

- (2) Comment by Joe Exline, Commission meeting October 7, 2015: Disliked the immediate shut down of his proposed change at the August 4, 2015 Notice Hearing; concerned that Commissioners want ideas to be routed through Community Collaboratives when they are not a state entity.

Response: This was a specific comment directed at the process of regulatory packages through the Fish and Game Commission. Mr. Exline did not direct any specific changes or concerns as they pertain to the regulatory package. The Commission indicated that it would be willing to consider in a future rulemaking the proposed boundary change, but only after additional vetting and discussion with those stakeholders who helped create the original MPA boundaries and the general public; this vetting is expected to take longer than the time available for the current rulemaking. As such his comment has been noted, but no additional action has been taken to change the proposed regulations.

- (3) Comment by Jenn Eckerle, Commission meeting October 7, 2015: National Resource Defense Council supports the changes the Department is recommending.

Response: Support noted. The Commission adopted the regulations as originally proposed and recommended by the Department.

- (4) Comment by Ray Hiemstra, Commission meeting October 7, 2015: Supports recommended changes to Orange County marine protected areas, including the boundary shift between the Laguna Beach State Marine Reserve and the Laguna Beach no-take State Marine Conservation Area.

Response: See response (3).

- (5) Comment by Dana Murray, Commission meeting October 7, 2015: Heal the Bay supports the regulatory package proposed by the Department, and agrees that it clarifies many of the boundaries.

Response: See response (3).

- (6) Comment by Joe Exline, Commission meeting December 9, 2015: Will be working with fishermen to bring up his proposed boundary change for Laguna Beach, which was denied at the Commission's August 4, 2015 meeting, again in the future. He is also concerned with the Commission's support of Community Collaborates as they are not a state entity and do not have a lot of fishermen involvement or representation.

Response: See response (2).

- (7) Comment by Jenn Eckerle, Commission meeting December 9, 2015: National Resource Defense Council supports the changes the Department is recommending.

Response: See response (3).

- (8) Comment by Ginger Wallace, Commission meeting December 9, 2015: Laguna Blue Belt Coalition supports staff recommendations for minor cleanup changes.

Response: See response (3).

- (9) Comment by Mike Beanan, Commission meeting December 9, 2015: Supports staff recommendation to keep northern boundary of Laguna Beach State Marine Reserve near Abalone Point at its current location.

Response: See response (3).

- (10) Comment by Ray Hiemstra, Commission meeting December 9, 2015: Representing Orange County Coastkeeper in saying that Department of Fish and Wildlife staff made the correct choices with proposed adjustments to current regulations.

Response: See response (3).

- (11) Comment by Dana Murray, Commission meeting December 9, 2015: Heal the Bay supports the regulatory package proposed by the Department, and agrees that it will lend to a greater understanding of where boundaries are and more accuracy.

Response: See response (3).

- (12) Comment by Paul Weakland, Commission meeting December 9, 2015:
- a. Does not like, or agree with, the idea of marine protected areas. Believes gear restrictions, seasons, and bag limits work, but marine protected areas do not.
 - b. Does not agree with the proposed changes to remove the geographic location from the name of 21 MMAs.

Response:

- a. See response (1).
- b. Reject: The geographic location does not make the MMA name any more or less unique, and is not consistent with the naming format for the rest of the statewide network. The adopted regulations make the regulations consistent, and simplify the names of the 21 MMAs.

VI. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:

California Fish and Game Commission
1416 Ninth Street
Sacramento, California 95814

VII. Location of Department Files:

Department of Fish and Wildlife
1416 Ninth Street
Sacramento, California 95814

VIII. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

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

(b) No Change Alternative:

The no-change alternative would leave existing marine managed area (MMA) regulations with decreased boundary accuracy and inconsistencies, and would not provide for better public understanding and enforcement of MMA regulations.

(c) Consideration of Alternatives:

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

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; re-designate and rename existing MMAs; and add specified methods of take consistent

with existing commercial fishing regulations.

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

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

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

The proposed amendments may benefit the environment by clarifying the administration of the protection of habitat and biodiversity in MMAs.

- (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 (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 [PRC] Sections 36600-36900) standardized the designation of marine managed areas (MMAs), which include MPAs. The overriding goal of these acts is to protect, conserve, and help sustain California's valuable marine resources. Unlike previous laws, which focused on individual species, these acts focus on maintaining the health of marine ecosystems and natural 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 classifications, boundary descriptions, commercial and recreational take restrictions, and other restricted/allowed uses for MPAs, MMAs and special closures.

The proposed regulatory changes will clarify the allowed and prohibited uses for all MMA designations; amend aquaculture activities for two MMAs; and amend troll gear references for ten MMAs. In addition, the proposed regulations change the designation of one MMA; change the names of 21 MMAs; and refine boundary coordinates for 106 MMAs.

The following is a summary of the proposed changes to Section 632, Title 14, CCR.

Amendment to Subsection 632(a):

1. The proposed regulations add a citation to the statute (Public Resources Code Section 36710) which established the MMA definitions in subsection 632(a)(1).

Amendments to Subsection 632(b):

1. The proposed regulations clarify regulatory language, correct existing errors, and update allowable activities within MMAs.
 - a. The proposed regulation replaces the existing text with new text, as follows:

Area	Existing text	New text
State Marine Reserve (SMR)	"Take of all living marine resources is prohibited"	"Area restrictions defined in subsection 632(a)(1)(A) apply"
State Marine Park	"Take of all living marine resources is prohibited except..."	"Area restrictions defined in subsection 632(a)(1)(B) apply with the following specified exceptions..."
State Marine Conservation Area (SMCA)		"Area restrictions defined in subsection 632(a)(1)(C) apply with the following specified exceptions..."

State Marine Recreational Management Area (SMRMA)	“Take of all living marine resources is prohibited”	“Area Restrictions defined in subsection 632(a)(1)(D) apply”
	OR “Take of all living marine resources is prohibited except...”	OR “Area restrictions defined in subsection 632(a)(1)(D) apply with the following specified exceptions...”

- b. The proposed regulations restructure the regulatory text for MacKerricher SMCA, subsection 632(b)(22)(B), Russian Gulch SMCA, subsection 632(b)(24)(B), Van Damme SMCA, subsection 632(b)(26)(B), and Arrow Point to Lion Head Point (Catalina Island) SMCA, subsection 632(b)(123)(B), in order for their activities language to resemble the remaining MMA descriptions, listing allowable activities instead of prohibited activities.
 - c. The proposed regulations add the text “is allowed” to the current regulatory text for 41 MMAs.
 - d. The proposed regulations delete the allowance for aquaculture in Drakes Estero SMCA, subsection 632(b)(47)(B).
 - e. The proposed regulations amend the current species list for aquaculture within Morro Bay SMRMA, subsection 632(b)(91)(C), to be dependent upon lease conditions rather than a designated list of species.
 - f. The proposed regulations replace obsolete salmon troll gear reference with the current salmon troll gear reference for nine MMAs.
 - g. The proposed regulations delete the obsolete pelagic finfish troll gear reference from Bodega Head SMCA, subsection 632(b)(40)(B).
 - h. The proposed regulations remove commercial harvest of kelp as an allowed activity in Año Nuevo SMCA, subsection 632(b)(67), and redesignate this SMCA as a SMR.
 - i. The proposed regulations simplify the names of 21 MMAs by striking the parenthesized text which identifies the geographic location of a given MMA.
 - j. The proposed regulations amend text for Point Lobos SMCA, subsection 632(b)(82), and Big Creek SMCA, subsection 632(b)(86), to clarify that albacore may be taken both recreationally and commercially.
2. The proposed regulations improve boundary accuracy and ease of enforcement for numerous MMAs.
 - a. The proposed regulations add a third decimal place to the current coordinates for 76 MMAs and eight special closures.

- b. The proposed regulations move one or more of the existing coordinates toward an intended point of reference, such as a headland, bridge or mean high tide line, for 61 MMAs and three special closures.
 - c. The proposed regulations delete text pertaining to the mean high tide line for Carmel Pinnacles SMR, subsection 632(b)(79)(A), Point Sur SMCA, subsection 632(b)(84)(A), and Piedras Blancas, SMCA 632(b)(88)(A).
 - d. The proposed regulations replace the sole coordinate boundary at Goleta Slough SMCA, subsection 632(b)(100)(A), with the mean high tide line.
 - e. The proposed regulations move the shared boundary between the Laguna Beach SMR, subsection 632(b)(134)(A), and Laguna Beach no-take SMCA, subsection 632(b)(135)(A), south to the city beach/county beach line near Aliso Creek.
 - f. The proposed regulations anchor coordinates for 25 MMAs to the current National Oceanic and Atmospheric Administration's three nautical mile state line.
 - g. The proposed regulations add one or two positions to the list of coordinates for eight MMAs.
3. The proposed regulations make other nonsubstantive changes for clarity and consistency.

The proposed amendments to section 632 will clarify the restrictions and allowable activities in these MMA's; provide greater ease of public understanding and enforceability; and correct boundary descriptions.

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. Department 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.

The Commission adopted the originally proposed language of the Initial Statement of Reasons at its December 9, 2015 meeting. There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.