

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

No Alternatives were identified.

(b) No Change Alternative:

The no-change alternative would leave existing MPA regulations with errors and inconsistencies, and would not provide for better public understanding and enforcement of MPA regulations.

(c) Consideration of Alternatives:

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

IX. 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 determinations relative to the required statutory categories have been made:

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed amendments make clarification and consistency changes to the current regulations; make minor boundary adjustments; rename existing MPAs; and add specified methods of take and incidental take allowance consistent with existing commercial fishing practices.

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

The Commission is not aware of any impacts the proposed action would have on the creation or elimination of jobs or businesses in California or on the expansion of businesses in California.

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

The existing regulations, and proposed amendments, benefit the environment by protecting habitat and biodiversity in MPAs.

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

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

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

None

(e) Nondiscretionary Costs/Savings to Local Agencies:

None

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

None

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code:

None

(h) Effect on Housing Costs:

None

Updated Informative Digest/Policy Statement Overview

The Marine Life Protection Act (MLPA) (Fish and Game Code Sections 2850-2863) established a programmatic framework for designating Marine Protected Areas (MPAs) in the form of a statewide network. The Marine Managed Areas Improvement Act (Public Resources Code Sections 36600-36620) 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 in Section 632, Title 14, California Code of Regulations (CCR), provide general provisions, definitions, and site-specific area classification, boundary descriptions, commercial and recreational take restrictions, and other restricted/allowed uses for MPAs, MMAs and special closures.

The proposed regulations will clarify take regulations and correct errors and inconsistencies.

Amendment to Subsection 632(a)

This subsection will be amended by moving the subsection header (a) General Rules and Regulations up to incorporate the Section 632 introductory paragraph.

Amend subsections 632(a)(1)(A), (B) and (C)

These subsections will be amended to correctly state and clarify that the Department (not the Commission) has the authority to issue scientific collecting permits.

Amend subsection 632(a)(3) and subsections 632(b)(98), (117), (120), (125), (129), (130), (138), and (144)

The definition of Pelagic Finfish will be amended to specifically add Pacific bonito and thereby clarify that this species is a pelagic finfish under the tuna family. As a result, references to Pacific bonito will be removed when pelagic finfish are allowed to be taken in the area specific regulations. When Pacific bonito are an exception to take, the reference will remain.

Amend subsection 632(a)(8)

This subsection will be amended to clarify that spearfishermen may transit, with or without catch, through MPAs and other MMAs. The proposed regulation will specify that while transiting MPAs and MMAs that prohibit spearfishing or while in possession of species not identified as allowed for take in the MPA or MMA being transited, spearfishing gear shall be in an unloaded condition, not carried in hand, and the diver shall remain at the surface.

Amendments to subsection 632(b)

This subsection will be amended by stating that certain Fish and Game Code sections listed in subsection 632(b) are “superseded” rather than “made inoperative” as they apply to designations in Subsection 632(b).

Numerous references to “lobster” and “squid” will be changed to indicate the proper names “spiny lobster” and “market squid”. [Subsections 632(b)(68), (108), (112), (131), (133) and 136]

Provisions will be added to establish a maximum five percent by weight allowance for the incidental take of non-target species landed or possessed on commercial vessels targeting market squid, pelagic finfish, or coastal pelagic species. [Subsections 632(b)(40), (66), (73), (74), (117), (120), (129), (130), (133), (136), and (147)]

Commercial methods of take for coastal pelagic species, which includes market squid, will be added to reflect actual fishing practices by allowing the use of brail gear and light boats. [Subsections 632(b)(117), (120), (129), (130), (133), and (136)]

The regulations for the Bodega Head State Marine Reserve (SMR) [subsection 632(b)(39)] will clarify that the director of the Bodega Marine Life Refuge may authorize certain activities and take, pursuant to sections 10502.7 and 10565 of the Fish and Game Code, only within the formerly-designated Bodega Marine Life Refuge, not the entire SMR. The regulation for this SMR will also clarify that pursuant to Section 10661 of the Fish and Game Code, regents, officers, employees and students of the University of California may take, for scientific purposes, any invertebrate or marine plant without a permit from the Department, only within the formerly-designated Bodega Marine Life Refuge, not the entire SMR.

The Lovers Point SMR [subsection 632(b)(76)] will be renamed the Lovers Point-Julia Platt SMR.

Commercial kelp harvesting regulations in the Naples SMCA [subsection (b)(98)] will be clarified and made consistent with Section 165, Title 14, CCR.

Blue Cavern (Catalina Island) SMCA [subsection 632(b)(124)] will be renamed Blue Cavern (Catalina Island) Onshore SMCA, and Bird Rock (Catalina Island) SMCA [subsection 632(b)(125)] will be renamed Blue Cavern (Catalina Island) Offshore SMCA.

The northern boundary of Lover’s Cove SMCA [subsection 632(b)(128)] will be moved to line up with the end of the Cabrillo Mole.

The limitation of take “below the mean lower low tide line” for recreational take in the Dana Point SMCA [subsection 632(b)(136)] will be removed. The commercial fishing regulations for this SMCA will clarify that trap gear is allowed for the commercial take of spiny lobster.

The western boundary of the San Dieguito Lagoon SMCA [subsection 632(b)(140)] will be specified by latitude and longitude coordinates, and take regulations for this SMCA will be modified to remove the fishing allowance from the Grand Avenue Bridge.

In addition, the following subsections under 632(b) will be amended for clarity and consistency:

- (30) Sea Lion Cove State Marine Conservation Area.
- (40) Bodega Head State Marine Conservation Area.
- (98) Naples State Marine Conservation Area.
- (109) Gull Island (Santa Cruz Island) State Marine Reserve.
- (117) Point Dume State Marine Conservation Area.
- (120) Abalone Cove State Marine Conservation Area.
- (124) Blue Cavern (Catalina Island) State Marine Conservation Area.
- (129) Farnsworth (Catalina Island) Onshore State Marine Conservation Area.
- (130) Farnsworth (Catalina Island) Offshore State Marine Conservation Area.
- (138) Swami's State Marine Conservation Area.

Benefits of the Proposed Action

The proposed amendments will clarify the restrictions and allowable activities in these MPAs; provide greater ease of public understanding and enforceability; correct boundary descriptions; remove unnecessary regulations; and provide consistency in format.

Evaluation of Incompatibility With Existing Regulations

The proposed regulations are consistent with regulations concerning sport and commercial fishing and kelp harvest found in Title 14, CCR. The State Water Resources Control Board may designate State Water Quality Protection Areas and the State Park and Recreation Commission may designate State Marine Reserves, State Marine Conservation Areas, State Marine Recreational Management Areas, State Marine Parks and State Marine Cultural Preservation Areas; however, only the Fish and Game Commission has authority to regulate commercial and recreational fishing and any other taking of marine species in Marine Managed Areas. Commission staff has searched the California Code of Regulations and has found no other regulations pertaining to authorized activities in marine protected areas and therefore has determined that the proposed amendments are neither inconsistent nor incompatible with existing state regulations.

At its April 16, 2014 meeting, the Fish and Game Commission adopted the no change alternative regarding the proposed addition of “education,” to subsection 632(a)(1)(A). A correction to the underlining of new text was made in subsection 632(b)(140). No other modifications were made to the originally proposed regulatory language of the Initial Statement of Reasons.