

The MLPA requires that the program, in part, contains an improved marine life 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 benefit both consumptive and non-consumptive user groups. The program may include areas with various levels of protection (LOP) through MPAs that may 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 these activities are consistent with the objectives of the area and the goals and guidelines of the MLPA.

(2) Regional Implementation of Marine Life Protection Act

Important in developing the Proposed Regulation was the consideration for the north 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 MPAs (draft master plan), consistent with the guidance provided in the MLPA [Fish and Game Code subsection 2853(b)(6)]. However, 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, north central, and south coast regional regulations were adopted in April 2007, August 2009, and December 2010, respectively. Additional background on the concept of regional networks, biological connectivity, ecosystem protection, and MPA classifications, as well as the legislative history and context, is included in the rulemaking files for the central coast (OAL File ID # 07-0711-01S), north central coast (OAL File ID #2010-0413-02SR), and south coast (OAL File ID # 2011-1101-04SR). These documents can be downloaded from the Commission's webpage (www.fgc.ca.gov/regulations/). The north coast is the fourth of five study regions to be implemented through the MLPA. San Francisco Bay is the final study region for consideration under the Marine Life Protection Act (MLPA) and initial project scoping is underway.

The Proposed Regulation establishes a network component of MPAs for the north coast that includes all representative habitats, and major oceanic conditions. Unique and critical habitats were

considered separately to guarantee both representation and protection. The Proposed Regulation creates a network component of MPAs in the north 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.

(3) Implementation of Marine Life Protection Act in North Coast Region

The planning process to implement the MLPA in the north coast was conducted pursuant to the processes defined in the draft master plan. A list of meetings held during the planning process is provided in Section III(e) of this document. The north coast MPA planning began with a process that provided an opportunity for local communities to work together to develop and submit MPA arrays to the MLPA North Coast Regional Stakeholder Group (NCRSG) for consideration. The NCRSG began meeting in February 2010 to develop alternative MPA proposals for the north coast region. The NCRSG met during six one- to two-day meetings and two work sessions between February 2010 and August 2010, before forwarding a proposal to the Blue Ribbon Task Force (BRTF) in October 2010. The BRTF, appointed by the Secretary of the California Natural Resources Agency, and convened as an advisory body to the Department and the Natural Resources Agency, provided policy guidance and oversight to the process.

Based on the six goals of the MLPA, the NCRSG reviewed and approved regional objectives to meet those goals in the north coast region. These objectives were similar to those developed in other study regions, but the stakeholders added a section titled “Stakeholder Priorities and Objectives”. They also identified and added design and implementation considerations based on the MLPA goals and regional objectives (Attachment 1). These additions were critical guidelines used by the NCRSG and other stakeholders to propose MPAs for the north coast.

The Department provided input to the NCRSG and BRTF throughout proposal development in the form of feasibility and design guidelines, and formal evaluations of MPA proposals based on those guidelines. The Department did not develop its own preferred alternative or recommend any particular alternative as a whole. The Department generated criteria to evaluate the feasibility of proposed MPA designs to ease public understanding, increase enforceability, and facilitate management. A memo outlining these

guidelines was provided to the NCRSG following the third NCRSG meeting, in March 2010 (Attachment 2), and the guidelines were reiterated throughout the process. In addition to feasibility and design, the Department provided guidance to the NCRSG regarding selection of appropriate MPA goals and objectives based on the design of each MPA. The Department also evaluated NCRSG-identified goals and objectives for individual MPAs to ensure they were appropriate and attainable, and evaluated the prospects of individual areas to help achieve the MLPA goals.

The MLPA Master Plan Science Advisory Team (SAT) for the NCSR was appointed by the Department Director to provide scientific advice and guidelines to the BRTF and NCRSG for development of MPA proposals based on the best readily available science and the draft master plan. The SAT provided scientific evaluation of MPA proposals relative to the science guidelines and goals of the MLPA. In order to analyze the differences between no-take reserves and limited take conservation areas and recommended parks, the SAT developed a ranking for LOP provided by any given MPA based on the impact of allowed uses on ecological and ecosystem structure. LOPs are described in the draft master plan, and are reconsidered for each study region for evaluation purposes (Attachment 3, p 12).

The BRTF received the NCRSG proposal, referred to as the Revised Round 3 NCRSG MPA Proposal (RNCP), at a two-day BRTF meeting on October 25-26, 2010. At the same meeting, the BRTF developed an alternative proposal, the North Coast Enhanced Compliance Alternative MPA Proposal (ECA). The ECA, based on the same geographies as the RNCP, includes modifications to accommodate tribal take and improve compliance with science guidelines and Department feasibility criteria. The BRTF members unanimously voted to forward both the RNCP (Attachment 4) and the ECA (Attachment 5) to the Commission for consideration as a preferred alternative. The BRTF adopted a series of additional recommendations to accompany the two MPA alternatives (Attachment 6). Two recommendations related to traditional tribal uses in the north coast region and recognition of a potential tribal use category within MPAs. Other recommendations were for the State to seek co-management partnerships between other agencies, California tribes and tribal communities, and to retain existing MPAs adjacent to MacKerricher, Russian Gulch and Van Damme state parks.

The Commission received the two alternative proposals and additional recommendations from the BRTF at a joint meeting on February 2, 2011. At the Commission meeting on April 6-7, 2011, the Department identified unresolved feasibility issues for MPAs in the RNCP and provided potential solutions to the Commission (Attachment 7). After discussion and public testimony, the Commission directed their staff to work with Department and Marine Life Protection Act Initiative (MLPAI) staff to develop additional options to address public comments, Department feasibility concerns, and options to provide for tribal gathering using the RNCP. The Commission wanted to be able to consider the options at its June 29-30, 2011 meeting. A work-group was formed per Commission request in April 2011. The California Department of Parks and Recreation (State Parks) provided input on issues related to their concerns and jurisdiction. At its June 29, 2011 meeting, the Commission considered options provided by the work-group (Attachment 8) along with Department recommendations (Attachment 9), and developed the Proposed Regulation with regulatory sub-options at various geographies. The Commission directed the Department to prepare a regulatory package using the Proposed Regulation. In previous study regions, the Proposed Regulation integrated aspects from the various alternatives presented to the Commission by the BRTF and was referred to as the Integrated Preferred Alternative or IPA. There was no IPA identified for the NCSR MPAs. The term Proposed Regulation is consistent with Administrative Procedure Act terminology and will be used in this document. The Commission also identified the ECA as its regulatory alternative (Alternative 1), described in Section IV (a) of this document; the original RNCP is not discussed further in this document.

(4) Proposed Regulation

Summary

The Proposed Regulation includes 19 MPAs, one marine managed area (MMA), and seven special closures for the NCSR (Figure 1, Table 2, and Attachment 10). Of the 19 MPAs, 15 are new and four are existing MPAs. Of the 15 new proposed MPAs, eight MPAs include sub-options for boundaries or allowed take. The Proposed Regulation also amends the boundaries and allowed take of the four existing MPAs to meet the Department's feasibility guidelines and to facilitate public understanding. One existing MPA, the Punta Gorda State Marine Reserve (SMR), would be removed and replaced by two proposed nearby SMRs (Attachment 11).

The three classifications of MPAs used in California to reflect differing allowed uses are SMR, state marine conservation area (SMCA), and state marine park (SMP). Public Resources Code Section 36710 lists the restrictions applied in these classifications. Two of these classifications, SMR and SMCA, are utilized in the Proposed Regulation. One MMA classification known as a state marine recreational management area (SMRMA) is a component of the Proposed Regulation. Public Resources Code Section 36700(e) lists the restrictions in this classification. The Commission has the statutory authority to designate SMRs, SMCAs, and SMRMAs; 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 Section 36725(b)].

Ongoing activities regulated by other agencies

Pre-existing activities and artificial structures including but not limited to utility cables, bridge maintenance, maintenance dredging, and habitat restoration occur throughout the NCSR. These activities may result in incidental take. However, the activities are regulated by other federal, state, and local agencies, whose jurisdiction cannot be pre-empted through designation of MPAs under the MLPA. Out of the 19 MPAs and 1 MMA in the Proposed Regulation, 3 have been identified as having various existing activities regulated by other agencies (see Table 2). These activities are specified within the proposed MPA regulations to make explicit that these regulated activities are allowed to continue under current permits. The Department provided details regarding these activities, and other unresolved issues requiring the Commission's input, at the Commission's October 19, 2011 meeting (Attachment 12).

Tribal take

Beginning in July 2009, the Department and MLPAL staff began discussions with north coast tribes and tribal communities regarding the MLPAL north coast MLPA planning process. They were invited to 12 outreach sessions (Table 1) to provide information on issues important to the MLPA process. North coast tribal and tribal communities' representatives also participated as members of the NCRSG and assisted in the development of the RNCP proposal. The NCRSG and BRTF both passed motions supporting take by tribes in MPAs. After receiving the BRTF proposals in February 2011, the Commission received additional information from north coast tribes and tribal communities regarding tribal take in various geographies proposed as MPAs. At the Commission's June 29-30,

2011 meeting, staff provided three options developed to accommodate tribal take in MPAs on the north coast (Attachment 8). The Commission chose Tribal Option 1 to provide for specific non-commercial tribal uses by federally recognized tribes. The Commission asked the federally recognized tribes to submit a factual record of historic and current uses in specific geographies, other than SMRs, to the Commission within 60 days. The Commission directed the Department to develop regulatory language defining tribal take using specific criteria. The criteria the Commission identified required any tribal member taking living marine resources to possess an identification card issued by a federally recognized tribe, a valid California fishing license for persons 16 years and older, and any valid license, report card, tag, stamp, validation, permit, or any other entitlement required by federal, state, or local law.

The Commission also decided that all tribal take must be consistent with existing regulation. The Commission received six factual records representing twenty-four federally recognized north coast tribes and tribal communities prior to the 60-day deadline. The factual records identified eleven MPAs for tribal use with overlapping requests in some MPAs by specific tribes. In addition to the factual records, the Commission received two letters calling attention to intertribal agreements. These intertribal agreements are transactions between tribes and tribal communities wishing to take resources within the ancestral territories of other tribes and tribal communities, and need to be negotiated between those tribes. The regulations for the NCSR MPAs will not be changed based on intertribal agreements but will reflect tribal take in specific MPAs as they were listed in the factual records received by the Commission.

Some tribes and tribal communities have raised concern about the term 'Tribal take' used in the proposed regulations. Based on information received by tribal members, to completely encompass the full range of traditional cultural extractive activities of California Indian Tribes in this area, it is necessary to understand that, to members of the north coast tribes and tribal communities, the term "tribal take" includes gathering, harvesting and fishing for cultural and religious purposes as well as for subsistence. Pursuant to tribal culture, all three terms must be used because each conveys specific and unique kinds of activities that cannot be adequately encompassed by a single term. Under state statute, the term "take" is clear and, combined with the allowed uses defined in the MPA specific regulations, unambiguous. In Fish and Game Code

Section 86, "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. The California Code of Regulations Title 14 Section 1.80 defines "Take" as hunt, pursue, catch, capture or kill fish, amphibians, reptiles, mollusks, crustaceans or invertebrates or attempting to do so.

Table 1. Outreach to tribes and tribal communities in the north coast region.

Meeting	Major Topic	Dates	Location
Meeting with Yurok Tribal Representatives	Marine Life Protection Act (MLPA) process information	7/22/2009	Klamath
Tribal Informational Session	Introduction to MLPA planning process	8/27/2009	Eureka
Tribal Coalition Meeting	MLPA process information	10/29/2009	Eureka
Science Advisory Team (SAT) Tribal Work Group	Marine Protected Areas (MPAs) and tribal take	1/20/2010	Eureka
Meeting with Yurok and Resighini Tribes	MLPA process and State authority	2/22-23/2010	Klamath
SAT Tribal Work Group	MPAs and tribal take	3/16/2010	Eureka
Tribal Meeting	MLPA process	4/9/2010	Sacramento
SAT Tribal Work Group	MPAs and tribal take	6/29/2010	Eureka
SAT Tribal Work Group	MPAs and tribal take	10/13/2010	Eureka
Strategic Partnership Coalition	MLPA process and State authority	10/20/2010	Blue Lake
Tribal Meeting	Tribal ID card requirements	11/9/2011	Klamath
Meeting with Inter Tribal Sinkyone Wilderness Council	Tribal ID card requirements	11/10/2011	Teleconference

Shore fishing

Take “from shore only” is currently proposed at Double Cone Rock SMCA and Big River Estuary SMCA in the Proposed Regulation. Two existing MPAs outside of the study region also include take restricted to shore only. Due to confusion over the interpretation of what it means to “take from shore only”, the Commission asked the Department to develop a general definition for take “originating from shore” that would apply to the Proposed Regulation as well as other MPAs coastwide that allow shore only fishing. Existing language in the groundfish regulations [Section 27.25(c)(3), Title 14, CCR] provides a basis for defining shore fishing and accompanying vessel and watercraft restrictions. Therefore, a definition for fishing from shore is included in the general provisions of Section 632, Title 14, CCR.

Regulatory sub-options

At the Commission's April 7, 2011 meeting, the Commission directed the Department to develop regulatory sub-options for eight of the proposed MPAs within the Commission's Proposed Regulation. These sub-options provide alternatives to either boundaries or take regulations in the Proposed Regulation that address Department feasibility concerns, and recommendations by MLPA Initiative staff or stakeholders (Attachment 10). At the Commission's June 29, 2011 meeting, the Commission approved the Proposed Regulation and included sub-options for eight proposed MPAs. These sub-options included the following:

Pyramid Point SMCA boundaries –

The proposed southern boundary for this MPA is placed on a half minute of latitude, consistent with Department feasibility guidelines; however, the boundary splits a beach with no significant landmark. This area is primarily used by shore-based anglers, and a permanent landmark is available in the area. Prince Island is nearby and easily recognizable from shore and sea. Department enforcement has raised concerns that the public may find it difficult to locate the MPA boundaries unless aligned with landmarks. To facilitate public understanding, the Department recommended moving the southern boundary south to align with the northernmost tip of Prince Island.

Boundary Option 1: Retain coordinates in Proposed Regulation (Figure 2a).

Boundary Option 2: Move the southern boundary approximately 1/3 mile south to the northernmost tip of Prince Island (Figure 2b).

Reading Rock SMR (includes options for take/designation/name) –

The Proposed Regulation provides an option to retain the SMR or change the designation to an SMCA and allow take by specific federally recognized tribes. A designation change from an SMR to a SMCA will require a name changes to this MPA and the adjoining shoreward SMCA.

Take Option A: Retain SMR designation as in Proposed Regulation.

Take Option B: Reclassification for the Proposed Regulation from an SMR to a SMCA. This will allow specific federally recognized tribes to take living marine resources pursuant to existing regulations. However, this also creates

an MPA cluster with two SMCAs having different take regulations. To facilitate public understanding, Reading Rock SMR would be renamed Reading Rock Offshore SMCA to reflect its proximity to the shoreline.

Reading Rock SMCA (includes options for name at Reading Rock SMCA) –

This MPA shares a boundary with Reading Rock SMR. The option selected for Reading Rock SMR may result in a designation change from an SMR to a SMCA, resulting in two adjoining SMCAs with the same name. To facilitate public understanding, this MPA name will change to reflect its proximity to the shoreline.

Name Option A: Retain name as in Proposed Regulation, if Reading Rock SMR Take Option A (above) is selected.

Name Option B: Rename as Reading Rock Onshore SMCA if Reading Rock SMR Take Option B (above) is selected.

South Humboldt Bay SMRMA boundaries –

Boundaries in bays, estuaries, and rivers are feasible only if they have easily recognizable, permanent landmarks to improve enforceability and to enhance compliance by users not equipped with a global positioning system (GPS). “Floating corners” (boundary corners not anchored on land) are particularly problematic inside contained bodies of water. This MPA does not meet Department feasibility guidelines for boundaries within estuaries and reduces enforceability and public understanding.

Boundary Option 1: Retain coordinates in Proposed Regulation (Figure 3a).

Boundary Option 2: Modify northern boundary to align with an easily recognizable landmark on the western shore and extend the boundary due east across the bay to the eastern shore near the College of the Redwoods Exit off Highway 101. Utilize southern boundary as proposed in Option 1, and extend the boundary to the eastern shore of the bay. This would avoid encompassing traditional clam beds utilized by the Wiyot Tribe and others while better meeting Department feasibility guidelines. The proposed solution still meets science guidelines for eelgrass, estuary, and coastal marsh (Figure 3b). However, the eastern boundary of Option 2 extends to the area adjacent to the Humboldt Bay National Wildlife Refuge, where there are pre-existing operations such as maintenance dredging and restoration efforts.

These activities could potentially result in incidental take, but are regulated by other agencies, whose jurisdiction cannot be pre-empted under MLPA. Therefore, Option 2 includes regulatory language consistent with prior MLPA study regions that specifies these activities are allowed to continue under current state, federal, and local permits, despite MPA designation.

Sea Lion Gulch SMR boundaries –

The coordinates for northern and southern boundaries of this MPA are placed on tenths of a minute of latitude, which is consistent with Department feasibility guidelines. However, when an area is utilized by shore-based users and landmarks are available in the area, feasibility guidance is the use of easily recognizable landmarks. Department enforcement has raised concerns that the public may find it difficult to locate the boundaries unless aligned with a prominent landmark.

The current proposed northern boundary is aligned with a cluster of rocks called Sea Lion Rocks. This area is used primarily by shore-based anglers; however, Punta Gorda Lighthouse is nearby which aligns with an offshore buoy and is easily recognizable from both shore and sea. To facilitate public understanding, the Department recommended moving the northern boundary north to align with the Punta Gorda Lighthouse and the offshore buoy.

The southern boundary of the proposed MPA is halfway between Cooskie (north) and Randall (south) creeks. The Department recommends moving the southern boundary north to Cooskie Creek.

Boundary Option 1: Maintain the boundaries in Proposed Regulation (Figure 4a).

Boundary Option 2: Move the northern boundary north approximately one mile to Punta Gorda Lighthouse (aligns with an offshore buoy) and move the southern boundary north approximately 1/2 mile to Cooskie Creek (Figure 4b).

Double Cone Rock SMCA recreational take regulations-

The proposed MPA take regulation in Option A allows for the recreational and commercial take of salmon and crab and the non-commercial take by federally recognized tribes authorized to take in this MPA. However, the boundaries of this MPA largely coincide with DeVilbiss Ranch, private property (Soper Company) managed primarily for timber, and has no public

access points. A private outdoor recreation company (Wilderness Unlimited) leases the land for hunting and fishing. The primary target species for Wilderness Unlimited members are cabezon and rockfish by hook and line from shore, abalone (hand), surfperch (hook and line) and surf smelt (dip net or cast net).

Take Option A: Allow take of salmon by trolling and Dungeness crab by trap, hoop net, or hand.

Take Option B: Allow take of salmon by trolling, Dungeness crab by trap, hoop net, or hand, and take from shore of species listed above.

Ten Mile Beach SMCA boundaries-

The proposed southern boundary of this MPA splits a beach where a permanent landmark is available in the area. Department enforcement has raised concerns that the public may find it difficult to locate the boundaries unless aligned with a prominent landmark. To facilitate public understanding, the Department recommended moving the southern boundary south to Inglenook Creek.

Boundary Option 1: Maintain the southern boundary in Proposed Regulation (Figure 5a).

Boundary Option 2: Move the southern boundary approximately $\frac{3}{4}$ mile south to the mouth of Inglenook Creek (Figure 5b).

Big River Estuary SMCA take regulations –

The proposed MPA take regulations allow waterfowl hunting, the take of Dungeness crab and non-commercial take by federally recognized tribes authorized to take from this MPA. The two options either allow or disallow the take of surfperch by hook and line. Permissive take allowances lead to reduced ecological protection and reduce the prospects of contributing to the ecological goals of the MLPA. The SAT for the north coast has evaluated this MPA, prior to the decision to allow tribal take, and assigned a moderate LOP if the take of surfperch is allowed. The moderate LOP is below the Department and BRTF standard of moderate-high and above. If the recreational take of surfperch by hook and line is removed from the proposed take regulations, the assigned LOP would be moderate-high.

Take Option A: Take regulations in Proposed Regulation.

Take Option B: Add take of surfperch to the Proposed Regulation and adjust the MPA goals and objectives accordingly.

Navarro River Estuary SMCA take regulations–

The proposed MPA take regulations allow waterfowl hunting and non-commercial take by federally recognized tribes. Permissive take allowances lead to reduced ecological protection and reduce the prospects of contributing to the ecological goals of the MLPA. The SAT for the north coast evaluated this MPA prior to the decision to allow tribal take and assigned a moderate low LOP if take of salmonids by hook and line is included. The LOP is below the Department and BRTF standard of moderate-high and above. If take of salmonids by hook and line is removed from the proposed take regulations, the assigned LOP would be very high.

Take Option A: Take regulations in Proposed Regulation.

Take Option B: Add take of salmonids consistent with regulations found in Section 7.50 to the Proposed Regulation.

Marine Life Protection Act - North Coast Study Region
 California Fish and Game Commission Proposed Regulation

Overview Map

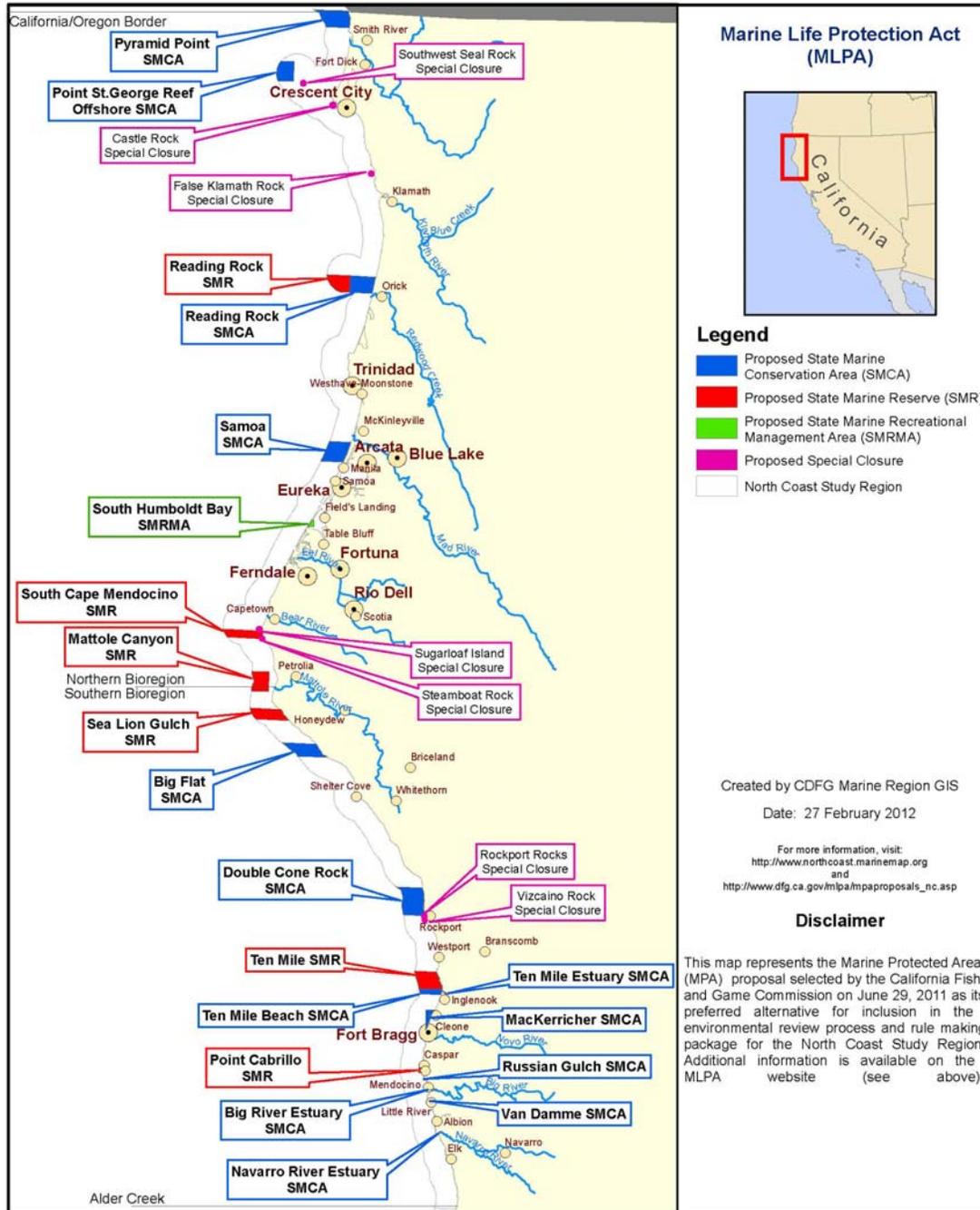


Figure 1. Marine protected areas in the Proposed Regulation. The Proposed Regulation as displayed includes 19 proposed new or modified MPAs and one MMA; the figure also shows seven new special closures.



Figure 2a. Pyramid Point SMCA Boundary Option 1.

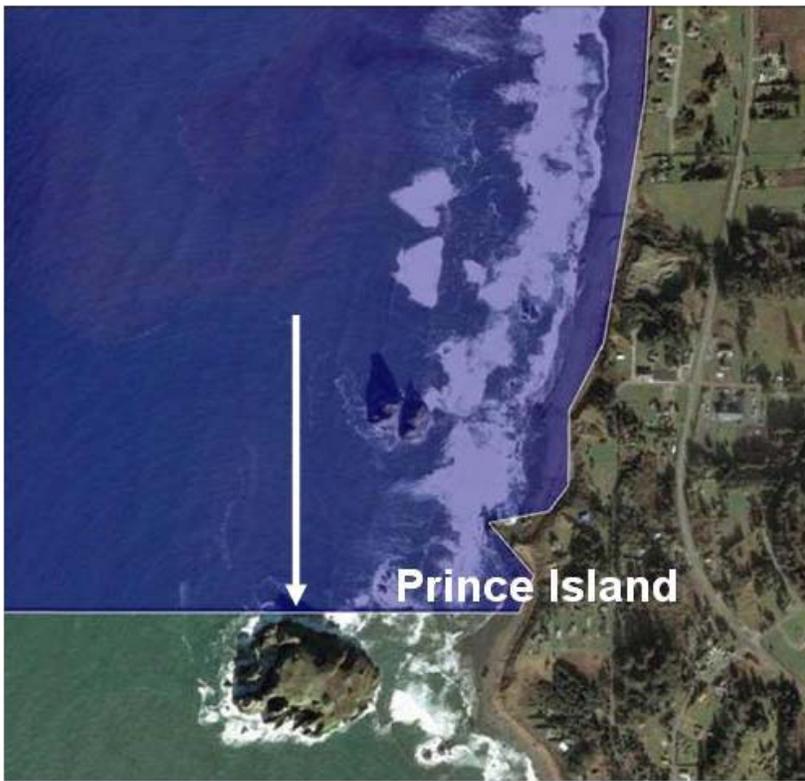


Figure 2b. Pyramid Point SMCA Boundary Option 2.



Figure 3a. South Humboldt Bay SMRMA Boundary Option 1.



Figure 3b. South Humboldt Bay SMRMA Boundary Option 2.



Figure 4a. Sea Lion Gulch SMR Boundary Option 1.



Figure 4b. Sea Lion Gulch SMR Boundary Option 2.

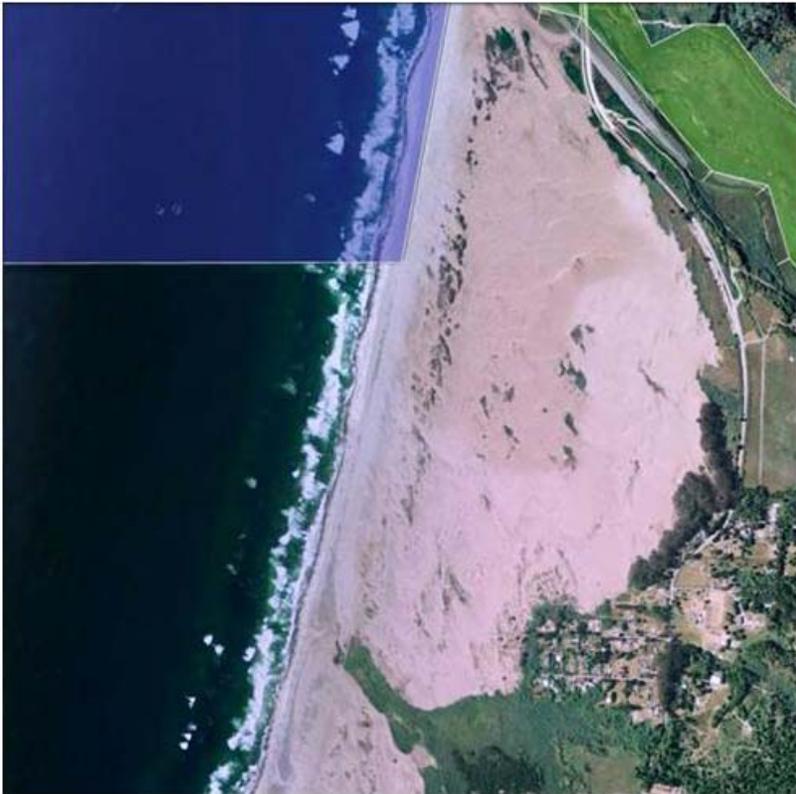


Figure 5a. Ten Mile Beach SMCA Boundary Option 1.

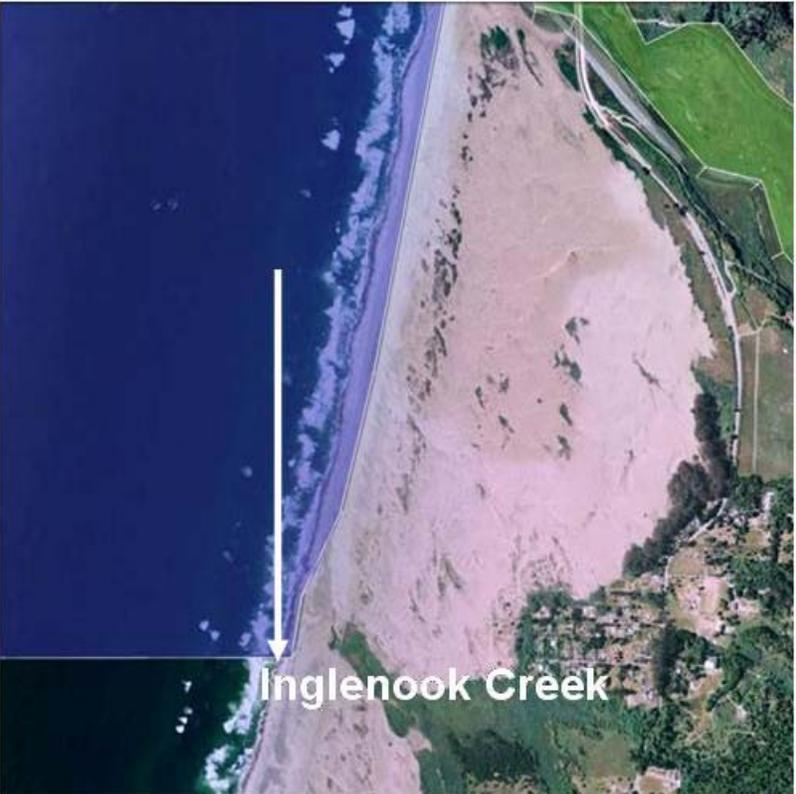


Figure 5b. Ten Mile Beach SMCA Boundary Option 2.

Proposed Regulation Details

Table 2 presents the proposed MPAs, MMA, and special closures in the Proposed Regulation including the MPA designation, options for specific MPAs, proposed allowed take, other proposed regulated activities, and MLPA SAT assigned LOP. In order to analyze the differences between no-take reserves and limited take conservation areas, the SAT developed a ranking for level of protection described in the draft master plan based on impact of allowed uses on ecological and ecosystem structure. LOPs are modified for each study region for evaluation purposes and are appended to the draft master plan upon adoption of MPA proposals (Attachment 3).

Table 2. Proposed Regulation for additions to general provisions of Section 632, and for marine protected areas, marine managed areas, and special closures in the North Coast Study Region. Proposed regulations and Science Advisory Team (SAT) assigned levels of protection are included. Areas are arranged geographically from north to south.

GENERAL PROVISIONS (SECTION 632)		
General Provision	Description of General Provision	Proposed Regulation
Tribal take	Specifies requirements applying to all members of federally recognized tribes for tribal take of living marine resources where authorized in subsection 632(b)	<p>For purposes of this regulation, “federally recognized tribe” means any tribe on the <i>List of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs</i>, published annually in the Federal Register.</p> <p>Any member of a federally recognized tribe authorized to take living marine resources from an area with area-specific take restrictions in subsection 632(b), when engaging in take within an authorized area shall:</p> <ul style="list-style-type: none"> (a) possess on his person, in his immediate possession, or where otherwise specifically required by law to be kept, any valid license, report card, tag, stamp, validation, permit, or any other entitlement that is required in the Fish and Game Code, or required by other state, federal, or local entities, in order to take living marine resources; (b) possess a valid photo identification card issued by a federally recognized tribe that contains expiration date, tribal name, tribal member number, name, signature, date of birth, height, color of eyes, color of hair, weight, sex; and (c) display any of the items listed above upon demand to any peace officer. <p>Members taking living marine resources under this provision are subject to current seasonal, bag, possession, gear and size limits in existing Fish and Game Code statutes and regulations of the Commission, except as otherwise provided for in subsection 632(b).</p> <p>No member, while taking living marine resources pursuant to this section, may be assisted by any person who does not possess a valid tribal identification card and is not properly licensed to take living marine resources.</p> <p>Nothing in the regulation is intended to conflict with, or supersede, any state or federal law regarding the take of protected, threatened or endangered species.</p>
Shore fishing	Provides general definition for fishing from shore	<p>Take from shore, or shore fishing, for purposes of this section, means take of living marine resources from shore, including beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore.</p> <p>Unless specifically authorized in subsection 632(b), no vessel, watercraft (motorized or non-motorized), or floating device may be used to assist in the take, transport or possession of species taken while shore fishing, except that a float tube or similar floatation device may be used when taking abalone only.</p>

MARINE PROTECTED AREAS & MARINE MANAGED AREAS				
MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities	SAT Level of Protection ¹
PYRAMID POINT SMCA: INCLUDE BOUNDARY OPTIONS (1-2)				
Option 1: Pyramid Point State Marine Conservation Area	Southern boundary as described in the Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> The recreational take of surf smelt by DIP NET or HAWAIIAN TYPE THROW NET. 	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> Cher-Ae Heights Indian Community of the Trinidad Rancheria Elk Valley Rancheria Resighini Rancheria Smith River Rancheria Yurok Tribe of the Yurok Reservation 	Low
Option 2: Pyramid Point State Marine Conservation Area	Move southern boundary approximately 1/3 mile south to the northernmost tip of Prince Island.	Take as in Option 1.	Same as in Option 1	Low

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities	SAT Level of Protection ¹
Point St. George Reef Offshore State Marine Conservation Area	Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • The recreational take of salmon by TROLLING, and Dungeness crab by TRAP. • The commercial take of salmon with TROLL FISHING GEAR, and Dungeness crab by TRAP. 	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Cher-Ae Heights Indian Community of the Trinidad Rancheria • Elk Valley Rancheria • Resighini Rancheria • Smith River Rancheria • Yurok Tribe of the Yurok Reservation 	Low
READING ROCK SMR/SMCA CLUSTER: INCLUDES NAME OPTION AT READING ROCK SMR (NOTE: DECISION FOR READING ROCK SMR WILL DETERMINE NAME OPTION FOR READING ROCK SMCA)				
Option A: Reading Rock State Marine Conservation Area	Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • The recreational take of salmon by TROLLING, surf smelt by DIP NET or HAWAIIAN TYPE THROW NET, and Dungeness crab by TRAP, HOOP NET or HAND. • The commercial take of salmon with TROLL FISHING GEAR, surf smelt by DIP NET, and Dungeness crab by TRAP. 	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Cher-Ae Heights Indian Community of the Trinidad Rancheria • Resighini Rancheria • Yurok Tribe of the Yurok Reservation 	Low
Option B: Reading Rock Onshore State Marine Conservation Area	Proposed Regulation	<ul style="list-style-type: none"> • Take as in Option A. 	Same as in Option A	Low

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities	SAT Level of Protection ¹
READING ROCK SMR/SMCA CLUSTER: INCLUDES TAKE / DESIGNATION / NAME AT READING ROCK SMR (NOTE: DECISION FOR READING ROCK SMR WILL DETERMINE NAME OPTION FOR READING ROCK SMCA)				
Option A: Reading Rock State Marine Reserve	Proposed Regulation	<ul style="list-style-type: none"> Take of all living marine resources is prohibited 	---	Very High
Option B: Reading Rock Offshore State Marine Conservation Area	Change Option 1 Reading Rock SMR to Reading Rock Offshore SMCA allowing tribal take	Take of all living marine resources is prohibited except as authorized for federally recognized tribes.	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> Cher-Ae Heights Indian Community of the Trinidad Rancheria Resighini Rancheria Yurok Tribe of the Yurok Reservation 	Low
Samoa State Marine Conservation Area	Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> The recreational take of salmon by TROLLING, surf smelt by DIPNET or HAWAIIAN TYPE THROW NET, and Dungeness crab by TRAP, HOOP NET or HAND. The commercial take of salmon with TROLL FISHING GEAR, surf smelt by DIP NET, and Dungeness crab by TRAP. 	The following federally recognized tribe may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> Wiyot Tribe 	Low

MPA Name & Designation	Description of MPA Options	Proposed Allowed Take	Other Proposed Regulated Activities	SAT Level of Protection ¹
SOUTH HUMBOLDT BAY SMRMA: INCLUDED BOUNDARY OPTIONS (1-2)				
Option 1: South Humboldt Bay State Marine Recreational Management Area	Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552). 	The following federally recognized tribe may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Wiyot Tribe 	Low
Option 2: South Humboldt Bay State Marine Recreational Management Area	Move northern boundary south to a prominent point of land on the west side of the bay. Extend the northern and southern boundaries east across the entire bay.	<ul style="list-style-type: none"> • Take as in Option 1. 	The following federally recognized tribe may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Wiyot Tribe Habitat restoration, maintenance dredging, and operation and maintenance of artificial structures is allowed pursuant to any required federal, state and local permits, or as otherwise authorized by the Department. ²	Low
South Cape Mendocino State Marine Reserve	Proposed Regulation	Take of all living marine resources is prohibited.	---	Very High
Mattole Canyon State Marine Reserve	Proposed Regulation	Take of all living marine resources is prohibited	---	Very High

SEA LION GULCH SMR: INCLUDES BOUNDARY OPTIONS (1-2)				
Option 1: Sea Lion Gulch State Marine Reserve	Proposed Regulation	Take of all living marine resources is prohibited	---	Very High
Option 2: Sea Lion Gulch State Marine Reserve	Move the northern boundary north approximately one mile to Punta Gorda Lighthouse (aligns with an offshore buoy) and move the southern boundary north approximately ½ mile to Cooskie Creek.	Take of all living marine resources is prohibited.	---	Very High
Big Flat State Marine Conservation Area	Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • The recreational take of salmon by TROLLING, and Dungeness crab by TRAP, HOOP NET, or HAND. • The commercial take of salmon with TROLL FISHING GEAR, and Dungeness crab by TRAP. 	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Bear River Band of the Rohnerville Rancheria • Big Valley Band of Pomo Indians of the Big Valley Rancheria • Cahto Indian Tribe of the Laytonville Rancheria • Coyote Valley Band of Pomo Indians • Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria • Guidiville Rancheria • Habematolel Pomo of Upper Lake • Hopland Band of Pomo Indians of the Hopland Rancheria • Lower Lake Rancheria 	Low

			<ul style="list-style-type: none"> • Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria • Middletown Rancheria of Pomo Indians • Pinoleville Pomo Nation • Potter Valley Tribe • Redwood Valley Rancheria of Pomo Indians • Robinson Rancheria of Pomo Indians • Round Valley Indian Tribes of the Round Valley Reservation • Scotts Valley Band of Pomo Indians • Sherwood Valley Rancheria of Pomo Indians 	
DOUBLE CONE ROCK SMCA: INCLUDES TAKE OPTIONS (A-B)				
Option A: Double Cone Rock State Marine Conservation Area	Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • The recreational take of salmon by TROLLING, Dungeness crab by TRAP, HOOP NET or HAND. • The commercial take of salmon with TROLL FISHING GEAR, and Dungeness crab by TRAP. 	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Big Valley Band of Pomo Indians of the Big Valley Rancheria • Cahto Indian Tribe of the Laytonville Rancheria • Coyote Valley Band of Pomo Indians • Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria • Guidiville Rancheria • Habematolel Pomo of Upper Lake • Hopland Band of Pomo Indians of the Hopland Rancheria 	Low

			<ul style="list-style-type: none"> • Lower Lake Rancheria • Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria • Middletown Rancheria of Pomo Indians • Pinoleville Pomo Nation • Potter Valley Tribe • Redwood Valley Rancheria of Pomo Indians • Robinson Rancheria of Pomo Indians • Round Valley Indian Tribes of the Round Valley Reservation • Scotts Valley Band of Pomo Indians • Sherwood Valley Rancheria of Pomo Indians 	
--	--	--	--	--

Option B: Double Cone Rock State Marine Conservation Area	---	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • The recreational take of salmon by TROLLING, and Dungeness crab by TRAP, HOOP NET, or HAND, and the following may be taken from shore only: cabezon and rockfish by HOOK AND LINE; surfperch (family Embiotocidae) by HOOK AND LINE; surf smelt by HAND HELD DIP NET or HAWAIIAN TYPE THROW NET; and abalone. • The commercial take of salmon with TROLL FISHING GEAR, and Dungeness crab by TRAP. 	Same as in Option A	Low
Ten Mile State Marine Reserve	Proposed Regulation	Take of all living marine resources is prohibited.	---	Very High
TEN MILE BEACH SMCA: INCLUDES BOUNDARY OPTIONS (1-2)				
Option 1: Ten Mile Beach State Marine Conservation Area	Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • The recreational take of Dungeness crab by TRAP, HOOP NET, or HAND. • The commercial take of Dungeness crab by TRAP. 	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Big Valley Band of Pomo Indians of the Big Valley Rancheria • Cahto Indian Tribe of the Laytonville Rancheria • Coyote Valley Band of Pomo Indians • Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria • Guidiville Rancheria 	Low

			<ul style="list-style-type: none"> • Habematolel Pomo of Upper Lake • Hopland Band of Pomo Indians of the Hopland Rancheria • Lower Lake Rancheria • Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria • Middletown Rancheria of Pomo Indians • Pinoleville Pomo Nation • Potter Valley Tribe • Redwood Valley Rancheria of Pomo Indians • Robinson Rancheria of Pomo Indians • Round Valley Indian Tribes of the Round Valley Reservation • Scotts Valley Band of Pomo Indians • Sherwood Valley Rancheria of Pomo Indians 	
Option 2: Ten Mile Beach State Marine Conservation Area	Change Option 1 by moving the southern boundary approximately ¾ mile south to the mouth of Inglenook Creek.	<ul style="list-style-type: none"> • Take as in Option 1. 	Same as in Option 1	Low
Ten Mile Estuary State Marine Conservation Area	Proposed Regulation	<p>Take of all living marine resources is prohibited EXCEPT:</p> <ul style="list-style-type: none"> • Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552). 	<p>The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations:</p> <ul style="list-style-type: none"> • Big Valley Band of Pomo Indians of the Big Valley Rancheria • Cahto Indian Tribe of the Laytonville Rancheria • Coyote Valley Band of Pomo 	Low

			<p>Indians</p> <ul style="list-style-type: none"> • Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria • Guidiville Rancheria • Habematolel Pomo of Upper Lake • Hopland Band of Pomo Indians of the Hopland Rancheria • Lower Lake Rancheria • Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria • Middletown Rancheria of Pomo Indians • Pinoleville Pomo Nation • Potter Valley Tribe • Redwood Valley Rancheria of Pomo Indians • Robinson Rancheria of Pomo Indians • Round Valley Indian Tribes of the Round Valley Reservation • Scotts Valley Band of Pomo Indians • Sherwood Valley Rancheria of Pomo Indians <p>Allows operation and maintenance of artificial structures pursuant to any required permits, or as otherwise authorized by the Department²</p>	
MacKerricher State Marine Conservation Area	Proposed Regulation	Commercial take of bull kelp (<i>Nereocystis luetkeana</i>) and giant kelp (<i>Macrocystis pyrifera</i>) is prohibited. All other take is allowed.	---	Low

Point Cabrillo State Marine Reserve	Proposed Regulation	Take of all living marine resources is prohibited.	---	Very High
Russian Gulch State Marine Conservation Area	Proposed Regulation	Commercial take of bull kelp and giant kelp is prohibited. All other take is allowed.	---	Low

BIG RIVER ESTUARY SMCA: INCLUDES TAKE OPTIONS (A-B)

Option A: Big River Estuary State Marine Conservation Area	Proposed Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • The recreational take of Dungeness crab by HOOP NET or HAND. • Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552). 	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Big Valley Band of Pomo Indians of the Big Valley Rancheria • Cahto Indian Tribe of the Laytonville Rancheria • Coyote Valley Band of Pomo Indians • Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria • Guidiville Rancheria • Habematolel Pomo of Upper Lake • Hopland Band of Pomo Indians of the Hopland Rancheria • Lower Lake Rancheria • Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria • Middletown Rancheria of Pomo Indians • Pinoleville Pomo Nation • Potter Valley Tribe • Redwood Valley Rancheria of Pomo Indians • Robinson Rancheria of Pomo 	Low
--	---------------------	--	---	-----

			<p>Indians</p> <ul style="list-style-type: none"> • Round Valley Indian Tribes of the Round Valley Reservation • Scotts Valley Band of Pomo Indians • Sherwood Valley Rancheria of Pomo Indians <p>Allows operation and maintenance of artificial structures pursuant to any required permits, or as otherwise authorized by the Department²</p>	
Option B: Big River Estuary State Marine Conservation Area	Retain regulations proposed in the RNCP and adjust the MPA goals and objectives accordingly.	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • The recreational take of surfperch by HOOK AND LINE FROM SHORE, and Dungeness crab by HOOP NET or HAND. • Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552). 	Same as in Option A	Low
Van Damme State Marine Conservation Area	Proposed Regulation	Commercial take of bull kelp and giant kelp is prohibited. All other take is allowed.	---	Low
NAVARRO RIVER ESTUARY SMCA: INCLUDES TAKE OPTIONS (A-B)				
Option A: Navarro River Estuary State Marine Conservation Area	Proposed Regulation	The take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> • Waterfowl may be taken in accordance with general waterfowl regulations (Sections 502, 550, 551, and 552). 	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> • Big Valley Band of Pomo Indians of the Big Valley Rancheria • Cahto Indian Tribe of the Laytonville Rancheria • Coyote Valley Band of Pomo 	

			<p>Indians</p> <ul style="list-style-type: none"> • Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria • Guidiville Rancheria • Habematolel Pomo of Upper Lake • Hopland Band of Pomo Indians of the Hopland Rancheria • Lower Lake Rancheria • Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria • Middletown Rancheria of Pomo Indians • Pinoleville Pomo Nation • Potter Valley Tribe • Redwood Valley Rancheria of Pomo Indians • Robinson Rancheria of Pomo Indians • Round Valley Indian Tribes of the Round Valley Reservation • Scotts Valley Band of Pomo Indians • Sherwood Valley Rancheria of Pomo Indians 	
<p>Option B: Navarro River Estuary State Marine Conservation Area</p>	<p>Adds the recreational take of salmon in the MPA.</p>	<p>Take of all living marine resources is prohibited EXCEPT:</p> <ul style="list-style-type: none"> • The recreational take of salmonids by HOOK AND LINE (see section 7.50 for specific regulations). • Waterfowl may be taken in accordance with general waterfowl regulations (Sections 502, 550, 551, and 552). 	<p>Same as Option A</p>	<p>Moderate</p>

SPECIAL CLOSURES			
Special Closure Name	Proposed Regulations	Seasonality of Special Closure	SAT Level of Protection¹
Southwest Seal Rock Special Closure	300 ft closure around Southwest Seal Rock	Year-round	N/A
Castle Rock Special Closure	300 ft closure around Castle Rock	Year-round	N/A
False Klamath Rock Special Closure	300 ft closure around False Klamath Rock	March 1-August 31	N/A
Sugarloaf Island Special Closure	300 ft closure around Sugarloaf Island	Year-round	N/A
Steamboat Rock Special Closure	300 ft closure around Steamboat Rock	March 1-August 31	N/A
Rockport Rocks Special Closure	300 ft closure around Rockport Rocks	March 1-August 31	N/A
Vizcaino Rock Special Closure	300 ft closure around 'seaward' side of Vizcaino Rock	March 1-August 31	

¹ In order to analyze the differences between no-take reserves and limited take conservation areas and recommended parks, the SAT developed a ranking for level of protection described in the draft master plan based on impact of allowed uses on ecological and ecosystem structure. Levels of protection are modified for each study region for evaluation purposes and are appended to the draft master plan upon adoption of MPA proposals (Attachment 3).

² Existing activities and operations permitted by other federal, state, or local entities, such as dredging, 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

The 19 MPAs, one MMA, and seven special closures in the Proposed Regulation encompass geographically 136 sq mi, representing 13.3 percent of the approximately 1,027 sq mi of state waters within the north coast region (Attachment 10). No-take SMRs encompass 51 sq mi or five percent of state waters within the MLPA NCSR. The remaining areas are primarily SMCAs and one SMRMA that allow some fishing activity, covering an area of 85 square miles or eight percent of state waters within the MLPA NCSR.

The MPA proposals were advanced with recommendations from the stakeholders and BRTF to develop memorandum of understanding (MOU) agreements between the Department and government entities, or tribal governments and organizations. These MOU agreements are outside the scope of this rulemaking process.

The benefits of the Proposed Regulation are the creation of a network component of MPAs in the north 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.

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

Authority: 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.

Reference: 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.

(c) Specific Technology or Equipment Required by Regulatory Change:

None.

(d) Identification of Reports or Documents Supporting Regulation Change:

Attachment 1: California MLPA NC Project Goals, Regional Objectives, Stakeholder Priorities, and Design and Implementation

- Considerations for the MLPA North Coast Study Region
(Also available at http://dfg.ca.gov/mlpa/resources_nc.asp
[North Coast Regional Goals and Objectives])
- Attachment 2: California Department of Fish and Game (2010, March 23). *Feasibility Criteria and Evaluation Components for Marine Protected Area Proposals*. (Also available at <http://dfg.ca.gov/mlpa/pdfs/northcoastproposals/evaluation22.pdf>)
- Attachment 3: California MLPA Master Plan SAT (2011, January 13). *Methods Used to Evaluate Marine Protected Area Proposals in the North Coast Study Region*. Sacramento, CA: Marine Life Protection Act Initiative. (Also available at <http://www.dfg.ca.gov/mlpa/pdfs/northcoastproposals/evaluationmethods.pdf>)
- Attachment 4: Detailed description, objectives and rationale, and maps of the RNCP (Also available at http://dfg.ca.gov/mlpa/pdfs/northcoastproposals/rec_description.pdf)
- Attachment 5: Detailed description, objectives and rationale, and maps of the ECA (Also available at http://dfg.ca.gov/mlpa/pdfs/northcoastproposals/rec_description_eca.pdf)
- Attachment 6: Motions Adopted by the MLPA Blue Ribbon Task Force on October 26, 2010 Regarding Recommendations for the MLPA North Coast Study Region (Also available at <http://dfg.ca.gov/mlpa/pdfs/northcoastproposals/motionsadopted111610.pdf>)
- Attachment 7: California Department of Fish and Game (2011, March 22). *Unresolved Feasibility Issues for North Coast Regional Stakeholder Group Revised Marine Protected Area Proposal in the Marine Life Protection Act North Coast Study Region*. (Also available at http://dfg.ca.gov/mlpa/pdfs/unresolvedissues_report.pdf)
- Attachment 8: California Marine Life Protection Act Initiative (2011, June 16). *Recommended Options and Sub-options Regarding Marine Protected Areas for the MLPA North Coast Study Region*. (Also available at <http://www.dfg.ca.gov/mlpa/pdfs/ncoptions061611.pdf>)
- Attachment 9: California Department of Fish and Game (2011, June 14). *Unresolved Feasibility Issues for North Coast Regional Stakeholder Group Revised Marine Protected Area Proposal in the Marine Life Protection Act North Coast Study Region*. (Also available at

- Attachment 10: <http://www.dfg.ca.gov/mlpa/pdfs/ncmemoreport061411.pdf>) Detailed description, objectives and rationale, and maps of the Proposed Regulation
- Attachment 11: Consideration of Existing Marine Protected Areas in the Revised Round 3 NCRSG MPA Proposal (2010, November 9) (Also available at http://www.dfg.ca.gov/mlpa/pdfs/northcoastproposals/rec_consideration.pdf)
- Attachment 12: California Department of Fish and Game (2011, September 27). *Options for Regulations in the North Coast Study Region Marine Protected Areas Initial Statement of Reasons* (Also available at http://www.dfg.ca.gov/mlpa/pdfs/options_ncmpas_092711.pdf)
- Attachment 13: Description of Marine Protected Areas in Proposal 0 (Existing MPAs) [no-change alternative] (Also available at http://dfg.ca.gov/mlpa/pdfs/northcoastproposals/rec_description_prop0.pdf)
- Attachment 14: Overview map of Marine Protected Areas in Proposal 0 (Existing MPAs) [no-change alternative] (Also available at http://www.dfg.ca.gov/mlpa/pdfs/northcoastproposals/proposal0_map092210.pdf)
- Attachment 15: Summary of Potential Impacts of the North Coast Enhanced Compliance Alternative and Revised Round 3 North Coast Regional Stakeholder Group Marine Protected Area Proposals on Commercial and Recreational Fisheries in the North Coast Study Region (Also available at <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentVersionID=73946>) [Economic Impact Analysis]

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

Table 3. North Coast Study Region planning process public meetings.

Meeting	Major Topic	Dates	Location
Public Workshop	Ecotrust workshop	6/22/2009	Eureka
Public Workshop	Ecotrust workshop	6/23/2009	Fort Bragg
Public Workshop	Ecotrust workshop	7/2/2009	Crescent City
Public Open House	Introduction to Marine Life Protection Act (MLPA) planning process	7/20/2009	Eureka
Public Open House	Introduction to MLPA planning process	7/21/2009	Fort Bragg
Public Open House	Introduction to MLPA planning process	7/22/2009	Crescent City
Data Outreach Meeting	Introduction to MLPA data collection process	7/23/2009	Eureka
Marine Protected Area (MPA) Planning Workshop	Assist community with MPA proposals	9/29/2009	Eureka
North Coast Public Workshop II	Assist community with MPA proposals	10/27/2009	Fort Bragg
North Coast Public Workshop II	Assist community with MPA proposals	10/28/2009	Eureka
North Coast Public Workshop II	Assist community with MPA proposals	10/29/2009	Crescent City
Science Advisory Team (SAT)	Develop science guidelines	10/30/2009	Eureka
Public Workshop	MarineMap training and instruction	11/3-5/2009	Teleconference/ Webinar
North Coast Public Workshop III	Assist community with MPA proposals	11/17/2009	Eureka
Blue Ribbon Task Force (BRTF)	Field trip	11/18/2009	Eureka
BRTF	Initial BRTF meeting on the north coast	11/18-19/2009	Eureka
SAT	Develop science guidelines	12/16-17/2009	Eureka
Public Workshop	External MPA array support workshop	1/11/2010	Fort Bragg
Public Workshop	External MPA array support workshop	1/12/2010	Eureka
Public Workshop	External MPA array support workshop	1/13/2010	Crescent City

Meeting	Major Topic	Dates	Location
BRTF	Field trip	1/13/2010	Crescent City
BRTF	Provide guidance to SAT/North Coast Regional Stakeholder Group (NCRSG) on planning process	1/13-14/2010	Crescent City
SAT	Review and discussion of evaluation methods for north coast planning process	1/20-21/2010	Eureka
Statewide Interests Group (SIG) Meeting	NCSR status update	1/26/2010	Teleconference
NCRSG	Field trip	2/8/2010	Eureka
NCRSG	Begin discussion and guidance for MPA proposal development	2/8-9/2010	Eureka
SAT	Review and adopt evaluation methods and responses to science questions	2/11/2010	Teleconference/ Webinar
NCRSG	Develop NCRSG recommendations to the BRTF regarding tribal uses	2/25/2010	Teleconference
BRTF	Receive policy direction from previous study regions	3/1-2/2010	Fort Bragg
BRTF	Field trip	3/2/2010	Fort Bragg to Mendocino area
Public Workshop	MarineMap training session	3/10 and 3/15/2010	Teleconference/ Webinar
SAT	Review and adopt SAT evaluations of the north coast existing MPAs and external MPA arrays	3/16-18/2010	Eureka
BRTF	Policy direction for the north coast related to tribal and tribal community uses of marine resources	3/18/2010	Teleconference/ Webinar
Public Workshop	Introduction to the MLPA	3/22/2010	Petrolia
NCRSG	Begin discussion and guidance for MPA proposal development	3/24-25/2010	Crescent City
Public Open House	Potluck meeting to introduce public to NCRSG	4/19/2010	Caspar
NCRSG	NCRSG work session	4/20-21/2010	Fort Bragg
BRTF	Additional policy direction for the north coast regarding tribal and tribal communities take of marine resources	5/3-4/2010	Crescent City

Meeting	Major Topic	Dates	Location
Public Open House	Introduction to MLPA planning process	5/5/2010	Briceland
SAT	Review and adopt Science Guidelines for Designing MPAs to Inform Adaptive Management	5/12/2010	Teleconference/ Webinar
BRTF	Discuss the decision-making context for tribal and tribal communities take of marine resources in State waters	5/17/2010	Teleconference/ Webinar
NCRSG	NCRSG work session	5/19/2010	Crescent City
NCRSG	Presentations of Round 2 draft proposals	5/20/2010	Crescent City
SIG Meeting	North Coast Study Region (NCSR) status update	6/25/2010	Teleconference
SAT	SAT evaluations of the NCRSG Round 2 MPA proposals	6/29-30/2010	Eureka
Summer Public Open House	Solicit Feedback on Round 2 MPA Proposals	7/6/2010	Fort Bragg
Summer Public Open House	Solicit Feedback on Round 2 MPA Proposals	7/7/2010	Briceland
Summer Public Open House	Solicit Feedback on Round 2 MPA Proposals	7/7/2010	Eureka
Summer Public Open House	Solicit Feedback on Round 2 MPA Proposals	7/8/2010	Orick
Summer Public Open House	Solicit Feedback on Round 2 MPA Proposals	7/8/2010	Eureka
BRTF	Discussion and guidance for MPA proposals in development	7/21-22/2010	Fort Bragg
SAT	SAT evaluation results for habitat representation, habitat replication, MPA size and MPA spacing	7/28/2010	Teleconference/ Webinar
NCRSG	Discussion and guidance for MPA proposal development	7/29-30/2010	Fort Bragg
SIG Meeting	NCSR status update	8/10/2010	Teleconference
MLPA Initiative	MLPA Information Session	8/29/2010	Shelter Cove
NCRSG	Complete Round 3 NCRSG MPA Proposal; confirm boundaries, designation types, and regulations	8/30-31/10	Fortuna
SIG Meeting	NCSR status update	10/11/2010	Teleconference

Meeting	Major Topic	Dates	Location
SAT	Review and Potentially adopt the SAT evaluation of the Round 3 NCRSG MPA Proposal	10/13-14/2010	Eureka
BRTF	Receive the Round 3 NCRSG MPA proposal and evaluations; Discuss and develop NCSR recommendations for MPAs and special closures	10/25-26/2010	Fortuna
SAT	Receive overview of motion adopted by the BRTF	11/17/2010	Teleconference/ Webinar
BRTF	Provide guidance to SAT/NCRSG on planning process	11/15-19/2010	Eureka
MLPA Initiative	Office hours for the public	11/30/2010	Teleconference
MLPA Initiative	Office hours for the public	12/2/2010	Teleconference
BRTF	Review recommendations and adopt additional recommendations for the NCSR	12/9/2010	Teleconference/ Webinar
SAT	Review and adopt SAT evaluation of MPA proposals forwarded by the BRTF	1/13/2011	Teleconference/ Webinar
Joint BRTF and Commission	BRTF presents MPA recommendations to the Commission	2/2/2011	Sacramento

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Alternatives to the Proposed Regulation were provided by the NCRSG and BRTF to meet the purposes of the regulatory action 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.

Detailed maps and information regarding specific proposed MPA boundaries and regulations in the alternatives to the Proposed Regulation are contained within attachments 5 and 13, and each alternative is summarized below for informational purposes.

Alternative 1 – This is the ECA, developed by the BRTF using the NCRSG proposal and input by constituents representing a variety of consumptive, non-consumptive, and environmental interests. It consists of 21 proposed MPAs and seven special closures covering an area of 134 sq mi, representing 13 percent of the approximately 1,027 sq mi of state waters within the north coast region (Attachment 5). No-take SMRs or “very high protection” SMCAs that do not allow fishing encompass 51 sq mi or five percent of state waters within the MLPA NCSR. The remaining MPAs encompass 83 sq mi or eight percent of state waters within the MLPA NCSR. Details regarding specific proposed MPA boundaries and regulations are contained in Attachment 5.

(b) No-Change Alternative:

The no-change alternative would leave existing MPAs in state waters of the MLPA NCSR unchanged (see attachments 13 and 14 for description and map of existing MPAs). This alternative does not address the goals and requirements of the MLPA.

(c) Consideration of Alternatives:

In view of the 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.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will not have a negative impact on the environment; therefore, no mitigation measures are needed. A full discussion of the Proposed Regulation and alternatives will be included in the Department's Draft Environmental Impact Report for Marine Protected Areas in the North Coast of California, scheduled for release in 2012.

VI. Impact of Regulatory Action:

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

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

The Proposed 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, 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 MLPA contractor Ecotrust, and either reported in various documents to the SAT, RSG, and BRTF or generated using the GIS data analysis tool created by Ecotrust. Ecotrust interviewed fishermen to

determine both locations of fishing activities and the relative importance of each location. In other words, areas identified were considered by the level of importance placed on those areas relative to total fishing grounds; these are referred to as areas of “stated importance” in analyses.

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 harvesters. The methodology used to determine maximum potential impacts for the Proposed Regulation are described in Attachment 3 (pp 91-96).

Commercial Harvesters

The maximum potential net economic impact (profit in real 2007 dollars) to commercial harvesters under the Proposed Regulation (see Table 4) was estimated to be \$278,177 per year. In comparison, the estimated average annual baseline ex-vessel value for the study region from 2000–2007 was estimated to be \$23,865,216 and, based on business cost estimates derived from interviews, the estimated corresponding baseline net profit was \$9,289,008. Using these values, the estimated maximum potential percentage reduction per year under the Proposed Regulation was 3.0 percent.

Table 4. Estimated annual maximum potential net economic impacts to commercial harvesters by fishery relative to the base for the Proposed Regulation in the North Coast Study Region.

Fishery	Baseline Ex-Vessel Value	Baseline Profit	Proposed Regulation	
			Estimated Profit Loss (\$)	Estimated Profit Loss (%)
Anchovy/Sardine (Lampara Net)	\$44,428	\$7,553	\$506	6.7%
Dungeness Crab (Trap)	\$18,471,736	\$6,852,874	\$177,737	2.6%
Herring (Gillnet)	\$11,701	\$4,915	\$96	1.9%
Rockfish (Fixed Gear)	\$642,453	\$296,189	\$18,640	6.3%
Salmon (Troll)	\$3,027,616	\$1,249,463	\$32,366	2.6%
Shrimp (Trap)	\$251,315	\$93,286	\$0	0.0%
Smelt (Brail–Dip Net)	\$122,680	\$48,358	\$0	0.0%
Surfperch (Hook and Line)	\$26,431	\$12,167	\$2,389	19.6%
Urchin (Dive Captain)	\$896,780	\$465,151	\$29,637	6.4%
Urchin (Walk-on Dive)	\$370,076	\$259,053	\$16,805	6.5%
All Fisheries	\$23,865,216	\$9,289,008	\$278,177	3.0%

The estimated maximum potential impact to commercial harvesters was also calculated by port under the Proposed Regulation (Figure 2). In addition, it should be noted that the potential impacts to specific fisheries also vary by port.

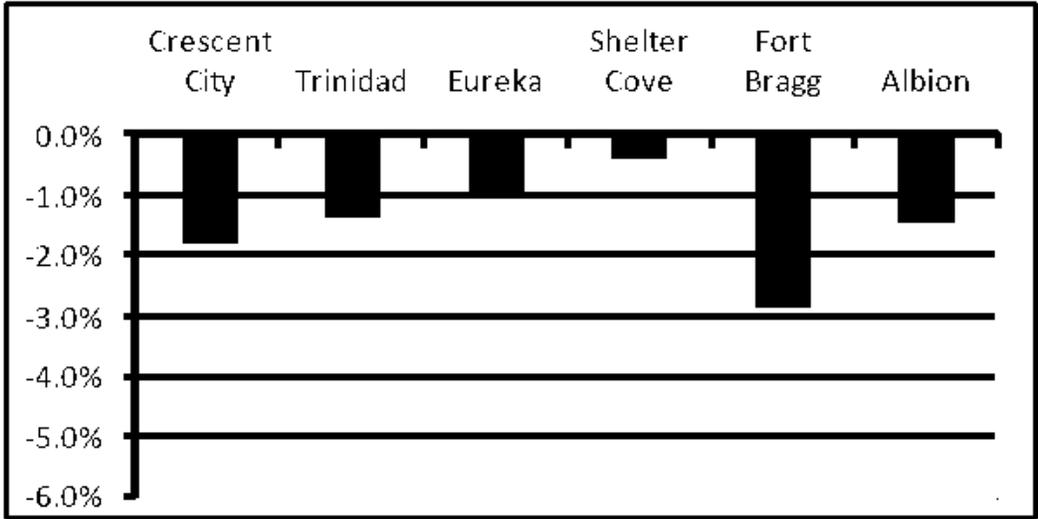


Figure 2. Estimated annual maximum potential net economic impacts of the Proposed Regulation to commercial harvesters by port.

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 MLPA 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 any port-fishery combinations may be disproportionately affected by the Proposed Regulation. To assess these impacts, Ecotrust used a box plot analysis to identify outliers within each fishery (calculated using estimated impacts on the stated value of total fishing grounds). In a box plot analysis, outliers are defined as extreme values that deviate significantly from the rest of the sample. Box plot analysis results can also inform convergence among MPA proposals within a fishery and/or relative potential impacts between fisheries. While no port-fishery combination is disproportionately impacted at a statistically

significant level, the surfperch fishery may be disproportionately impacted relative to other fisheries. Similarly, while there are no statistically significant outliers for urchin, surfperch, or herring, the bi-modal nature of the potential impacts should be noted.

Recreational Harvesters

Ecotrust also analyzed the maximum potential impacts to commercial passenger fishing vessel (CPFV) operators and recreational fishermen (dive, kayak, and private vessel user groups only) 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 or on spatial area of total fishing grounds. 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.

Commercial Passenger Fishing Vessels

Ecotrust calculated the maximum potential net economic impact for the CPFV fisheries as the average percentage reduction in net economic revenue (i.e., profit) based on stated importance for all five species considered (Table 5).

Table 5. Estimated annual maximum potential net economic impacts to commercial passenger fishing vessel fisheries relative to the base.

Port	California Halibut	Dungeness Crab	Pacific Halibut	Rockfish/ Bottomfish	Salmon
Crescent City	0.0%	0.0%	0.0%	0.0%	0.0%
Trinidad	0.5%	0.0%	0.0%	0.1%	1.7%
Eureka	0.0%	0.0%	3.0%	12.0%	1.9%
Shelter Cove	0.0%	0.0%	15.3%	6.9%	0.0%
Fort Bragg	0.0%	9.5%	0.0%	6.2%	11.6%

Other recreational harvesters

Recreational fisheries were stratified by port and user group (i.e., dive, kayak, and private vessel). See Table 6 for additional details.

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

Table 6. Estimated percentage of stated value of total recreational fishing grounds affected by port and user group for the Proposed Regulation.

Port	User Group	Abalone	California Halibut	Dungeness Crab	Pacific Halibut	Rockfish/Bottomfish	Salmon
Crescent City	Dive	0.0%	---	0.0%	---	0.4%	---
	Kayak	---	---	---	---	---	---
	Private Vessel	---	3.1%	0.0%	3.8%	0.1%	0.4%
Trinidad	Dive	0.0%	---	0.0%	----	0.0%	----
	Kayak	---	---	---	---	0.0%	0.0%
	Private Vessel	---	0.0%	0.1%	0.0%	5.3%	0.4%
Eureka	Dive	0.0%	---	0.0%	----	15.6%	---
	Kayak	---	---	---	---	---	---
	Private Vessel	---	0.1%	0.0%	0.8%	12.6%	0.1%
Shelter Cove	Dive	0.0%	---	0.0%	---	0.0%	---
	Kayak	---	---	---	---	---	---
	Private Vessel	---	0.0%	0.0%	7.9%	8.9%	0.0%
Fort Bragg/ Albion	Dive	9.4%	---	0.0%	---	9.3%	---
	Kayak	---	---	---	---	6.8%	0.7%
	Private Vessel	---	17.8%	7.7%	22.9%	8.0%	4.3%

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 that prohibit bottom fishing for finfish, as well as through transport to distant sites.

The impacts of Proposed Regulation are essentially the same as the impacts for the Revised Round 3 North Coast Regional Stakeholder Group Marine Protected Area Proposal (RNCP). Attachment 15 contains a comparison of the impacts of the RNCP and the Enhanced Compliance Alternative.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California; Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

Each alternative has potential impacts on the creation and elimination of jobs related to commercial, CPFV, 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.

The Proposed Regulation will benefit the environment by creating a network component of MPAs in the north coast, protecting and enhancing natural resources and improving natural resources sustainability, 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.

Non-monetary benefits to the health and welfare of California residents and to worker safety are not anticipated.

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

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

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

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, expectations and implementation needs. Further discussion is needed to clarify the needs and expectations.

Comprehensive DFG monitoring, management and enforcement for the North Coast Study Region cannot be absorbed by existing DFG budgets, and will result in significant funding and position needs.

The Department will incur costs associated with printing and installing new regulatory signage, and developing and printing public outreach materials. 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 cooperative efforts are expected to increase with the adoption of the proposed regulation. In addition to agency partnerships, during planning and implementation of the MLPA study regions (i.e., central coast, north central coast, and south coast), substantial funding in the millions of dollars were contributed by private fund sources including MLPAl partners, and through bond money distributed through the Ocean Protection Council (OPC). These contributions supported costs for baseline science and socio-economic 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.

Changes requiring additional enforcement, monitoring, or management will increase the recurring costs to the Department, and total state costs would increase as new study regions are designated and become operational. For the north coast, the near-term cost to implement the proposed MPAs will include one-time startup, a baseline data collection program, and recurring annual costs. 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 north 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

Informative Digest/Policy Statement Overview

Background

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. The Marine Managed Areas Improvement Act (MMAIA, Stats. 2000, ch. 385) standardized 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-change alternative) consist of five MPAs covering an area of 3.1 square miles (sq mi), representing 0.3 percent of the state waters within the MLPA North Coast Study Region (NCSR). Sixty-six percent of the protected area is within no-take state marine reserves covering 2.1 sq mi or 0.2 percent of the state waters within the MLPA NCSR.

The regulatory action is intended to meet the goals described in the MLPA within a portion of California's State waters. The area covered in this regulatory action is the MLPA NCSR, defined as State waters from the California-Oregon border to Alder Creek, near Point Arena in Mendocino County. This region covers approximately 1,027 sq mi of state waters. The MLPA goals focus on improving the connectivity and effectiveness of California's existing array of marine protected areas (MPAs) to protect the State's marine life, habitats, and ecosystems. 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 a Marine Life Protection Program and regulations based on the plan to achieve the MLPA goals (Fish and Game Code Section 2855).

The MLPA requires that the program, in part, contain an improved marine life reserve (now state marine reserve) component [Fish and Game Code subsection 2853(c)(1)] and protect 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 MPAs that may 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 these activities are consistent with the objectives of the area and the goals and guidelines of the MLPA.

Regional Implementation of Marine Life Protection Act

Important in developing the Proposed Regulation was the consideration for the north coast MPAs to form a component of a statewide biological network. The north coast is the fourth of five study regions to be implemented through the MLPA.

The Proposed Regulation establishes a network component of MPAs for the north coast designed to include all representative north 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 north coast consistent with the goals of the MLPA. 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 includes 19 MPAs, one MMA, and seven special closures for the NCSR. Of the 19 MPAs, 15 are new and four are existing MPAs. Of the 15 new proposed MPAs, eight MPAs include sub-options for boundaries or allowed take. The Proposed Regulation also amends the boundaries and allowed take of the four existing MPAs to meet the Department's feasibility guidelines and to facilitate public understanding. One existing MPA, the Punta Gorda State Marine Reserve (SMR), would be removed and replaced by two proposed nearby SMRs.

The three classifications of MPAs used in California to reflect differing allowed uses are SMR, state marine conservation area (SMCA), and state marine park (SMP). Public Resources Code Section 36710 lists the restrictions applied in these classifications. Two of these classifications, SMR and SMCA, are utilized in the Proposed Regulation. One MMA classification known as a state marine recreational management area (SMRMA) is a component of the Proposed Regulation. Public Resources Code Section 36700(e) lists the restrictions in this classification. The Commission has the statutory authority to designate SMRs, SMCAs, and SMRMAs; 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 Section 36725(b)].

Pre-existing activities and artificial structures including but not limited to utility cables, bridge maintenance, maintenance dredging, and habitat restoration occur throughout the NCSR. These activities may result in incidental take. However, the activities are regulated by other federal, state, and local agencies, whose jurisdiction cannot be preempted through designation of MPAs under the MLPA. Out of the 19 MPAs and one MMA in the Proposed Regulation, three have been identified as having various existing activities regulated by other agencies. These activities are specified within the proposed MPA regulations to make explicit that these regulated activities are allowed to continue under current permits. The Department provided details regarding these activities, and other unresolved issues requiring the Commission's input, at the Commission's October 19, 2011 meeting.

Beginning in July 2009, the Department and Marine Life Protection Act Initiative (MLPAI) staff began discussions with north coast tribes and tribal communities regarding the MLPAI north coast MLPA planning process. At the Commission's June 29-30, 2011 meeting, staff provided three options developed to accommodate tribal take in MPAs on the north coast. The Commission chose Tribal Option 1 to provide for specific non-commercial tribal uses by federally recognized tribes. The Commission asked the federally recognized tribes to submit a factual record of historic and current uses in specific geographies, other than SMRs, to the Commission within 60 days. The Commission directed the Department to develop regulatory language defining tribal take using specific criteria. The criteria the Commission identified required any tribal member taking living marine resources to possess an identification card issued by a federally recognized tribe, a valid California fishing license for persons 16 years and older, and any valid report card, validation, permit or any other entitlement that is required by applicable federal, state, or local law. The Commission also decided that all tribal take must be consistent with existing regulation. The Commission received six factual records representing twenty-four federally recognized north coast tribes and tribal communities prior to the 60-day deadline. The factual records identified eleven MPAs for tribal use with overlapping requests in some MPAs by specific tribes. In addition to the factual records, the Commission received two letters calling attention to intertribal agreements. These intertribal agreements are transactions between tribes and tribal communities wishing to take resources within the ancestral territories of other tribes and tribal communities, and need to be negotiated between those tribes. The regulations for the NCSR MPAs will not be changed based on intertribal agreements but will reflect tribal take in specific MPAs as they were listed in the factual records received by the Commission.

Take "from shore only" is currently proposed at Double Cone Rock SMCA and Big River Estuary SMCA in the Proposed Regulation. Two existing MPAs outside of the study region also include take restricted to shore only. Due to confusion over the interpretation of what it means to "take from shore only", the Proposed Regulation includes a general definition for take "originating from shore" that would apply to the Proposed Regulation as well as other MPAs coastwide that allow shore only fishing.

Regulatory Sub-options

Regulatory sub-options are included for eight of the proposed MPAs within the Commission's Proposed Regulation, to provide alternatives to either boundaries or take regulations in the Proposed Regulation that address Department feasibility concerns, as requested by MLPA Initiative staff or stakeholders.

Proposed Regulation Details

The 19 MPAs, one MMA, and seven special closures in the Proposed Regulation encompass geographically 136 sq mi, representing 13 percent of the approximately 1,027 sq mi of state waters within the north coast region. No-take SMRs encompass 51 sq mi or five percent of state waters within the north coast region. The remaining

areas are primarily SMCAs and one SMRMA that allow some fishing activity, covering an area of 85 sq mi or eight percent of state waters within the MLPA NCSR.

Alternatives to Regulation Change

Alternatives to the Proposed Regulation were provided by the NCRSG and BRTF to meet the purposes of the regulatory action 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.

Alternative 1 – This is the Enhanced Compliance Alternative (ECA), developed by the BRTF using the NCRSG proposal and input by constituents representing a variety of consumptive, non-consumptive, and environmental interests. It consists of 21 proposed MPAs and seven special closures covering an area of 134 sq mi, representing 13 percent of the approximately 1,027 sq mi of state waters within the north coast region. No-take SMRs or “very high protection” SMCAs that do not allow fishing encompass 51 sq mi or five percent of state waters within the MLPA NCSR. The remaining MPAs encompass 83 sq mi or eight percent of state waters within the MLPA NCSR.

No-Change Alternative

The no-change alternative would leave existing MPAs in state waters of the MLPA NCSR unchanged. This alternative does not address the goals and requirements of the MLPA.

Benefit of Proposed Regulation

The benefit of the Proposed Regulation is the creation of a network component of MPAs in the north 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.

The proposed regulations are neither inconsistent nor incompatible with existing state regulations. The California Department of Parks and Recreation (State Parks) provided input on issues related to their concerns and jurisdiction during the development of the Proposed Regulation. Pre-existing activities and artificial structures including but not limited to utility cables, bridge maintenance, maintenance dredging, and habitat restoration occur throughout the NCSR. These activities may result in incidental take. However, the activities are regulated by other federal, state, and local agencies, whose jurisdiction cannot be pre-empted through designation of MPAs under the MLPA.