

**TITLE 14. Fish and Game Commission
Notice of Proposed Emergency 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, 240, 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, 240, 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, took emergency action to amend subsection (b)(102) of Section 632, Title 14, California Code of Regulations (CCR), relating to Blue Cavern State Marine Conservation Area.

Informative Digest/Policy Statement Overview

A. Laws Related to the Emergency Regulation

The MLPA provides the authority for the Commission to establish a programmatic framework for designating MPAs in the form of a statewide network [Fish and Game Code (FGC) Sections 2850-2863]. Under existing regulations [Section 632(a)(7), Title 14, CCR], vessels shall be allowed to anchor in any MPA or marine managed area with catch onboard unless otherwise specified in subsection 632(b), areas and special regulations for use. Fishing gear shall not be deployed in the water while anchored in a state marine reserve.

Under existing statute (FGC Section 10655), anchoring and mooring are restricted in the Catalina Marine Science Center Marine Life Refuge to protect ongoing scientific studies. The Director of the Refuge can authorize anchoring, mooring or take of marine life for scientific purposes, under the conditions prescribed in a scientific collecting permit issued by the Department.

B. Effect of the Emergency Action

This amendment of Section 632 will allow anchoring within the Blue Cavern SMCA, except within the Catalina Marine Science Center Marine Life Refuge. The provision for the director of the refuge to authorize anchoring, mooring, or take of marine life for scientific purposes, under the conditions prescribed in a scientific collecting permit issued by the Department (FGC Section 10655) is unchanged.

C. Policy Statement Overview

The objective of this emergency regulation is to avoid serious harm to the health and safety and general welfare of the public by allowing vessels safe anchorage for recreational diving activities in a portion of the Blue Cavern SMCA and to afford vessel protection from weather. It will not compromise the existing no anchoring provisions of the Catalina Marine Science Center Marine Life Refuge

D. Benefit of the Regulation

The emergency regulation will result in non-monetary benefits related to public health and safety.

The emergency regulation is neither inconsistent nor incompatible with existing state regulation. This regulation will re-open an area to anchoring that was unintentionally closed. Prior to January 1, 2012 it was legal to anchor and moor in the area.

Section 240 Finding

Pursuant to the authority vested in it by Fish and Game Code Section 240 and for the reasons set forth in the attached "Statement of Emergency Action," the Commission expressly finds that the adoption of this emergency regulation is necessary for the immediate preservation of the health and safety and general welfare. The Commission specifically finds that the amendment of the current regulation will avoid serious harm to the health and safety and general welfare of the public by allowing vessels safe anchorage during diving and other non-consumptive activities.

Public Comments on Proposed Emergency Regulations

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

In order to be considered, public comments on proposed emergency regulations must be submitted in writing to the Office of Administrative Law (OAL), 300 Capitol Mall, Room 1250, Sacramento, CA 95814; AND to the Fish and Game Commission, 1416 Ninth Street, Room 1320, Sacramento, CA 95814, or via fax to (916) 653-5040 or via e-mail to fgc@fgc.ca.gov. Comments must identify the emergency topic and may address the finding of emergency, the standards set forth in sections 11346.1 and 11349.1 of the Government Code and Section 240 of the Fish and Game Code. Comments must be received within five calendar days of filing of the emergency regulations. Please refer to OAL's website (www.oal.ca.gov) to determine the date on which the regulations are filed with OAL.

Impact of Regulatory Action

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

(a) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

Some unknown level of cost savings will be realized by not having to invest as much time in enforcement of confusing and potentially dangerous regulations.

(b) Nondiscretionary Costs/Savings to Local Agencies:

None.

(c) Programs Mandated on Local Agencies or School Districts:

None.

(d) 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; and

(e) 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

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

FISH AND GAME COMMISSION

Sonke Mastrup
Executive Director

Dated: April 13, 2012