the existing Refugio SMCA from the proposed regulation, as per the IPA.

Option 2: Retain the existing regulations for Refugio SMCA within the proposed regulation. This option would increase the number of MPAs by one.

Doheny Beach SMCA-

Proposed removal of this existing MPA would decrease existing protection and decrease educational opportunity. Doheny State Beach includes an existing underwater recreation area and the Doheny Beach Marine Life Refuge, which was designated in 1969 by the Legislature specifically to protect tidepool invertebrates. The existing protections are moderate and do not affect commercial activities. Although relatively small, over 1.6 million people visited Doheny State Beach in 2008. Therefore, the following options are included in the proposed regulation:

Option 1: Remove the existing Doheny Beach SMCA from the proposed regulation, as per the IPA.

Option 2: Retain the existing regulations for Doheny Beach SMCA within the proposed regulation. This option would increase the number of MPAs by one.

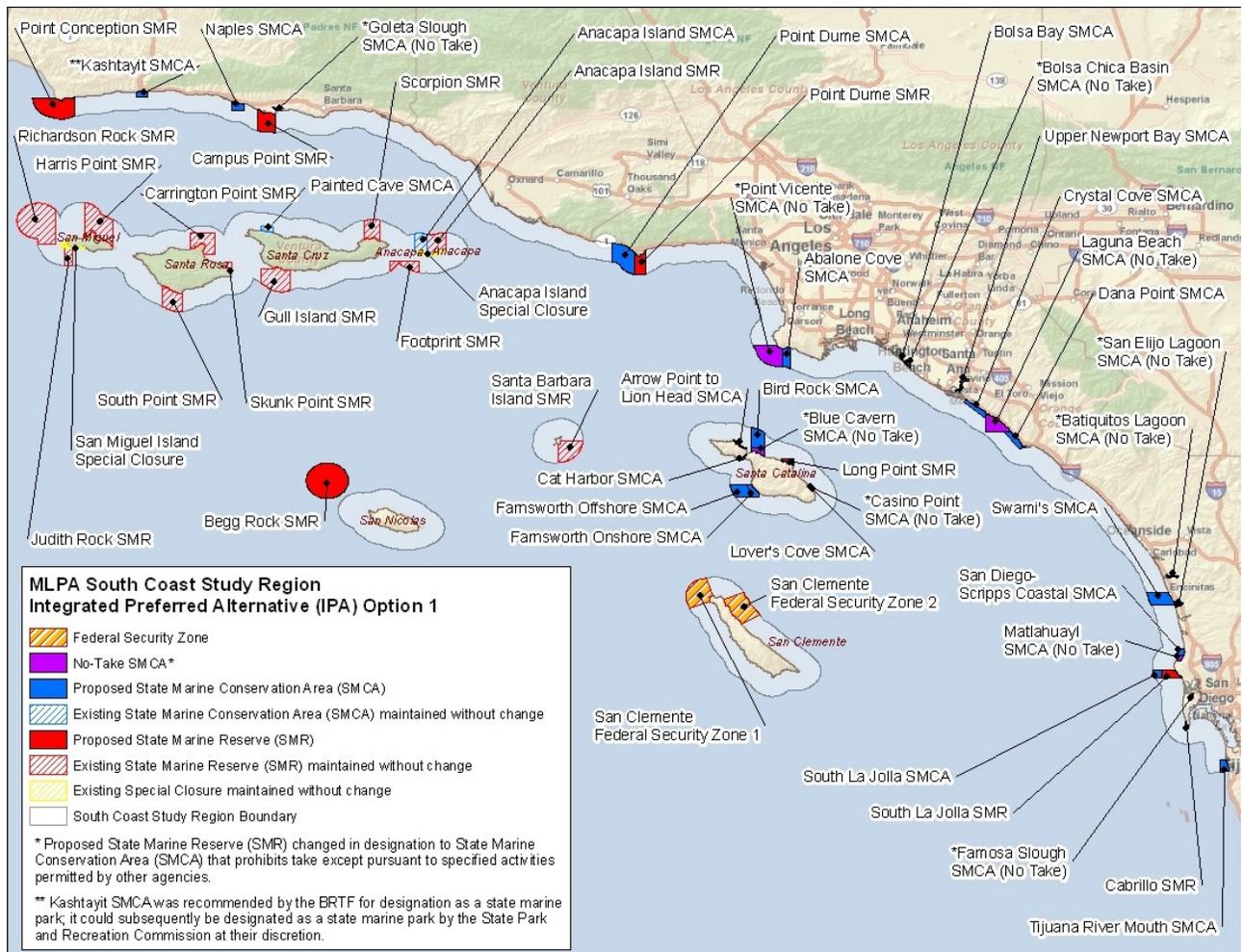


Figure 1. Marine protected areas in proposed regulation known as IPA. The IPA as displayed includes 35 proposed new MPAs (alternatives within the proposed regulation provide options to add three MPAs not displayed here, and boundary options for 9 MPAs in 5 geographies); the figure also shows 2 existing special closures and 13 existing MPAs in the northern Channel Islands and Santa Barbara Island, which are not under re-consideration in this proposal, and two federal Safety Zones at San Clemente Island that are considered to contribute to the network but do not have an MPA designation.

Proposed Regulation Details

Table 1 presents proposed MPAs in the IPA including the MPA designation, options for specific MPAs, proposed allowed take, other proposed regulated activities, and MLPA SAT assigned level of protection.

Other terms used in Table 1 include “pelagic finfish,” “finfish,” and “coastal pelagic species” with the following definitions:

- Pelagic finfish are defined in subsection 632(a)(3) as: northern anchovy (*Engraulis mordax*), barracudas (*Sphyraena spp.*), billfishes* (family Istiophoridae) (except that marlin is not allowed for commercial take), dolphinfish/dorado (*Coryphaena hippurus*), Pacific herring (*Clupea pallasii*), jack mackerel (*Trachurus symmetricus*), Pacific mackerel (*Scomber japonicus*), salmon (*Oncorhynchus spp.*), Pacific sardine (*Sardinops sagax*), blue shark (*Prionace glauca*), salmon shark (*Lamna ditropis*), shortfin mako shark (*Isurus oxyrinchus*), thresher sharks (*Alopias spp.*), swordfish (*Xiphias gladius*), tunas (family Scombridae), and yellowtail (*Seriola lalandi*).
- Finfish are defined in subsection 632(a)(2) as any species of bony fish or cartilaginous fish (sharks, skates and rays). Finfish do not include amphibians, invertebrates, plants or algae. The definition of finfish provided in Section 159 does not apply to this Section.
- Coastal pelagic species are defined in Section 1.39 as: northern anchovy (*Engraulis mordax*), Pacific sardine (*Sardinops sagax*), Pacific mackerel (*Scomber japonicus*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opalescens*).

Table 1. Proposed regulation¹ (Integrated Preferred Alternative) for marine protected areas (MPAs) in the south coast region (excluding the northern Channel Islands), including description of options, proposed allowed take, other proposed regulated activities, and SAT-assigned LOP. Marine protected areas are arranged geographically from north to south, including Catalina Island.

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Point Conception State Marine Reserve	IPA	Take of all living marine resources is prohibited	---	Very High
OPTIONS EXIST (1-2) TO EXCLUDE OR INCLUDE REFUGIO				
Option 1: Exclude Refugio State Marine Conservation Area	1: IPA: Removes existing SMCA as reflected in IPA	N/A	N/A	N/A
Option 2: Refugio State Marine Conservation Area	2: Retains existing SMCA and adds to IPA (State Parks option)	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ Only the following species may be taken recreationally: finfish, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels. ▪ Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, algae except giant kelp and bull kelp and worms except that no worms may be taken in any mussel bed, nor may any 	---	Low

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
		person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached.		
Kashtayit State Marine Conservation Area ³	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish and invertebrates, except rock scallops and mussels, The recreational take of giant kelp by hand harvest	Allows maintenance of artificial structures and operation and maintenance of existing facilities pursuant to any required permits, or as otherwise authorized by the Department ²	Low
Naples State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish (including Pacific bonito) and white seabass by spearfishing The commercial take of giant kelp by hand harvest, or by mechanical harvest	Allows operation and maintenance of artificial structures pursuant to any required permits, or as otherwise authorized by the Department ²	Low
Campus Point State Marine Reserve ⁵	IPA	Take of all living marine resources is prohibited	--- ⁵	Very High
Goleta Slough State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows maintenance dredging, habitat restoration, research and education, maintenance of artificial structures, and operation and maintenance of existing facilities pursuant to any required permits, activities pursuant to Section 630, Title 14, CCR, or as otherwise authorized by the Department ² Boating, swimming, wading, and diving are prohibited in waters below the mean	Very High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
			high tide line in the Goleta Slough Ecological Reserve as defined within Section 630, Title 14, CCR	
Begg Rock (San Nicholas Island Quad) State Marine Reserve	IPA	Take of all living marine resources is prohibited	---	Very High
Point Dume State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish, including Pacific bonito, and white seabass by spearfishing ▪ The commercial take of coastal pelagic species by round haul net and swordfish by harpoon 	---	High
Point Dume State Marine Reserve	IPA	Take of all living marine resources is prohibited	---	Very High
Point Vicente State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows remediation activities associated with the Palos Verdes Shelf Operable Unit of the Montrose Chemical Superfund Site within the conservation area pursuant to the Interim Record of Decision issued by the United States Environmental Protection Agency and any subsequent Records of Decision ²	Very High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Abalone Cove State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish, including Pacific bonito, and white seabass by spearfishing only, and market squid by hand-held dip net ▪ The commercial take of coastal pelagic species and Pacific bonito by round haul net, and swordfish by harpoon 	Allows remediation activities associated with the Palos Verdes Shelf Operable Unit of the Montrose Chemical Superfund Site within the conservation area pursuant to the Interim Record of Decision issued by the United States Environmental Protection Agency and any subsequent Records of Decision ²	High
Bolsa Bay State Marine Conservation Area ⁶	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish by hook and line from shore in designated areas only 	Allows routine operation and maintenance, habitat restoration, maintenance dredging, research and education, and maintenance of artificial structures pursuant to any required permits, activities pursuant to Section 630, Title 14, CCR, or as otherwise authorized by the Department ² Boating, swimming, wading, and diving are prohibited; access restricted between 8:00 p.m. and 6:00 a.m.	Moderate Low
Bolsa Chica Basin State Marine Conservation Area ^{4, 6}	IPA ⁴	Take of all living marine resources is prohibited	Allows routine operation and maintenance, habitat restoration, maintenance dredging, research and education, and maintenance of artificial structures pursuant to any required permits, activities pursuant to Section 630, Title 14, CCR, or as otherwise authorized by the Department ² Boating, swimming, wading, and diving prohibited; access restricted between 8:00 p.m. and 6:00 a.m.	Very High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
BOUNDARY OPTIONS (1-2) EXIST FOR ARROW POINT TO LION HEAD POINT (CATALINA ISLAND)				
Option 1: Arrow Point to Lion Head Point (Catalina Island) State Marine Conservation Area	1: Seaward boundary defined by distance from shore as described in IPA	Recreational take of marine invertebrates is prohibited; take of all other species is allowed	---	Low
Option 2: Arrow Point to Lion Head Point (Catalina Island) State Marine Conservation Area	2: Uses straight line boundaries to improve feasibility	Recreational take of marine invertebrates is prohibited; take of all other species is allowed	---	Low
Blue Cavern (Catalina Island) State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows maintenance of artificial structures pursuant to any required permits, or as otherwise authorized by the Department ²	Very High
Bird Rock (Catalina Island) State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish including Pacific bonito by hook and line or by spearfishing, white seabass by spearfishing and market squid by hand-held dip net ▪ The commercial take of pelagic finfish by hook and line only and swordfish by harpoon 	---	High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Long Point (Catalina Island) State Marine Reserve	IPA	Take of all living marine resources is prohibited	---	Very High
TAKE OPTIONS (1-2) EXIST FOR CASINO POINT (CATALINA ISLAND)				
Option 1: Casino Point (Catalina Island) State Marine Conservation Area ⁴	1: IPA ⁴ : No allowance for feeding as described in IPA	Take of all living marine resources is prohibited	Allows maintenance of artificial structures pursuant to any required permits or as otherwise authorized by the Department ²	Very High
Option 2: Casino Point (Catalina Island) State Marine Conservation Area ⁴	2: Adds allowance for feeding of fish to IPA ⁴	Take of all living marine resources is prohibited EXCEPT: feeding of fish for marine life viewing is allowed	Same as Option 1	Very High
TAKE OPTIONS (1-2) EXIST FOR LOVER'S COVE (CATALINA ISLAND)				
Option 1: Lover's Cove (Catalina Island) State Marine Conservation Area	1: IPA: No allowance for feeding as described in IPA	Take of all living marine resources is prohibited EXCEPT: recreational fishing from public pier by hook and line	Allows maintenance of artificial structures pursuant to any required permits or as otherwise authorized by the Department ²	Moderate High
Option 2: Lover's Cove (Catalina Island) State Marine Conservation Area	2: Adds allowance for feeding of fish to IPA	Take of all living marine resources is prohibited EXCEPT: recreational fishing from public pier by hook and line, and feeding of fish for marine life viewing is allowed	Same as Option 1	Moderate High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
Farnsworth Onshore (Catalina Island) State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish, including Pacific bonito, and white seabass by spearfishing only, market squid by hand-held dip net, and marlin, tunas and dorado by trolling ▪ The commercial take of coastal pelagic species by round haul net and swordfish by harpoon 	---	High
Farnsworth Offshore (Catalina Island) State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish, including Pacific bonito, by hook and line or spearfishing, white seabass by spearfishing only, market squid by hand-held dip net, and marlin, tunas and dorado by trolling ▪ The commercial take of coastal pelagic species by round haul net and swordfish by harpoon 	--- ⁷	High
Cat Harbor (Catalina Island) State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish by hook and line or by spearfishing, squid by hook and line, and lobster and sea urchin ▪ The commercial take of sea cucumbers by diving, and spiny lobster and sea urchin ▪ Aquaculture of finfish is 	Allows maintenance of artificial structures pursuant to any required permits or as otherwise authorized by the Department ²	Moderate Low

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
		allowed pursuant to a valid State water bottom lease and valid permits		
Upper Newport Bay State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: the recreational take of finfish by hook and line from shore only	<p>Allows maintenance dredging, habitat restoration, research and education programs, maintenance of artificial structures, and operation and maintenance of existing facilities pursuant to any required permits, activities pursuant to Section 630, Title 14, CCR, or as authorized by the Department²</p> <p>Swimming is allowed only in the area between North Star Beach and mid-channel; boating speed limit of 5 mph; shoreline access is limited; use fees apply</p>	Moderate Low
OPTIONS (1-2) EXIST FOR ROBERT E. BADHAM. THESE ARE LINKED TO BOUNDARY OPTIONS AT CRYSTAL COVE.				
Option 1: Do not include Robert E. Badham State Marine Conservation Area	1: As reflected in the IPA, does not retain existing MPA name and subsumes area into Crystal Cove SMCA (linked to Crystal Cove Boundary Options 1 & 2)	N/A	N/A	N/A
Option 2: Include Robert E. Badham State Marine Conservation Area	2: Retains existing MPA name by dividing area of proposed Crystal Cove SMCA Boundary Option 1 (from IPA), in area north of State Parks land boundary	Same as Crystal Cove Take Option A	Same as Crystal Cove Take Option A	Moderate Low

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
BOUNDARY OPTIONS (1-4) EXIST FOR CRYSTAL COVE; THESE ARE LINKED TO BOUNDARY OPTIONS AT AND ROBERT E. BADHAM AND LAGUNA. DECISION ON LAGUNA BOUNDARY OPTION DETERMINES BOUNDARY OPTION FOR CRYSTAL COVE.				
Boundary Option 1: Crystal Cove State Marine Conservation Area	1: IPA boundaries (linked to Laguna Options 1, 2 & 3 and Robert E. Badham Option 1)	See Take Options A and B	See Take Options A and B	Moderate Low
Boundary Option 2: Crystal Cove State Marine Conservation Area	2: Southern boundary modified for feasibility (linked to Laguna Options 4 & 5 and Robert E. Badham Option 1)	See Take Options A and B	See Take Options A and B	Moderate Low
Boundary Option 3: Crystal Cove State Marine Conservation Area	3: Divides the Boundary Option 1 geography into two MPAs at northern end of State Park land and applies historic name for Robert E. Badham in northern section. Increases number of MPAs by 1 (linked to Laguna Options 1, 2 & 3 and Robert E. Badham Option 2)	See Take Options A and B	See Take Options A and B	Moderate Low
Boundary Option 4: Crystal Cove State Marine Conservation Area	4: Divides the Boundary Option 2 geography into two MPAs to retain historic name for Robert E. Badham SMCA. Increases number of MPAs by 1 (linked to	See Take Options A and B	See Take Options A and B	Moderate Low

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
	Laguna Options 4 & 5 and Robert E. Badham Option 2)			
TAKE OPTIONS (A & B) EXIST FOR CRYSTAL COVE.				
Take Option A: Crystal Cove State Marine Conservation Area	A: Take as proposed in the IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish by hook and line or by spearfishing and lobster and sea urchin is allowed ▪ The commercial take of coastal pelagic species by round haul net, spiny lobster by trap, and sea urchin 	Allows beach nourishment or other sediment management activities and operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Moderate Low
Take Option B: Crystal Cove State Marine Conservation Area	B: Removes all commercial take allowances from the IPA (State Parks option)	Take of all living marine resources is prohibited EXCEPT: The recreational take of finfish by hook and line or by spearfishing, and lobster and sea urchin is allowed	Same as Take Option A	Moderate Low
BOUNDARY OPTIONS (1-5) EXIST FOR LAGUNA; THESE ARE LINKED TO BOUNDARY OPTIONS FOR CRYSTAL COVE AND DANA POINT. DECISION ON LAGUNA BOUNDARY DETERMINES BOUNDARY OPTION FOR CRYSTAL COVE AND DANA POINT.				
Option 1: Laguna Beach State Marine Conservation Area ⁴	1: IPA ⁴ with designation as SMCA due to other regulated activities (outfall pipe)	Take of all living marine resources is prohibited	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Very High
Option 2: Laguna Beach State Marine	2: Divides the Option 1 geography into two MPAs (SMR/SMCA)	Take of all living marine resources is prohibited	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours	Very High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Reserve <i>and</i> Laguna Beach State Marine Conservation Area ⁴	with SMCA ⁴ across southern 1.5 miles due to other regulated activities (outfall pipe). Increases number of MPAs by 1	Take of all living marine resources is prohibited	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Very High
Option 3: Laguna Beach State Marine Reserve	3: Modifies southern boundary from Option 1 to exclude outfall pipe, with SMR designation (linked with Dana Point Option 2)	Same as Option 1	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours	Very High
Option 4: Laguna Beach State Marine Reserve	4: Modified southern AND northern boundaries from Option 1 with SMR designation to exclude pipe and improve feasibility (linked with Crystal Cove Option 2 & Dana Point Option 2)	Same as Option 1	Same as Option 3	Very High
Option 5: Laguna Beach State Marine Reserve	4: Modified southern AND northern boundaries to extend Option 4 nearshore boundaries to the state waters seaward boundary to improve feasibility (linked with Crystal Cove Option 2 & Dana Point Option 2)	Same as Option 1	Same as Option 3	Very High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
BOUNDARY OPTIONS (1-2) EXIST FOR DANA POINT; THESE ARE LINKED TO BOUNDARY OPTIONS AT LAGUNA. DECISION ON BOUNDARY OPTION AT LAGUNA DETERMINES BOUNDARY OPTION FOR DANA POINT.				
Boundary Option 1: Dana Point State Marine Conservation Area	1: IPA boundaries (linked to Laguna Options 1 & 2)	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of finfish by hook and line or by spearfishing, and lobster and sea urchin is allowed below the mean lower low-tide line only ▪ The commercial take of coastal pelagic species by round haul net, and spiny lobster and sea urchin 	Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ² and See Access Options A and B	Moderate Low
Boundary Option 2: Dana Point State Marine Conservation Area	2: Modified northern boundary for feasibility (linked to Laguna Options 3, 4 & 5)	Same as Option 1	Same as Option 1; and See Access Options A and B	Moderate Low
ACCESS OPTIONS (A & B) EXIST FOR DANA POINT.				
Access Option A: Dana Point State Marine Conservation Area	A: Remove existing restrictions on access for purposes of take, and scientific collecting oversight by the director of the SMCA	Same as Option 1	Same as Boundary Option 1.	
Access Option B: Dana Point State Marine Conservation Area	B: Retain existing restrictions on access for purposes of take, and scientific collecting oversight, only in the area of the Dana Point Headlands, southward of a line at latitude 33°	Same as Option 1	Same as Boundary Option 1; and Southward of a line at latitude 33° 27.74' N., access to take or possess any fish, plant, or invertebrate is prohibited, except under a scientific collecting permit from the Department and additional special collecting permit from	

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
	27.74' N.		the director of the SMCA.	
OPTIONS (1-2) EXIST TO EXCLUDE OR INCLUDE DOHENY BEACH.				
Option 1: Exclude Doheny Beach State Marine Conservation Area	1: IPA: Removes existing SMCA as reflected in IPA	N/A	N/A	N/A
Option 2: Doheny Beach State Marine Conservation Area	2: Adds existing SMCA to IPA (per State Parks request)	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ Only the following species may be taken recreationally: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear. ▪ Only spiny lobster may be taken commercially. 	---	Low
Batiquitos Lagoon State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows operation and maintenance, habitat restoration, research and education, maintenance dredging and maintenance of artificial structures pursuant to any required permits, or	Very High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
			pursuant to Section 630, Title 14, CCR, or as authorized by the Department ² Boating, swimming, wading, and diving are prohibited	
BOUNDARY OPTIONS (1-4) EXIST FOR SWAMI'S.				
Boundary Option 1: Swami's State Marine Conservation Area	1: IPA boundaries	See Take Options A and B	See Take Options A and B	High
Boundary Option 2: Swami's State Marine Conservation Area	2: Moves northern boundary of Option 1 north to Cottonwood Creek to improve feasibility	See Take Options A and B	See Take Options A and B	High
Boundary Option 3: Swami's State Marine Conservation Area	3: Moves southern boundary of Option 1 south to edge of State Parks land (State Parks request) to improve feasibility	See Take Options A and B	See Take Options A and B	High
Boundary Option 4: Swami's State Marine Conservation Area	3: Moves northern boundary of Option 1 north to Cottonwood Creek; AND moves southern boundary south to edge of State Parks land (State Parks request) to improve feasibility	See Take Options A and B	See Take Options A and B	High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities ²	SAT Level of Protection
TAKE OPTIONS (A & B) EXIST FOR SWAMI'S.				
Take Option A: Swami's State Marine Conservation Area	A: IPA take regulations	Take of all living marine resources is prohibited EXCEPT: The recreational take of pelagic finfish, including Pacific bonito, and white seabass by spearfishing	Allows beach nourishment or other sediment management activities and operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	High
Take Option B: Swami's State Marine Conservation Area	B: Adds shorefishing to allowed take (State Parks request) – reduces LOP	Same as Take Option A, EXCEPT: ALSO allows recreational take by hook and line from shore only.	Same as Take Option A	Moderate Low
San Elijo Lagoon State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows operations and maintenance, maintenance dredging, habitat restoration including sediment deposition, research and education, and maintenance of artificial structures pursuant to any required permits, or as authorized under Section 630, Title 14, CCR, or as authorized by the Department ² Boating, swimming, wading and diving are prohibited	Very High
BOUNDARY OPTIONS (1-2) EXIST FOR SAN DIEGO-SCRIPPS COASTAL; THESE ARE LINKED TO BOUNDARY OPTIONS AT MATLAHUAYL. DECISION ON SAN DIEGO-SCRIPPS COASTAL BOUNDARY OPTION DETERMINES BOUNDARY OPTION AND MPA DESIGNATION FOR MATLAHUAYL				
Option 1: San Diego-Scripps Coastal State Marine Conservation Area	1: IPA boundaries (Linked to Matlahuayl Option 1)	Take of all living marine resources is prohibited EXCEPT: ▪ The recreational take of coastal pelagic species, except market squid, by hook and line	Allows scientific collecting under a scientific collection permit issued by the Department. Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the	Moderate Low

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
			Department ²	
Option 2: San Diego-Scripps Coastal State Marine Conservation Area	2: Moves southern boundary from Option 1 below pier to improve feasibility (Linked to Matlahuayl Option 2)	Same as Option 1	Same as Option 1	Moderate Low
BOUNDARY OPTIONS (1-2) EXIST FOR MATLAHUAYL; THESE ARE LINKED TO BOUNDARY OPTIONS AT SAN DIEGO-SCRIPPS COASTAL. DECISION ON SAN DIEGO-SCRIPPS COASTAL BOUNDARY OPTION DETERMINES BOUNDARY OPTION AND MPA DESIGNATION FOR MATLAHUAYL				
Option 1: Matlahuayl State Marine Conservation Area ⁴	1: IPA Boundary, designated as SMCA ⁴ (Linked to San Diego-Scripps Coastal Option 1)	Take of all living marine resources is prohibited	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours Allows operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Very High
Option 2: Matlahuayl State Marine Reserve	2: Moves northern boundary from Option 1 below pier to improve feasibility and retain SMR designation (Linked to San Diego-Scripps Coastal Option 2)	Same as Option 1	Boats may be launched and retrieved only in designated areas; anchoring restricted to daylight hours	Very High
BOUNDARY OPTIONS (1-4) EXIST FOR SOUTH LA JOLLA SMR; THESE ARE LINKED TO SOUTH LA JOLLA SMCA BOUNDARY OPTIONS. DECISION ON SOUTH LA JOLLA SMR BOUNDARY OPTION DETERMINES BOUNDARY OPTION FOR SOUTH LA JOLLA SMCA				
Option 1: South La Jolla State Marine Reserve	1: IPA boundaries	Take of all living marine resources is prohibited	---	Very High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Option 2: South La Jolla State Marine Reserve	2: Moves northern boundary from Option 1 north above intertidal reef to improve feasibility	Same as Option 1	---	Very High
Option 3: South La Jolla State Marine Reserve	3: Moves southern boundary from Option 1 south to major street to improve feasibility	Same as Option 1	---	Very High
Option 4: South La Jolla State Marine Reserve	4: Moves Option 1 northern boundary north above intertidal reef; AND Moves southern boundary south to major street to improve feasibility	Same as Option 1	---	Very High
BOUNDARY OPTIONS (1-4) EXIST FOR SOUTH LA JOLLA SMCA; THESE ARE LINKED TO SOUTH LA JOLLA SMR BOUNDARY OPTIONS. DECISION ON SOUTH LA JOLLA SMR BOUNDARY OPTION DETERMINES BOUNDARY OPTION FOR SOUTH LA JOLLA SMCA				
Option 1: South La Jolla State Marine Conservation Area	1: IPA boundaries	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of pelagic finfish including Pacific bonito by hook and line 	---	High
Option 2: South La Jolla State Marine Conservation Area	2: Same northern boundary change as South La Jolla SMR Option 2	Same as Option 1	---	High
Option 3: South La Jolla State Marine Conservation Area	3: Moves southern boundary from Option 1 south to major street to improve feasibility	Same as Option 1	---	High

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities²	SAT Level of Protection
Option 4: South La Jolla State Marine Conservation Area	4: Moves Option 1 northern boundary north above intertidal reef; AND Moves southern boundary south to major street to improve feasibility	Same as Option 1	---	High
Famosa Slough State Marine Conservation Area ⁴	IPA ⁴	Take of all living marine resources is prohibited	Allows habitat restoration, maintenance dredging, and operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	Very High
Cabrillo State Marine Reserve	IPA	Take of all living marine resources is prohibited	---	Very High
Tijuana River Mouth State Marine Conservation Area	IPA	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> ▪ The recreational take of coastal pelagic species, except market squid, by hand-held dip net ▪ The commercial take of coastal pelagic species, except market squid, by round haul net 	Allows beach nourishment or other sediment management activities and operation and maintenance of artificial structures pursuant to any required permits or as authorized by the Department ²	High

¹ This table does not include the 13 existing MPAs within the northern Channel Islands. The northern Channel Islands MPAs were retained without modification, at the direction of the Commission, and are not part of this rulemaking. However, they are displayed in the maps and summaries.

² Existing activities and operations permitted by other federal, state, or local entities, such as dredging, wastewater outfall operations, maintenance of artificial structures and sand replenishment and other sediment management activities have been identified as occurring within this proposed MPA, which may result in take of marine resources incidental to the activity. Operations or activities identified at the time of designation are included within the proposed regulation to make explicit that MPA designation is not intended to interfere with these permitted activities.

³ This area, recommended by stakeholders as an SMP, will be designated as SMCA, and could subsequently be designated a state marine park at the discretion of the State Park and Recreation Commission.

⁴ These MPAs, recommended by stakeholders as an SMR, will be designated as SMCAs that allow no take, except as associated with activities regulated by other agencies, pursuant to any valid permits.

- ⁵ Activities related to an existing artificial structure were previously identified as occurring within Campus Point SMR, with a recommendation to change the designation to an SMCA and specify that the permitted activities could continue. Subsequent information indicates that the artificial structure is outside the boundaries of the proposed SMR. Therefore, the regulation retains the SMR designation as proposed.
- ⁶ The names originally proposed (Bolsa Chica SMCA/SMCA) are identical. To avoid confusion, the names have been modified to reflect commonly used terms for each of the respective areas: Bolsa Bay SMCA and Bolsa Chica Basin SMCA.
- ⁷ A preliminary wave energy permit has been granted by the Federal Energy Regulatory Commission (FERC) at Catalina, that includes part of the proposed expansion of Farnsworth (Catalina) Offshore SMCA, which may need to be included in future regulations for this MPA.

The 35 MPAs in the proposed regulation, in combination with the existing Northern Channel Islands MPAs and federal Safety Zones, cover an area of 387.3 square miles, representing 16.5 percent of state waters within the south coast region. Of this, more than 70 percent of the area is within SMRs or “very high LOP” SMCA that do not allow fishing, but allow for existing regulated activities to occur. These non-fishing MPAs cover 274.1 square miles or 11.7 percent of state waters within the south coast region. The remaining areas are primarily SMCAs that allow some fishing activity, covering an area of 76.6 square miles, and federal Safety Zones consisting of 36.7 square miles. It should be noted that sub-options exist within the proposed regulation that could increase the number of MPAs in the regulation. Selecting the addition of Refugio SMCA (Option 2) and Doheny SMCA (Option 2) would add an additional 1.03 square miles and 0.14 square miles, respectively, to the total area covered by the proposed regulation, for a total of 388.5 square miles. A selection of Options 3 or 4 for Crystal Cove SMCA (that divides the proposed Crystal Cove MPA into Crystal Cove SMCA and Robert E. Badham SMCA) would add an additional MPA with no change to the size, and Option 2 for Laguna Beach SMR/SMCA would divide the proposed Laguna Beach MPA into two MPAs, with no change to the size.

The 35 new MPAs included in this proposed regulation (with sub-options that could lead to up to 39 MPAs) make up roughly 47 percent of the total area protected within the IPA, with the existing Channel Islands MPAs contributing approximately 43 percent of protected area, and the federal Safety Zone areas covering approximately 10 percent of the protected area encompassed in the IPA.

Many of the SMCAs allow the take of pelagic finfish (defined above), recreational take of white seabass by spearfishing, and commercial take of coastal pelagic species by round haul gear, which were considered by the SAT to offer high ecosystem protection. In some SMCAs, take of other species such as spiny lobster, sea urchin, finfish, and kelp is allowed. With some exceptions, the SMCAs protect benthic fishes and invertebrates most likely to benefit from area protection.

Many of the MPA proposals were advanced with recommendations from the stakeholders and BRTF to develop MOU agreements between the Department and government entities, research institutions, or tribal governments and organizations. These MOU agreements are outside of this rulemaking process, although they may be considered and pursued under the guidance of the draft master plan.

Alternatives to Regulation Change:

A range of alternatives to the proposed regulation was provided by the SCRSG and BRTF to meet the purposes of the proposed regulation but were not selected as the preferred alternative. Each alternative, with the exception of the no-change alternative, meets the goals and guidelines of the MLPA to varying degrees, and attempts to adhere to the SAT guidelines in the draft master plan to the extent possible. Each alternative is summarized below for informational purposes.

Alternative 1 – This is the SCRSG “Proposal 1R”, developed within SCRSG workgroups by constituents representing a variety of consumptive, non-consumptive, and environmental interests. It consists of 37 proposed MPAs, 13 existing MPAs and two special closures at the

Channel Islands, and two federal Safety Zones, covering an area of 397.5 square miles, representing 16.9 percent of state waters within the south coast region. Of this, 77.5 percent of the area is within no-take state marine reserves or “very high protection” SMCA that do not allow fishing, covering 307.8 square miles or 13.1 percent of state waters within the south coast region.

Alternative 2 – This is the “SCRSG Proposal 2R”, developed within SCRSG workgroups by constituents representing primarily commercial and recreational fishing interests along the south coast. It consists of 24 proposed MPAs, 13 existing MPAs and two special closures at the Channel Islands, and two federal Safety Zones covering an area of 378.3 square miles, representing 16.1 percent of state waters within the south coast region. Of this, 74.8 percent of the area is within no-take state marine reserves or “very high protection” SMCA that do not allow fishing, covering 282.8 square miles or 12 percent of state waters within the south coast region.

Alternative 3 – This is the “SCRSG Proposal 3R”, developed within SCRSG workgroups by constituents primarily representing non-consumptive and environmental interests along the south coast. It consists of 27 proposed MPAs, 13 existing MPAs and two special closures at the Channel Islands, and three federal Safety Zones covering an area of 412.7 square miles, representing 17.6 percent of state waters within the south coast region. Of this, 71 percent of the area is within no-take state marine reserves or “very high protection” SMCA and a SMRMA that do not allow fishing, covering 293 square miles or 12.4 percent of state waters within the south coast region.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Four Points by Sheaton, 8110 Aero Drive, San Diego, California, on Wednesday, October 20, 2010 at 8:30 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the Hotel Mar Monte, 1111 E. Cabrillo Blvd., Santa Barbara, California, on Wednesday, December 15, 2010 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before December 9, 2010 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@fgc.ca.gov. **Written comments mailed, faxed or e-mailed to the Commission office, must be received before 5:00 p.m. on December 13, 2010.** All comments must be received no later than December 15, 2010 at the hearing in Santa Barbara, CA. If you would like copies of any modifications to this proposal, please include your name and mailing address.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Jon K. Fischer, Acting Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Jon K. Fischer, or Sherrie Fonbuena at the preceding address or phone number. **Marija Vojkovich, Regional Manager, Marine Region, Department of Fish and**

Game, phone (805) 568-1246 has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.fgc.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

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 Business, Including the Ability of California Businesses to Compete with Businesses in Other States:

The Proposed Regulation 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. The Proposed Regulation may have negative impacts on commercial and recreational fishing operations and businesses.

The impacts presented here do not represent a complete socioeconomic impact analysis, but rather what is generally referred to as a first order impact analysis, meaning that it only assesses potential impacts up to the dock (i.e., for commercial, commercial passenger fishing vessel and recreational fisheries). Furthermore, a key assumption of this analysis is that estimates represent maximum potential impacts. An assumption made in the analysis is that the Proposed Regulation completely eliminates fishing opportunities in areas closed to specific fisheries and that fishermen are unable to adjust or mitigate in any way. In other words, that all fishing in an area affected by a marine protected area (MPA) is lost completely, when in reality it is more likely that fishermen will shift their efforts to areas outside the MPA. The effect of such an assumption is most likely an overestimation of the impact, or a "worst case scenario."

The estimates of maximum potential impacts shown here rely on the survey work and subsequent geographic information system (GIS) data analysis conducted by Ecotrust and reported in various documents to the SAT, RSG, and BRTF. Ecotrust interviewed fishermen to determine both locations of fishing activities and the relative importance of each location. Ecotrust's importance indices were combined with cost share information (gathered during the interviews) to measure the maximum potential impacts of prospective closures on stated and economic values for key commercial, commercial

passenger fishing vessel and recreational fisheries. The methodology used to determine maximum potential impacts for the Proposed Regulation (IPA) is described in the Initial Statement of Reason's Attachment 14.

The maximum potential impact (in real 2007 dollars) to commercial fisheries under the Proposed Regulation (see Table 3) excluding the impact of the Channel Islands MPAs is estimated to be \$1,566,767 per year. In comparison, the estimated average annual baseline gross revenues for the study region from 2000–07 were estimated to be \$48,001,110 and the estimated corresponding net economic revenue was \$22,648,455. Using these values, the estimated maximum potential percentage reduction per year under the Proposed Regulation excluding the impact of the Channel Islands MPAs is estimated to be 6.9 percent.

Table 3. Estimated annual maximum potential net economic impacts to commercial fisheries relative to the base scenario excluding the impact of the Channel Islands MPAs. The SCRSG proposal name is reflected in parentheses.

Fishery	Baseline GER	Baseline NER (Profit)	Proposed Regulation (IPA)	
			Estimated Profit Loss (\$)	Estimated Profit Loss (%)
Ca. Halibut (Hook & Line)	\$108,209	\$51,508	\$5,748	11.2%
Ca. Halibut (Trawl)	—	—	—	—
Coastal Pelagics	\$5,889,196	\$2,613,331	\$128,280	4.9%
Ca. Spiny Lobster	\$6,360,856	\$3,439,117	\$399,973	11.6%
N. Fishery (Hook & Line)	\$217,200	\$105,125	\$12,890	12.3%
N. Fishery (Trap)	\$372,719	\$182,413	\$22,990	12.6%
Rock Crab	\$1,469,292	\$780,474	\$50,484	6.5%
Sablefish (Blackcod) ^a	\$286,809	\$125,479	\$65,101	51.9%
Sea Cucumber (Dive)	\$500,296	\$252,149	\$22,441	8.9%
Sea Cucumber (Trawl)	—	—	—	—
Spot Prawn	\$1,741,435	\$892,881	\$71,973	8.1%
Market Squid	\$22,459,304	\$9,589,146	\$299,105	3.1%
Swordfish	\$366,725	\$123,770	\$10,589	8.6%
Thornyhead ^a	\$648,920	\$313,645	\$221,136	70.5%
Red Sea Urchin	\$7,580,148	\$4,179,418	\$256,058	6.1%
All Fisheries^b	\$48,001,110	\$22,648,455	\$1,566,767	6.9%

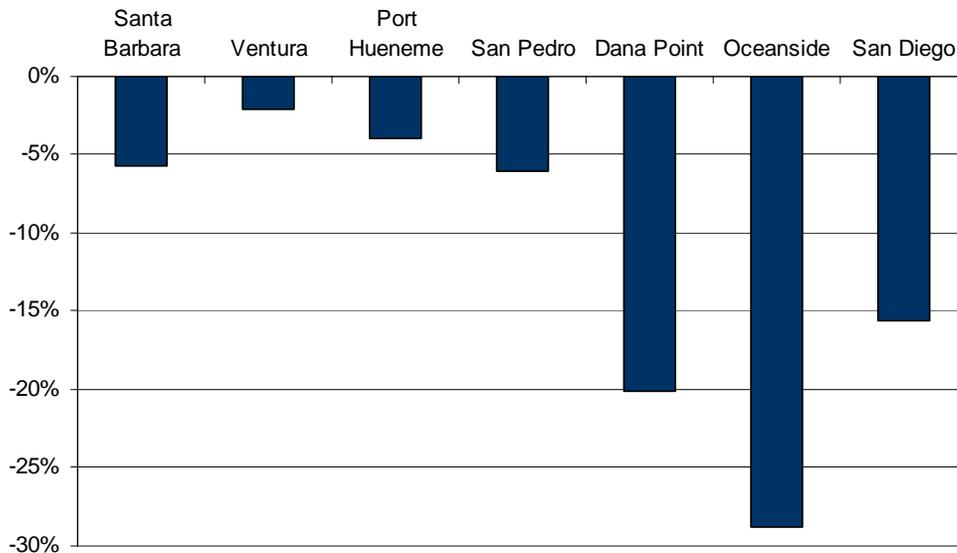
^a The sablefish and thornyhead trap fisheries data collected in this study indicated where those fisheries occur only inside state waters. These fisheries actually occur primarily outside of state waters and, because of this, the stated potential impacts may be overestimated throughout the study region.

^b Santa Barbara California halibut trawl and sea cucumber trawl are not shown in this total due to lack of data for all ports.

The estimated maximum potential impact to commercial fisheries under the Proposed Regulation excluding the impact of the Channel Islands MPAs is also calculated by port, as seen in Figure 2. In addition, it should be noted that the potential impacts to specific

fisheries also vary by port as well.

Figure 2. Estimated annual maximum potential net economic impacts in commercial fisheries of the Proposed Regulation relative to the base scenario by port excluding the impact of the Channel Islands MPAs.



Due to the aggregation of data necessary to maintain the confidentiality of individual fishermen’s financial data, the average impacts across fisheries may not be representative of the true maximum potential impact to an individual fisherman and may actually underestimate the maximum potential impact to specific individuals.

That said, Ecotrust, as part of their assessment, was asked to provide summary information on any disproportionate impacts on individual fishermen and/or particular fisheries. This was based on lessons learned in the Central Coast study region, where significant disproportionate impacts were only discovered in the implementation phase, leaving limited options to lessen these impacts.

Ecotrust evaluated whether there were individual fishermen interviewed who may be disproportionately affected by the Proposed Regulation. To assess these impacts, Ecotrust overlaid each fisherman’s fishing grounds weighted by ex-vessel revenue (for each fishery in which the individual participates) with those areas being considered for closure under the Proposed Regulation and then summarized the potential impact on each fisherman’s ex-vessel revenue across all fisheries in which the individual participates. It should be noted that the "worst case scenario" still applies in that individual fishermen are assumed not to adjust to different fishing grounds and the estimates presented here do not include impacts from Channel Island MPAs.

Ecotrust then used a box plot analysis to identify individual outliers. In a box plot analysis, outliers are defined as extreme values that deviate significantly from the rest of the sample. Results of this analysis show that the Proposed Regulation creates potentially disproportionate impacts to fishing areas for at least 10 fishermen. The maximum potential impacts to these individuals’ annual ex-vessel revenues range from 32.2–57.2 percent and the corresponding dollar values range from \$2,460–\$123,204. The median maximum potential impact is \$21,381.

Ecotrust also analyzed the maximum potential impacts to commercial passenger fishing vessel (CPFV) operators and recreational fishermen (i.e., dive, kayak and private vessel) in terms of percentage of the fishing grounds within the study region and percentage of stated importance values of fishing grounds within the study region. Estimated impacts represent impacts to areas of stated importance and not impacts on level of effort. Similar to the commercial estimates of maximum potential impact, these estimates assume all fishing activity that previously occurred in a closed area is “lost” and not replaced by movement to another location.

Ecotrust calculated the maximum potential net economic impact for the CPFV fisheries as the average percentage reduction in net economic revenue (i.e., profit) for all ten species considered (Table 4).

Table 4. Estimated annual maximum potential net economic impacts to CPFV fisheries relative to the base scenario excluding the impact of the Channel Islands MPAs.

Port	Proposed Regulation (IPA) Estimated Profit Loss (%)
Santa Barbara	7.4%
Port Hueneme / Channel Islands Harbor	12.3%
Santa Monica	4.4%
San Pedro / Long Beach	6.1%
Newport Beach	11.3%
Dana Point	18.8%
Oceanside	12.0%
San Diego	25.2%
Study Region	11.2%

Recreational fisheries were broken out by county and by user group (i.e., dive, kayak and private vessel). Please see Table 5 for additional details.

While not economic losses, if realized, a loss in recreational fishing areas could lead to decreases in revenues to recreational fishing dependent businesses.

In the long term, the potential negative impacts may be balanced by potential positive impacts of sustainable fisheries, non-consumptive benefits, and ecosystem function in the reserve areas. In addition, potential benefits may be realized through adult fish spillover to areas adjacent to marine reserves and state marine conservation areas which prohibit bottom fishing for finfish, as well as through transport to distant sites.

Table 5. Estimated percentage of stated value of total recreational fishing grounds affected by county for the Proposed Regulation excluding the impact of the Channel Islands MPAs.

County	User group	Pacific Barracuda	Pacific Bonito	Ca. Halibut	Kelp Bass (calico bass)	White Croaker	Ca. Spiny Lobster	Jack Mackerel	Rockfish	Rock Crab
Santa Barbara	Dive			7.3%	11.9%	12.1%	9.0%		5.3%	
	Kayak			11.5%	12.0%		0.0%			
	Private Vessel	0.4%		13.8%	11.6%		0.0%		2.1%	
Ventura	Dive	1.8%		19.9%	15.1%		15.4%		10.8%	
	Kayak	3.5%		15.9%	17.8%		13.6%	4.3%	15.6%	0.0%
	Private Vessel	0.5%	0.0%	3.0%	2.8%	0.0%	12.1%	0.0%	1.3%	
Los Angeles	Dive	13.3%	45.5%	12.1%	13.0%	33.4%	9.7%		20.7%	
	Kayak	2.5%	3.6%	3.9%	9.2%		8.0%	4.6%	12.1%	0.0%
	Private Vessel	3.3%	5.8%	1.8%	4.8%	0.0%	6.2%	0.8%	7.8%	
Orange	Dive		13.4%	14.6%	30.8%	25.4%	17.0%		8.2%	
	Kayak	0.8%	13.2%	4.5%	6.9%		30.7%	0.0%	11.0%	
	Private Vessel	3.6%	2.8%	2.3%	6.2%	11.0%	15.0%	3.1%	8.9%	
San Diego	Dive	16.1%	28.1%	25.6%	26.9%	41.3%	19.7%		15.1%	
	Kayak	23.4%	22.4%	21.4%	25.6%		13.6%	21.8%	25.0%	14.8%
	Private Vessel	4.2%	2.9%	7.0%	13.0%	5.2%	9.6%	10.7%	7.3%	

Table 5 (continued)

County	User group	Scallops	Ca. Sheephead	Sand Bass	Market Squid	Surfperch	Thresher Shark	White Seabass	Ca. Yellowtail
Santa Barbara	Dive	4.7%						3.8%	0.0%
	Kayak			21.6%			1.7%		
	Private Vessel			0.0%			0.2%	5.5%	0.0%
Ventura	Dive	10.0%	0.0%	11.6%				2.1%	0.6%
	Kayak		25.0%	21.8%	11.2%		2.2%	13.8%	12.2%
	Private Vessel						8.1%	2.5%	1.8%
Los Angeles	Dive	21.0%	27.5%	10.5%				5.8%	10.4%
	Kayak		5.5%	2.2%	4.9%		2.9%	9.5%	12.4%
	Private Vessel		8.4%	0.4%		2.0%	6.1%	9.6%	4.7%
Orange	Dive	12.0%	59.8%	32.7%				11.4%	10.0%
	Kayak		37.1%	6.6%	13.7%		9.1%	7.7%	17.7%
	Private Vessel		25.0%	2.0%		0.0%	4.2%	11.1%	2.4%

San Diego	Dive	21.9%	29.8%	18.4%		20.6%	12.1%	
	Kayak		20.3%	18.9%	26.5%	23.7%	21.7%	
	Private Vessel		9.1%	6.1%		9.2%	1.3%	11.6%

- (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.

Each alternative has potential impacts on the creation and elimination of jobs related to commercial, CPFV and recreational fishing and non-consumptive activities. An estimate of the number of jobs eliminated as a direct result of the proposed action is difficult to determine. Commercial fishing operations are generally small businesses employing few individuals and, like all small businesses are subject to failure for a variety of causes. Additionally, the long-term intent of the proposed action is to increase sustainability in fishable stocks and subsequently the long-term viability of these same small businesses. Jobs related to the non-consumptive tourism and recreational industries would be expected to increase over time by some unknown factor based on expected improvements in site quality and increased visitation to certain locations.

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

The Commission 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:

Additional costs to State agencies for enforcement, monitoring, and management of MPAs are difficult to estimate and are dependent on not only the impacts of the proposed regulation, but also other regulations and processes. Costs associated with printing and installing new regulatory signage, and developing and printing public outreach materials will be incurred by the Department’s Marine Region and South Coast Region. However, partnerships with state and federal agencies, academic institutions and non-profit organizations are likely to continue to play an important role in assisting with MLPA implementation in coming years.

Current cooperative efforts with the Channel Islands National Marine Sanctuary, Monterey Bay National Marine Sanctuary, and Gulf of the Farallones National Marine Sanctuary have provided funding for some existing State costs, and contributions are expected to increase with the adoption of this regulation. In addition to agency partnerships, during planning and implementation of the first and second MLPA study regions (i.e., central coast and north central coast study regions), substantial funding (in the millions) was contributed by private fund sources including MLPA Initiative partners, and through bond money distributed through the Ocean Protection Council (OPC). These contributions supported costs for baseline science and socioeconomic data collection, signage, and outreach and education, among other things, and allowed for a greater outcome than may have been possible with Department funding alone. While it is

difficult to quantify the level of support that will be provided by partnerships in future years, the Department will continue to actively pursue and maximize such assistance.

While the actual costs to the Department to implement the proposed regulations in the south coast are unknown, experience in implementing MPAs in the northern Channel Islands and the MLPA central coast and north central coast can inform prospective near-term expenditures using existing Department funds, and contributions from partners:

- For the Northern Channel Islands, which was the first portion of the MLPA South Coast Study Region to adopt MPAs, the Department spent approximately \$3.6 million on post-design one-time costs, and an additional \$0.9 million per year since 2004 for implementation, management, and enforcement of the Northern Channel Islands MPAs. Partners contributed approximately \$2.2 million in one-time costs, and \$2.7 annually since the design phase was completed.
- In the MLPA central coast study region, the Department spent approximately \$4.5 million on post-design one-time costs, and an additional \$0.4 million per year since 2007 for implementation, management, and enforcement of the central coast MPAs. Partners have contributed approximately \$2.4 million since the design phase was completed.
- The MLPA north central coast study region regulations are due to become effective in May 2010 and funds have not yet been expended on implementation at the time of the writing of the Initial Statement of Reasons with the exception of \$4 million provided by the OPC for a baseline data collection project and development of a monitoring plan.

The Department costs referenced above utilized available funds to the Department at that time. Certainly, changes requiring additional enforcement, monitoring or management will increase the recurring costs to the Department as compared to the current efforts, and total state costs would increase as new study regions are designated and become operational. For the south coast, the near-term cost to implement the proposed MPAs will include both one-time startup and baseline data collection costs, and recurring annual costs. A baseline data collection program methodology is currently being developed through the MPA Monitoring Enterprise and being implemented in the north central coast. The costs associated with baseline data collection and future monitoring to apply in the south coast will be determined through a similar process and therefore cannot be estimated at this time. In light of uncertainty regarding the cost for monitoring, funding due to the State's current fiscal crisis, and the level of future funding from external partners, the estimated new funding requirements by the state for MLPA in the south coast are unknown at this time.

- (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.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: September 7, 2010

Jon K. Fischer
Acting Executive Director