



- **Double Cone Rock SMCA-** Take Option A: Retain proposed fishing regulations allowing take of salmon by trolling and Dungeness crab by trap, hoop net, or hand.
- **Ten Mile Beach SMCA-** Boundary Option 1: Maintain the southern boundary in Proposed Regulation.
- **Big River Estuary SMCA-** Take Option B: Add recreational take of surfperch and adjust MPA goals and objectives accordingly.
- **Navarro River Estuary SMCA-** Take Option B: Add recreational take of salmonids consistent with regulations in Title 14, California Code of Regulations (CCR) Section 7.50.

The Commission also adopted the “no-change alternative” for some of the tribes listed in three MPAs:

- **Pyramid Point SMCA-** Tribal take in the SMCA is allowed for the following tribe: Smith River Rancheria. (The Commission adopted the no-change alternative for the following tribes: Cher-Ae Heights Indian Community of the Trinidad Rancheria, Elk Valley Rancheria, Resighini Rancheria, and Yurok Tribe of the Yurok Reservation.)
- **Point St. George Reef Offshore SMCA-** Tribal take in the SMCA is allowed for the following tribes: Elk Valley Rancheria and Smith River Rancheria. (The Commission adopted the no-change alternative for the following tribes: Cher-Ae Heights Indian Community of the Trinidad Rancheria, Resighini Rancheria, and Yurok Tribe of the Yurok Reservation.)
- **Reading Rock SMCA-** Tribal take in the SMCA is allowed for the following tribe: Yurok Tribe of the Yurok Reservation. (The Commission adopted the no-change alternative for the following tribes: Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria.)

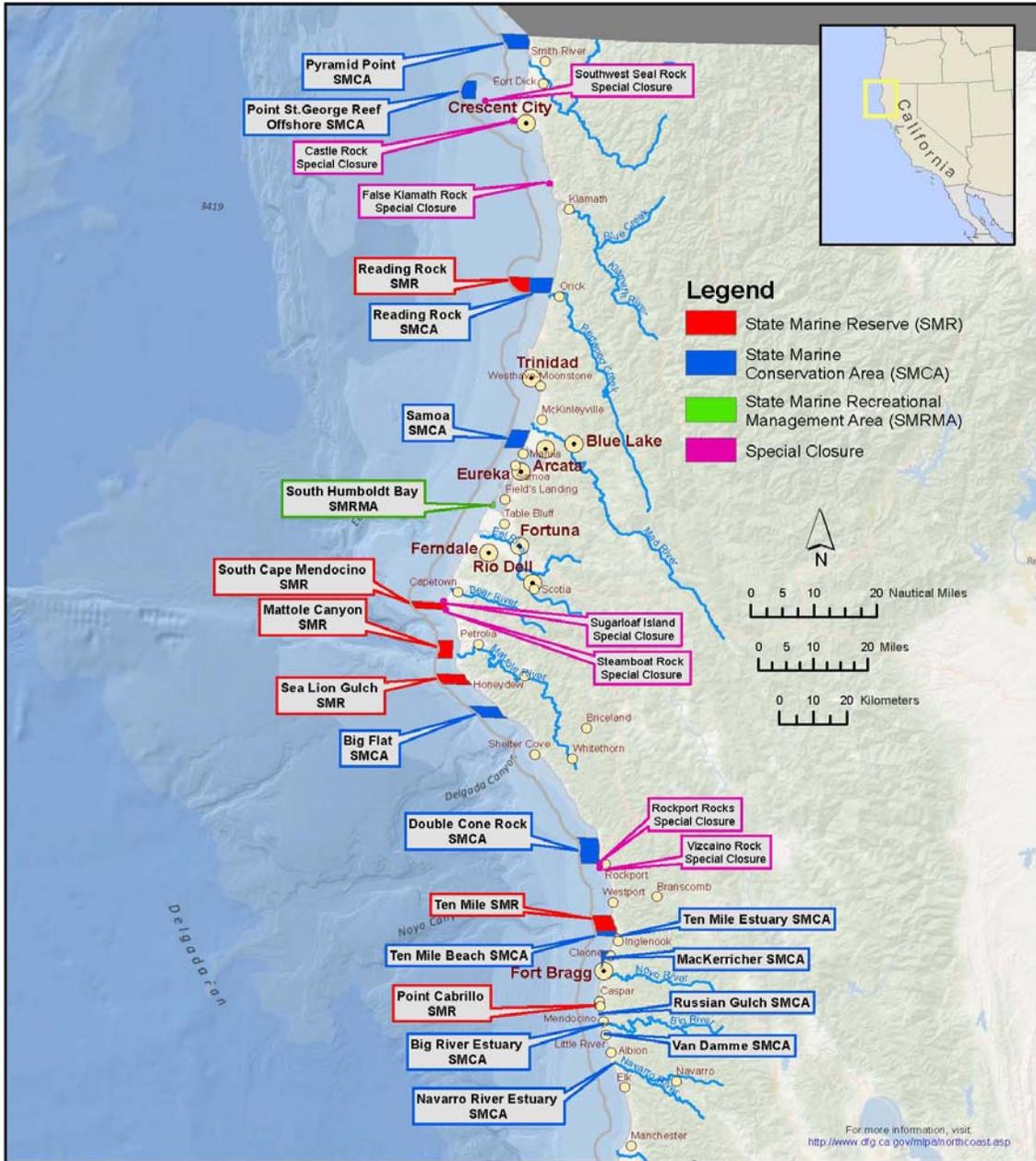
The Commission adopted other regulatory changes as originally proposed including general definitions for “tribal take” and “shore fishing”, MPA and Special Closure locations (Figure 1), MPA allowed uses (Table 1), and Special Closure seasons (Table 2).

A capitalization error was corrected in subsection 632(a)(11).

No additional modifications were made to the originally proposed language of the ISOR.

# Northern California Marine Protected Areas

Adopted June 6, 2012



Created by CDFG Marine Region GIS - June 13, 2012 - [mr\\_gis@dfg.ca.gov](mailto:mr_gis@dfg.ca.gov)

Figure 1. MPAs adopted by the Commission including 19 new or modified MPAs, one Marine Managed Area (MMA), and seven Special Closures.

Table 1. MPAs adopted as part of the Regulation (including sub-options selected), a summary of allowed take, and a summary of other regulated activities. MPAs with only one option within the Regulation are reflected as “Regulation” in the “Option Selected by Commission” column.

MPA Name and Designation	Option Selected by Commission on 6/6/12	Allowed Take	Other Regulated Activities
Pyramid Point State Marine Conservation Area	Boundary Option 1 No-change alternative for four tribes.	Take of all living marine resources is prohibited EXCEPT: 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"> <li>• Smith River Rancheria</li> </ul>
Point St. George Reef Offshore State Marine Conservation Area	No-change alternative for three tribes.	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> <li>• The recreational take of salmon by TROLLING, and Dungeness crab by TRAP.</li> <li>• The commercial take of salmon with TROLL FISHING GEAR, and Dungeness crab by TRAP.</li> </ul>	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> <li>• Elk Valley Rancheria</li> <li>• Smith River Rancheria</li> </ul>
Reading Rock State Marine Conservation Area	Name Option A. No-change alternative for two tribes.	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> <li>• The recreational take of salmon by TROLLING, surf smelt by DIP NET or HAWAIIAN TYPE THROW NET, and Dungeness crab</li> </ul>	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> <li>• Yurok Tribe of the Yurok Reservation</li> </ul>

MPA Name and Designation	Option Selected by Commission on 6/6/12	Allowed Take	Other Regulated Activities
		<p>by TRAP, HOOP NET or HAND.</p> <ul style="list-style-type: none"> <li>The commercial take of salmon with TROLL FISHING GEAR, surf smelt by DIP NET, and Dungeness crab by TRAP.</li> </ul>	
Reading Rock State Marine Reserve	Take Option A	Take of all living marine resources is prohibited.	---
Samoa State Marine Conservation Area	Regulation	<p>Take of all living marine resources is prohibited EXCEPT:</p> <ul style="list-style-type: none"> <li>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.</li> <li>The commercial take of salmon with TROLL FISHING GEAR, surf smelt by DIP NET, and Dungeness crab by TRAP.</li> </ul>	<p>The following federally recognized tribe may take living marine resources pursuant to existing regulations:</p> <ul style="list-style-type: none"> <li>Wiyot Tribe</li> </ul>
South Humboldt	Boundary Option 1	Take of all living	The following federally recognized tribe may take living

MPA Name and Designation	Option Selected by Commission on 6/6/12	Allowed Take	Other Regulated Activities
Bay State Marine Recreational Management Area		marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> <li>Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).</li> </ul>	marine resources pursuant to existing regulations: <ul style="list-style-type: none"> <li>Wiyot Tribe</li> </ul>
South Cape Mendocino State Marine Reserve	Regulation	Take of all living marine resources is prohibited.	---
Mattole Canyon State Marine Reserve	Regulation	Take of all living marine resources is prohibited	---
Sea Lion Gulch State Marine Reserve	Boundary Option 1	Take of all living marine resources is prohibited	---
Big Flat State Marine Conservation Area	Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> <li>The recreational take of salmon by TROLLING, and Dungeness crab by TRAP, HOOP NET, or HAND.</li> <li>The commercial take of salmon with TROLL FISHING GEAR, and Dungeness crab by TRAP.</li> </ul>	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> <li>Bear River Band of the Rohnerville Rancheria</li> <li>Big Valley Band of Pomo Indians of the Big Valley Rancheria</li> <li>Cahto Indian Tribe of the Laytonville Rancheria</li> <li>Coyote Valley Band of Pomo Indians</li> <li>Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria</li> <li>Guidiville Rancheria</li> <li>Habematolel Pomo of Upper Lake</li> <li>Hopland Band of Pomo Indians of the Hopland Rancheria</li> </ul>

MPA Name and Designation	Option Selected by Commission on 6/6/12	Allowed Take	Other Regulated Activities
			<ul style="list-style-type: none"> <li>• Lower Lake Rancheria</li> <li>• Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria</li> <li>• Middletown Rancheria of Pomo Indians</li> <li>• Pinoleville Pomo Nation</li> <li>• Potter Valley Tribe</li> <li>• Redwood Valley Rancheria of Pomo Indians</li> <li>• Robinson Rancheria of Pomo Indians</li> <li>• Round Valley Indian Tribes of the Round Valley Reservation</li> <li>• Scotts Valley Band of Pomo Indians</li> <li>• Sherwood Valley Rancheria of Pomo Indians</li> </ul>
Double Cone Rock State Marine Conservation Area	Take Option A	<p>Take of all living marine resources is prohibited EXCEPT:</p> <ul style="list-style-type: none"> <li>• The recreational take of salmon by TROLLING, Dungeness crab by TRAP, HOOP NET or HAND.</li> <li>• The commercial take of salmon with TROLL FISHING GEAR, and Dungeness crab by TRAP.</li> </ul>	<p>The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations:</p> <ul style="list-style-type: none"> <li>• Big Valley Band of Pomo Indians of the Big Valley Rancheria</li> <li>• Cahto Indian Tribe of the Laytonville Rancheria</li> <li>• Coyote Valley Band of Pomo Indians</li> <li>• Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria</li> <li>• Guidiville Rancheria</li> <li>• Habematolel Pomo of Upper Lake</li> <li>• Hopland Band of Pomo Indians of the Hopland Rancheria</li> <li>• Lower Lake Rancheria</li> <li>• Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria</li> <li>• Middletown Rancheria of Pomo Indians</li> <li>• Pinoleville Pomo Nation</li> <li>• Potter Valley Tribe</li> <li>• Redwood Valley Rancheria of Pomo Indians</li> <li>• Robinson Rancheria of Pomo Indians</li> </ul>

MPA Name and Designation	Option Selected by Commission on 6/6/12	Allowed Take	Other Regulated Activities
			<ul style="list-style-type: none"> <li>• Round Valley Indian Tribes of the Round Valley Reservation</li> <li>• Scotts Valley Band of Pomo Indians</li> <li>• Sherwood Valley Rancheria of Pomo Indians</li> </ul>
Ten Mile State Marine Reserve	Regulation	Take of all living marine resources is prohibited.	---
Ten Mile Beach State Marine Conservation Area	Boundary Option 1	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> <li>• The recreational take of Dungeness crab by TRAP, HOOP NET, or HAND.</li> <li>• The commercial take of Dungeness crab by TRAP.</li> </ul>	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> <li>• Big Valley Band of Pomo Indians of the Big Valley Rancheria</li> <li>• Cahto Indian Tribe of the Laytonville Rancheria</li> <li>• Coyote Valley Band of Pomo Indians</li> <li>• Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria</li> <li>• Guidiville Rancheria</li> <li>• Habematolel Pomo of Upper Lake</li> <li>• Hopland Band of Pomo Indians of the Hopland Rancheria</li> <li>• Lower Lake Rancheria</li> <li>• Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria</li> <li>• Middletown Rancheria of Pomo Indians</li> <li>• Pinoleville Pomo Nation</li> <li>• Potter Valley Tribe</li> <li>• Redwood Valley Rancheria of Pomo Indians</li> <li>• Robinson Rancheria of Pomo Indians</li> <li>• Round Valley Indian Tribes of the Round Valley Reservation</li> <li>• Scotts Valley Band of Pomo Indians</li> <li>• Sherwood Valley Rancheria of Pomo Indians</li> </ul>

MPA Name and Designation	Option Selected by Commission on 6/6/12	Allowed Take	Other Regulated Activities
Ten Mile Estuary State Marine Conservation Area	Regulation	Take of all living marine resources is prohibited EXCEPT: <ul style="list-style-type: none"> <li>• Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).</li> </ul>	The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations: <ul style="list-style-type: none"> <li>• Big Valley Band of Pomo Indians of the Big Valley Rancheria</li> <li>• Cahto Indian Tribe of the Laytonville Rancheria</li> <li>• Coyote Valley Band of Pomo Indians</li> <li>• Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria</li> <li>• Guidiville Rancheria</li> <li>• Habematolel Pomo of Upper Lake</li> <li>• Hopland Band of Pomo Indians of the Hopland Rancheria</li> <li>• Lower Lake Rancheria</li> <li>• Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria</li> <li>• Middletown Rancheria of Pomo Indians</li> <li>• Pinoleville Pomo Nation</li> <li>• Potter Valley Tribe</li> <li>• Redwood Valley Rancheria of Pomo Indians</li> <li>• Robinson Rancheria of Pomo Indians</li> <li>• Round Valley Indian Tribes of the Round Valley Reservation</li> <li>• Scotts Valley Band of Pomo Indians</li> <li>• Sherwood Valley Rancheria of Pomo Indians</li> </ul> Allows operation and maintenance of artificial structures pursuant to any required permits, or as otherwise authorized by the Department <sup>2</sup>
MacKerricher State Marine Conservation Area	Regulation	Commercial take of bull kelp ( <i>Nereocystis luetkeana</i> ) and giant kelp ( <i>Macrocystis pyrifera</i> ) is prohibited.	---

MPA Name and Designation	Option Selected by Commission on 6/6/12	Allowed Take	Other Regulated Activities
		All other take is allowed.	
Point Cabrillo State Marine Reserve	Regulation	Take of all living marine resources is prohibited.	---
Russian Gulch State Marine Conservation Area	Regulation	Commercial take of bull kelp and giant kelp is prohibited. All other take is allowed.	---
Big River Estuary State Marine Conservation Area	Take Option B	<p>Take of all living marine resources is prohibited EXCEPT:</p> <ul style="list-style-type: none"> <li>• The recreational take of surfperch by HOOK AND LINE FROM SHORE, and Dungeness crab by HOOP NET or HAND.</li> </ul> <p>Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).</p>	<p>The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations:</p> <ul style="list-style-type: none"> <li>• Big Valley Band of Pomo Indians of the Big Valley Rancheria</li> <li>• Cahto Indian Tribe of the Laytonville Rancheria</li> <li>• Coyote Valley Band of Pomo Indians</li> <li>• Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria</li> <li>• Guidiville Rancheria</li> <li>• Habematolel Pomo of Upper Lake</li> <li>• Hopland Band of Pomo Indians of the Hopland Rancheria</li> <li>• Lower Lake Rancheria</li> <li>• Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria</li> <li>• Middletown Rancheria of Pomo Indians</li> <li>• Pinoleville Pomo Nation</li> <li>• Potter Valley Tribe</li> <li>• Redwood Valley Rancheria of Pomo Indians</li> <li>• Robinson Rancheria of Pomo Indians</li> <li>• Round Valley Indian Tribes of the Round Valley Reservation</li> <li>• Scotts Valley Band of Pomo Indians</li> <li>• Sherwood Valley Rancheria of Pomo Indians</li> </ul>

MPA Name and Designation	Option Selected by Commission on 6/6/12	Allowed Take	Other Regulated Activities
			Allows operation and maintenance of artificial structures pursuant to any required permits, or as otherwise authorized by the Department <sup>2</sup>
Van Damme State Marine Conservation Area	Regulation	Commercial take of bull kelp and giant kelp is prohibited. All other take is allowed.	---
Navarro River Estuary State Marine Conservation Area	Take Option B	<p>Take of all living marine resources is prohibited EXCEPT:</p> <ul style="list-style-type: none"> <li>• The recreational take of salmonids by HOOK AND LINE (see section 7.50 for specific regulations).</li> </ul> <p>Waterfowl may be taken in accordance with general waterfowl regulations (Sections 502, 550, 551, and 552).</p>	<p>The following federally recognized tribes (listed alphabetically) may take living marine resources pursuant to existing regulations:</p> <ul style="list-style-type: none"> <li>• Big Valley Band of Pomo Indians of the Big Valley Rancheria</li> <li>• Cahto Indian Tribe of the Laytonville Rancheria</li> <li>• Coyote Valley Band of Pomo Indians</li> <li>• Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria</li> <li>• Guidiville Rancheria</li> <li>• Habematolel Pomo of Upper Lake</li> <li>• Hopland Band of Pomo Indians of the Hopland Rancheria</li> <li>• Lower Lake Rancheria</li> <li>• Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria</li> <li>• Middletown Rancheria of Pomo Indians</li> <li>• Pinoleville Pomo Nation</li> <li>• Potter Valley Tribe</li> <li>• Redwood Valley Rancheria of Pomo Indians</li> <li>• Robinson Rancheria of Pomo Indians</li> <li>• Round Valley Indian Tribes of the Round Valley Reservation</li> <li>• Scotts Valley Band of Pomo Indians</li> <li>• Sherwood Valley Rancheria of Pomo Indians</li> </ul>

Table 2. Special Closures adopted by the Regulation.

<b>Special Closure Name</b>	<b>Regulations</b>	<b>Seasonality of Special Closure</b>
Southwest Seal Rock Special Closure	300 ft closure around Southwest Seal Rock	Year-round
Castle Rock Special Closure	300 ft closure around Castle Rock	Year-round
False Klamath Rock Special Closure	300 ft closure around False Klamath Rock	March 1-August 31
Sugarloaf Island Special Closure	300 ft closure around Sugarloaf Island	Year-round
Steamboat Rock Special Closure	300 ft closure around Steamboat Rock	March 1-August 31
Rockport Rocks Special Closure	300 ft closure around Rockport Rocks	March 1-August 31
Vizcaino Rock Special Closure	300 ft closure around 'seaward' side of Vizcaino Rock	March 1-August 31

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those Considerations:

The Commission received a total of 289 comments from oral testimony, letters, and electronic mail or other written correspondence during the comment period (March 23 through June 6, 2012) regarding the Regulation. Ninety-two were unique comments. Comments in support of the Regulation, often referred to by the commenter as the RNCP, totaled 47. Comments in support of Tribal Option 1, which was included in the Regulation, totaled nine. Comments regarding the factual record or an aspect of tribal take other than specific support of Tribal Option 1 totaled 56. Comments in opposition to the Regulation, MPAs and/or the Marine Life Protection Act (MLPA) and MPA planning process in general totaled 21. Comments in opposition to aspects of the science used in the MPA planning process or Science Advisory Team (SAT) deliberations totaled 20. Comments in support of or opposition to specific MPAs, specific activities within MPAs, or MPA sub-options totaled 64. Sixteen comments expressed appreciation for hard work by those involved with MLPA planning, progress towards State-tribal relations, and/or the significance of the State completing the statewide coastal MPA network. Nineteen comments expressed interest or an opinion regarding potential partnerships, co-management, monitoring, and/or other ongoing or future MPA implementation activities. The remaining 37 comments were from individual commenters who provided the same comment at multiple dates during the comment period.

Duplicate letters, California Environmental Quality Act (CEQA) comments and comments not directed at the Regulation are omitted. However, 13 regulatory comments were submitted during the CEQA process outside of the comment period and the Final Environmental Impact Report (FEIR) indicated these comments would be addressed in the regulatory process. The 13 comments received outside of the comment period, and responses to those comments, are included below (see footnote, Table 3).

Comments the Commission determined to be directed at the DEIR, and not at the regulations, were responded to in the FEIR, starting on page 3-1.

**INDIVIDUAL COMMENTS**

The following table provides a list of commenter name(s), assigned commenter identification number (ID), the date received, and the comment type (written or oral) for each comment provided. Table 4 provides a summary of comments and responses to comments, including individual portions of comments requiring multiple responses. In cases where comments were substantively the same, multiple commenter names are listed for a single comment.

Table 3. List of assigned commenter ID (beginning with “A01”), date received, type of comment (written or oral) for comments regarding proposed MPAs in the north coast region, and commenter name(s).

Commenter ID	Date Received	Comment Type	Name Last	Name First
A01	3/30/2012	Written	Arvin	Weston
A02-a	4/16/2012	Written	Amy Atkins on behalf of Smith River Rancheria, Trinidad Rancheria, Resighini Rancheria, Yurok Tribe, Elk Valley Rancheria (Same letter submitted by Denise Padgett on 4/11/2012)	
A02-b	4/16/2012	Written	Amy Atkins on behalf of Trinidad Rancheria, Yurok Tribe, Smith River Rancheria, Blue Lake Rancheria	
A03	5/25/2012	Written	Ball	Jerry
A04	4/6/2012	Written	Virginia Bass on behalf of the Humboldt County Board of Supervisors	
A05	4/11/2012	Oral	Bernard	Bill
A06	4/16/2012	Written	Bowman	Leonard
A07	5/24/2012	Written	Boyd	Milton
A08	3/21/2012 <sup>1</sup>	Oral	Bradshaw	George
A09	4/11/2012	Oral	Bremer	Autumn
A09	6/6/2012	Oral	Bremer	Autumn
A10	3/20/2012 <sup>1</sup>	Oral	Charkowski	Elaine
A11	3/20/2012 <sup>1</sup>	Written	Cherry	Shawn
A12	6/6/2012	Oral	California State Assembly Member Wesley Chesbro	
A13	6/6/2012	Oral	Clark	Jim
A15	3/30/2012	Written	Copeland	Rick
A15	4/11/2012	Oral	Copeland	Rick
A15	5/25/2012	Written	Copeland	Rick
A15	6/6/2012	Oral	Copeland	Rick
A16	3/21/2012 <sup>1</sup>	Oral	Corbett	John
A16	4/11/2012	Oral/Written	Corbett	John
A16	6/6/2012	Oral/Written	Corbett	John
A17	6/6/2012	Oral	Cordero	Roberta
A18	4/4/2012	Written	Corrigan	Douglas
A19	11/30/2011 <sup>1</sup>	Written	Crabtree	Russ
A19	3/29/2012 <sup>1</sup>	Written	Crabtree	Russ
A19	4/11/2012	Oral	Crabtree	Russ
A19	6/4/2012	Written	Crabtree	Russ
A19	6/6/2012	Oral/Written	Crabtree	Russ
A20	5/25/2012	Written	DeVilbiss	George
A21	4/2/2012	Written	Doble	Daniel
A22	4/16/2012	Written	Dollarhide	Lonnie
A23	4/11/2012	Oral	d'Selkje	Terry
A24-a	4/11/2012	Oral/Written	Brandi Easter on behalf of many NCRSG members and others	

A24-b	4/11/2012	Oral/Written	Brandi Easter on behalf of Carol Rose, President, Underwater Society of America	
A24-c	6/6/2012	Oral	Easter	Brandi
A25	4/11/2012	Oral/Written	Janet Eidsness on behalf of Blue Lake Rancheria	
A26	5/25/2012	Written	Felton	Dave
A27	5/25/2012	Written	Michael Fitzgerral on behalf of the Sherwood Valley Rancheria of Pomo Indians	
A27	5/30/2012	Written	Michael Fitzgerral on behalf of the Sherwood Valley Rancheria of Pomo Indians	
A28	6/6/2012	Oral	Gaffney	Kaitlin
A29	4/11/2012	Oral	Gaines	Bill
A30	6/1/2012	Written	Silver Galleto on behalf of the Cloverdale Rancheria of Pomo Indians of California	
A31	4/16/2012	Written	Garcia	Douglas
A32	6/6/2012	Oral	Garrison	Karen
A33	6/6/2012	Oral	Gensaw Sr.	David
A35	6/6/2012	Oral	Zuretti Goosby on behalf of California State Senator Noreen Evans	
A34	3/20/2012 <sup>1</sup>	Oral	Gurney	David
A34	4/11/2012	Oral/Written	Gurney	David
A36-a	3/20/2012 <sup>1</sup>	Oral	Dan Hamburg, Mendocino County Supervisor	
A36-b	6/6/2012	Oral	Dan Hamburg on behalf of the Mendocino County Board of Supervisors	
A37	5/24/2012	Written	Hanks	Herrick
A38	5/25/2012	Written	Harris	Tim
A39	6/6/2012	Oral	Hennelly	Mark
A40	4/16/2012	Written	Hooper	Jim
A41	11/28/2011 <sup>1</sup>	Written	Hostler	Jacque
A41	4/11/2012	Oral	Hostler	Jacque
A42	5/24/2012	Written	Hunter	Priscilla
A42	6/6/2012	Oral/Written	Hunter	Priscilla
A43	4/16/2012	Written	Anna Kimber on behalf of Smith River Rancheria	
A44	4/11/2012	Oral	Kinney	Javier
A45	3/20/2012 <sup>1</sup>	Oral	Knowles	Larry
A45	4/11/2012	Oral/Written	Knowles	Larry
A46	3/30/2012	Written	Kruger	Dan
A46	4/11/2012	Oral/Written	Kruger	Dan
A46	5/25/2012	Written	Kruger	Dan
A46	5/31/2012	Written	Kruger	Dan
A47	6/6/2012	Oral	Kuhlman	Katherine
A14	6/6/2012	Oral	Kullman	Stephen
A88	4/11/2012	Oral	Lara, Sr.	Walt
A48	4/11/2012	Oral	Lemos	William
A48	6/6/2012	Oral	Lemos	William
A49-a	4/11/2012	Oral	Ruthie Malonay on behalf of Yurok Tribe (presented a video)	
A49-b	6/6/2012	Oral	Malonay	Ruthie
A50	3/20/2012 <sup>1</sup>	Oral	Maroney	Gabriel

A51	4/16/2012	Written	James Martin on behalf of Navarro-by-the-Sea Center	
A89	6/6/2012	Oral	Jim Martin on behalf of Recreational Fishing Alliance	
A52	6/6/2012	Oral	Mattz	Jack
A90	4/11/2012	Oral	McConnell	Bob
A53	4/10/2012	Written	John McCowen on behalf of the Mendocino County Board of Supervisors	
A53	5/22/2012	Written	John McCowen on behalf of the Mendocino County Board of Supervisors	
A54	4/11/2012	Oral	McGrath	Kevin
A55-a	4/11/2012	Oral	McQuillen	Alicia
A55-a	6/6/2012	Oral/Written	McQuillen	Alicia
A55-b	5/29/2012	Written	Alicia McQuillen and Christa Norton on behalf of the Yurok Tribe in a packet containing 11 documents or attachments and two letters from 17 separate e-mails dated between 05/29/2012 and 05/31/2012	
A56	4/11/2012	Written	Mead	Brian
A91	6/6/2012	Oral	Dale Miller on behalf of the North Coast Chairmen's Association	
A92	4/13/2012	Written	Miller	Don
A57-a	4/11/2012	Oral/Written	Richard Myers, II on behalf of Thomas O' Rourke, Chairman, Yurok Tribe	
A57-b	4/16/2012	Written	Myers, II	Richard
A58-a	3/29/2012	Written	Aaron Newman on behalf of the Humboldt Bay Harbor, Recreation and Conservation District	
A58-b	4/11/2012	Oral	Aaron Newman on behalf of the Humboldt Fisherman's Marketing Association	
A58-a	6/6/2012	Oral/Written	Aaron Newman on behalf of the Humboldt Bay Harbor, Recreation and Conservation District	
A93	4/11/2012	Oral	Norton	Christa
A59-a	4/10/2012	Written	O' Rourke	Thomas
A59-b	4/11/2012	Oral/Written	Thomas O' Rourke on behalf of the Northern California Tribal Chairmen's Association	
A60	6/3/2012	Written	Ogan	Chet
A61	4/11/2012	Oral/Written	Denise Padgett on behalf of Smith River Rancheria, Elk Valley Rancheria, Yurok Tribe, the Trinidad Rancheria, and Resighini Rancheria	
A62	5/16/2012	Written	Palazzo	Eugene
A63	4/15/2012	Written	Pfeiffer	Jeanine
A64	6/6/2012	Oral/Written	Queen	Abi
A65	5/30/2012	Written	Hillary Renick on behalf of Sherwood Valley Rancheria	
A66	4/11/2012	Oral	Rennacker	Ann
A67	4/11/2012	Written	Rockey, Sr.	Daniel
A67	6/6/2012	Oral/Written	Rockey, Sr.	Daniel
A68	4/11/2012	Oral	Romo	Ted
A69	4/11/2012	Oral/Written	Rosales	Hawk
A69	6/6/2012	Oral/Written	Rosales	Hawk
A70	4/15/2012	Written	Salsedo	Ed

A71-a	4/11/2012	Oral	Savage	Jennifer
A71-a	6/6/2012	Oral	Savage	Jennifer
A71-b	4/13/2012	Written	Jennifer Savage on behalf of Ocean Conservancy, Natural Resources Defense Council, and Humboldt Baykeeper	
A72	3/29/2012	Written	Scilacci	Bryan
A73	4/19/2012	Written	Sisk	Caleen
A74	4/16/2012	Written	Smith	Rick
A75-a	4/11/2012	Oral	Jimmy Smith, Humboldt County Supervisor	
A75-b	4/11/2012	Oral	Jimmy Smith on behalf of the Humboldt County Board of Supervisors	
A75-a	6/6/2012	Oral	Jimmy Smith, Humboldt County Supervisor	
A76	4/11/2012	Oral/Written	Kendall Smith oral comments on behalf of the Mendocino County Board of Supervisors, written comments signed by John McCowan	
A77	4/16/2012	Written	Sonoquie	Monique
A77	6/6/2012	Oral	Sonoquie	Monique
A78-a	4/6/2012	Written	Stevenson	Atta
A78-a	6/6/2012	Oral/Written	Stevenson	Atta
A78-b	4/6/2012	Written	Atta Stevenson on behalf of the California Indian Water Commission	
A78-b	4/16/2012	Written	Atta Stevenson on behalf of the California Indian Water Commission	
A79	4/16/2012	Written	Sundberg	Garth
A80	4/13/2012	Written	Todd	Fred
A81	5/25/2012	Written	Torchio	Marty
A82	4/11/2012	Oral	Trumper	Judy
A82	6/6/2012	Oral	Trumper	Judy
A83	6/6/2012	Oral	Vander Meer	Carol
A84	3/30/2012	Written	Visger	George
A85	4/11/2012	Oral	Weakland	Paul
A85	6/6/2012	Oral	Weakland	Paul
A86	5/24/2012	Written	Weinstein	Anna
A86	6/6/2012	Oral	Weinstein	Anna
A87-a	4/11/2012	Oral/Written	Beth Werner on behalf of Humboldt Baykeeper, The Northcoast Environmental Center, Mendo Abalone Watch, Friends of the Dunes, Ocean Conservancy, Natural Resources Defense Council, Environmental Protection Information Center, Russian Riverkeeper, California Coastkeeper Alliance, and Friends of the Eel River	
A87-b	6/6/2012	Oral	Werner	Beth

<sup>1</sup> Comment was received outside of the formal comment period; however the FEIR indicated that this comment would be responded to according to the Administrative Procedure Act (APA).

## **RESPONSES TO PUBLIC COMMENTS**

### **Master Responses to General Comment Themes**

The following master responses present detailed responses to several major recurring themes that appeared in comments received throughout this process. Unless otherwise noted, all code sections are cited from the California Fish and Game Code.

#### **MASTER RESPONSE 1- INADEQUACY OR APPLICATION OF DATA GATHERED DURING THE MARINE LIFE PROTECTION ACT INITIATIVE (MLPAI) PLANNING PROCESS, AND ADEQUACY OF THE SCIENCE STANDARD**

Several comments questioned the adequacy of the science driving the MLPA process, asserting that the science being used is not the Best Available Scientific Information (BASI) and recommending that the process not continue until more research and study is conducted. By way of review, in 2004 the National Academy of Sciences sponsored a major discussion of BASI in the context of the Magnuson-Stevens Fishery Management Act, and noted that “best” explicitly suggests that there is no better scientific information available and implicitly suggests the use of the most relevant and contemporary data and methods. However, the MLPA process is expressly based “on sound scientific guidelines” and “the best *readily available* science”, [subsections 2853(b)(5), 2855(a)]. The MLPA use of best readily available science is an important qualification that emphasizes timeliness over certainty or perfection. Similarly, the Marine Life Management Act (MLMA), which predates the MLPA, qualifies its application of BASI with the language: “...on other relevant information that the department possesses, or on the scientific information or other relevant information that can be obtained *without substantially delaying the preparation of the plan*” [emphasis added] [subsection 7072(b)].

The MLPA emphasis of timeliness over certainty or perfection of information is further underscored by the concept of adaptive management, which recognizes that this process proceeds in the face of “scientific uncertainty” and prospectively contemplates that “monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood” (Section 2852). The objective of adaptive management under the MLPA is not to reduce uncertainty through increased scientific rigor, but rather to produce practical information that guides management decisions. To date, the California experience with adaptive management of marine resources is exemplified through the MLPA [Section 90.1, and subsection 7056(g)] and the Nearshore Fishery Management Plan, which addresses the critical concepts of the precautionary principle, and the variability of adaptive management strategies in data poor, data moderate, and data rich circumstances.

That the Legislature, as a matter of public policy, has favored timeliness over certainty of information does not mean that inadequate science should be used. In that respect, external peer review is a strong guarantor of the adequacy of the

science. The MLPA mandates that an external peer review process be established, and allows use of the process identified in Section 7062 of the MLMA “to the extent practicable” (Section 2858). Subsection 7062(a) allows for submission to peer review of documents “that include, but are not limited to [marine living resources management documents].” However, such submissions are discretionary.

Also, it is important to realize that the charge of the peer review entity is not to authenticate the data presented to them, but to evaluate the scientific methodology employed and the facial plausibility of the conclusions that can be drawn therefrom. More importantly, the peer review entity is not expected to approve, disapprove, or comment on the wisdom of those conclusions. This must be so, because reasonable people can in good faith arrive at different conclusions using the same data and methodology.

In that regard, the Fish and Game Commission (Commission) undertook such a peer review of the scientific basis in the draft master plan for MPAs (draft master plan). Consistent with the statutory direction of Section 7062, the scientific design guidelines used in preparing alternative Marine Protected Areas (MPA) recommendations were reviewed by a panel convened by Oregon Sea Grant. The reviewers were selected by Sea Grant independent of the Commission, and asked to review (1) SAT guidance on MPA network design; and (2) the consideration of habitats in the design of MPAs provided by the SAT. The reviewers were also asked (1) in general, is the document logically organized and factual? (2) are its recommendations clearly and unambiguously stated? (3) are there specific statements that you feel are incorrect or misleading? and (4) is there anything of importance that was not stated or covered? The three reviewers found the document and advice appropriate.

## **MASTER RESPONSE 2- NATURAL CONSTRAINTS AND BASELINE CONDITIONS**

Various comment letters that were received submitted comments and information regarding the harsh conditions in the North Coast Region, which inherently limit the ability of Native Americans and other individuals to harvest marine resources. Some of the conditions identified include: limited coastal access; frequency of high winds and rough seas; hazards posed by floating debris along the shoreline; turbidity of rivers and along the shoreline; relative infrequency of negative tides; regulatory restrictions on the season of shellfish harvesting to reduce the potential for paralytic shellfish poisoning; and demographic and structural constraints. The comments go on to state that because of these conditions, the potential for harvest (in particular, harvest by Native Americans) to have an adverse impact on the marine system or any marine species in particular, is correspondingly limited. The Department of Fish and Game (Department) and Commission acknowledge that it is reasonable to conclude that these conditions do in fact result in less harvest than if such conditions did not exist.

From the perspective of the CEQA, these conditions constitute “baseline conditions,” in other words, the conditions that existed at the time the Notice of

Preparation for the draft Environmental Impact Report was filed. Under CEQA, the significance of the impacts of a proposed project is evaluated by comparing the conditions which would exist after the project is implemented against these baseline conditions. An Environmental Impact Report (EIR) should characterize baseline conditions to the extent necessary to understand and evaluate the impact of the proposed project. In this case, the Regulation would have no adverse effect related to these conditions. Specifically, harvesting by federally recognized Native American tribes would continue under the proposed regulations to the extent it is allowed under existing law (exception within SMRs and the Special Closures—some of which would not have any restrictions beyond current regulations for half of the year). In other words, the only change (elimination of harvesting within SMRs and Special Closures) would not have an adverse effect on the marine system or species. As such, the Regulation would have no potential for an adverse impact related to natural conditions, or on harvesting as it relates to these conditions. The extent to which baseline conditions have been described in the DEIR corresponds to this conclusion.

Rather, the extent to which Native American harvesting, or take by any entity, is having an effect on marine resources is a question for reserve design, rather than a consideration of changes to baseline conditions. In other words, the network of MPAs was designed in part to address the effects that take of marine resources is having on those resources. Tribal representatives were deeply involved in development of the MLPA North Coast RNCP, and the RNCP, which is a consensus-based proposal. Because of this consensus, it is implicit that the stakeholder group, including tribal representatives, concluded that an alternative network of MPAs that would be more restrictive on tribal harvest was not necessary to address the effects of tribal harvest. The fact that the Commission selected this alternative affirms that the Commission supported this conclusion.

### **MASTER RESPONSE 3- LEVELS OF PROTECTION (LOP)**

A number of comments have stated that SAT levels of protection (LOPs) identified for various proposed MPAs are invalid for the North Coast Study Region (NCSR), because the methodology does not recognize the role of north coast tribes and tribal communities as a natural part of the ecosystem, and does not account for inherent restrictions on take due to natural or regulatory constraints. A discussion of natural constraints and baseline conditions is provided in Master Response 2.

At the outset, the Commission acknowledges the deep cultural connection that tribes and tribal communities have with the environment. However for CEQA purposes, anthropogenic activities are considered distinct from the natural environment [Public Resources Code, Section 21001(c)]. This is consistent with the MLPA, which distinguishes “human activities” from “natural ecological functions.” [subsections 2851(c), 2857(b)]. The discussion, then, is necessarily constrained to the environmental effects of take, and not the underlying reasons, cultural or otherwise, which occasioned the take. This response explains how and why LOPs were developed, what the methodology was founded on, and how tribal information was used.

The MLPA itself recognized that a program of MPAs “may include areas with various levels of protection” [subsection 2853(c)]. The draft master plan describes the purpose and initial development of a scale for LOPs developed by the SAT. The purpose of categorizing MPAs by their respective LOP was to serve as a planning tool, to simplify comparisons of the overall relative conservation value of MPAs within and among proposed MPA network components. The intent of LOPs was simply a tool for the SAT to assess prospects for different MPA arrays to meet their resource protection goals, using a precautionary approach. When assigning an LOP, the SAT considered the role that the target species plays in the marine ecosystem and the extent to which its removal has the potential to alter the marine community. This potential change to the marine community may not be realized in all areas; however, the SAT assigned LOPs conservatively so that allowed activities within an MPA receiving higher LOPs are less likely to impact the marine community even if fishing effort is locally intense or increases to high levels in the future.

The SAT reviewed data and scientific literature to assess potential effects of commercial and non-commercial (i.e., tribal and recreational) activities in proposed MPAs, taking into account the species and methods of take and regulations that apply to all users. The SAT did not assess potential effects of any subgroup of non-commercial users.

LOPs were developed using the best readily available science pursuant to the MLPA [subsection 2856(a)(1)]. All SAT products from every study region, including LOPs, were developed for that region in an iterative peer process that was continually refined by the 20+ member SAT and informed by stakeholder and public input.

In applying the LOP decision tree, the SAT made three important scientific assumptions:

- 1) For the purpose of comparison, an unharvested system is a SMR that is successful in eliminating extractive uses within the MPA.
- 2) Any extractive activity can occur locally to the maximum extent allowable under current state and federal regulations.
- 3) The proposed activity is considered in isolation from other activities (i.e., without cumulative effects of multiple allowed activities). This assumption is based upon limitations to assess the cumulative impacts of multiple activities, not a belief that cumulative impacts do not occur.

The LOP decision tree provided a simplified way to “assess the certainty that an MPA will achieve the goals of the MLPA regardless of the spatial distribution and magnitude of take” (SAT 2011) (Attachment 3 of the ISOR). The assumptions associated with the LOP decision tree reflect the SAT’s approach to cope with uncertainty. For example, even if detailed historical records of take (e.g., how many mussels were taken from each cove each year along the whole North Coast) were available to the SAT, it is still uncertain how this may change in the future (e.g., establishment of a new access point). Therefore, the LOP

framework is based on the potential impacts of a proposed human activity and do not predict the status of any fishery, the abundance of any organism or its need for protection, or the level of take, including the degree to which natural restrictions or fishing restriction may affect level of take. The LOP framework simply seeks to compare the marine community in an MPA that allows specified take to a comparable MPA without take (i.e., an SMR) (SAT 2011) (Attachment 3 of the ISOR). With wise management or minimal harvest levels, the realized impacts of harvest activities on the marine ecosystem may be substantially lower than those assessed by the LOP (SAT 2011) (Attachment 3 of the ISOR).

Because fisheries regulations are applied at spatial scales greater than individual MPAs, the magnitude and spatial distribution of take within an MPA cannot be predicted. Therefore LOPs are not based on existing patterns or magnitude of take. Instead, LOPs assess the certainty that an MPA will help achieve the goals of the MLPA *regardless* of the spatial distribution and magnitude of take. An MPA that has been assigned a high LOP is likely to contain marine communities that resemble those in an unharvested ecosystem (i.e., no take area). Lower LOPs indicate that the MPA are less likely to contain marine communities that resemble those in an unharvested ecosystem, especially if harvest activities are intense within the MPA.

Assignment of LOPs under methods determined by the SAT was not the only tool used to inform planning, especially as it pertained to north coast tribes. The SAT also established a “Tribal Workgroup” at the beginning of the planning process in the NCSR, to facilitate focused opportunities for tribal information and input, and discussion of that information relative to SAT considerations. This action is consistent with the MLPA direction to take into account relevant information from local communities [subsection 2855(c)].

Information provided by the tribes and tribal communities was used by the North Coast Regional Stakeholders Group (NCRSG) either to avoid placement of MPAs in geographies actively used, or to propose the uses to continue within the MPA. In addition, the SAT provided a supplemental evaluation of the final MPA proposal, at the request of the Blue Ribbon Task Force (BRTF), to include MPAs at all LOPs if the proposed uses were those intended to accommodate tribal uses. While the supplemental evaluation did not specifically evaluate the effects of tribal gathering activities on the marine ecosystems, nor did it supplant the utility of LOPs using the SAT-determined methodologies, it provided the BRTF with the best available scientific information about the habitats included in MPAs that accommodate tribal uses, independent of the assigned LOP.

#### **MASTER RESPONSE 4- FAILURE TO CONSIDER EXISTING FISHING MANAGEMENT MEASURES**

The MLPA expressly states that MPAs and fisheries management are complementary [Section 2851(d)]. Similarly, the MLMA declares that conservation and management programs “prevent overfishing, rebuild depressed stocks, ensure conservation, facilitate long term protection and, where feasible, restore marine fishery habitats.” [Section 7055(b)]; see also [Section 7056(b)(c)].

Although MPAs and fisheries management are complementary, they are not equivalent. The purpose of habitat protection in the MLMA is to advance the “primary fishery management goal” of sustainability [Section 7056]. Moreover, that which is being managed is a specific fishery—which may be based on geographical, scientific, technical, recreational and economic characteristics MLMA [Section 94]—and so may only provide limited protection of a particular habitat.

Conversely, although the MLPA considers fishery habitat [Section 2851(c)(d)], it also encompasses broader, ecosystem-based objectives that are not limited to *only* fishery management. If only existing fishery conservation and management measures were considered in designing the MLPA networks, then arguably only some of the ecosystem goals and objectives might be met. Other goals and elements would be undervalued (e.g., improving “recreational, educational and study opportunities provided by marine ecosystems” and protecting “marine natural heritage...for their intrinsic value” [Section 2853(b)]. The MLPA also states that one of the purposes of the marine reserve component is to generate baseline data that allows the quantification of the efficacy of fishery management practices outside the reserve [Section 2851(e)(f)]. This would be difficult to implement if the MPA design itself must consider those very same existing conservation and management measures.

Moreover, it is important to remember that the MLMA is the most comprehensive revision of state marine fishery management procedures in history. The subsequent enactment of the MLPA the following year strongly suggests the Legislature recognized that fishery conservation and management measures alone were inadequate to the task of broad ecosystem protection. Finally, had the Legislature intended existing fishery conservation and management measures to be considered in designing MPAs, it plainly would have said so, as it did in the MLMA [Section 7083]. As it is, the fact that the MLPA allows the Commission to “regulate commercial and recreational fishing and any other taking of marine species in MPAs” [Section 2860(a)] strongly suggests that fishery measures are not intended to be considered in the design of MPAs but may in fact be subject to limitations beyond those already existing under fishery management regimes. Thus, while the design of fishery management measures should properly consider the existence of MPAs, the reverse is not true.

The conclusion that existing fishery management measures are not properly considered in designing MPAs is further bolstered by three “real world” considerations. First, the direction from the Legislature is to use “the best readily available information” and studying the interaction of existing fishery management practices would add another dimension of complexity that retards, not facilitates, the process. Second, the subject of interaction with existing fishery management processes reflects exactly the kind of “scientific uncertainty” acknowledged by the Legislature when it authorized the application of adaptive management to the MLPA process. Third, the unfortunate reality is that existing fishery management processes do not always work. Indeed, as evidenced by the disastrous collapse of the west coast groundfish and the red abalone fisheries,

they can fail entirely. Fishery conservation and management measures alone do not necessarily guarantee either fishery sustainability or ecosystem health.

Nevertheless, to the extent practicable, information on existing fisheries management measures was considered in the development of siting alternatives. Presentations were made by Department and federal fisheries management experts, data on the locations and types of existing measures were provided, and changes were made to various proposals in response to comments on other ongoing management. The fact that the final siting alternatives overlap significantly with existing fisheries closures is one indication of the efforts taken to prevent duplication of protection while still meeting the MLPA goals described above.

### Individual Responses to Comments

The following table provides a summary of comments received and individual responses. The Commenter ID corresponds to names and dates in Table 3. References to sub-options pertain to the Commission sub-options identified in this document.

Table 4. Comment summaries and responses.

Commenter ID	Comment Number	Comment	Response
A04, A06, A09, A12, A13, A16, A21, A22, A23, A24-a, A24-b, A24-c, A28, A32, A35, A36-b, A37, A47, A48, A53, A54, A58-a, A58-b, A59-b, A60, A62, A64, A67, A69, A71-a, A72, A73, A75-a, A75-b, A76, A78-a, A82, A83, A86, A87-a, A87-b	1	Support the Regulation, support the Revised North Coast Regional Stakeholder Group Proposal (RNCP), and/or oppose any regulatory sub-option not consistent with the RNCP	After taking public testimony on all regulatory take and boundary sub-options within the Regulation, the Commission adopted the Regulation to include all regulatory sub-options as described in the RNCP; thereby recognizing the unique consensus proposal developed and agreed upon by all NCRSG members representing diverse interests and cultures. The RNCP meets the goals of the MLPA while giving meaningful consideration to north coast socioeconomic conditions.
A36-b, A42, A47, A61, A67, A69, A76, A78-a, A78-b	2	Support Tribal Option 1	The Commission adopted the Regulation which includes Tribal Option 1, thereby recognizing the importance of tribal leadership and culture to allow the continued specific non-commercial tribal take of marine resources pursuant to existing laws/regulations by federally recognized tribes in specific MPAs as they were listed in the factual records received by the Commission, including the requirement of 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 or older, and any valid license, report card, tag, stamp, validation, permit, or any other entitlement required by federal, state, or local laws/regulations. All extractive activities are prohibited in SMRs. See response to comment 1.
A86	3	Support Regulation, but does not fulfill all expectations or would have liked science guidelines better met	Comment noted. See response to comment 1.
A01, A03, A05, A15, A20, A26, A29, A38, A46, A81, A84, A89	4	Support Double Cone Rock SMCA Take Option B	Comment noted. After taking public testimony on the regulatory take sub-options, the Commission selected Double Cone Rock SMCA Take Option A, consistent with the RNCP. Double Cone Rock SMCA was designed to protect rocky shore habitat. Its high diversity of benthic species, and both hard bottom and soft bottom communities, will help sustain, conserve and protect marine life populations. Socioeconomic impacts were considered in developing the level of protection to allow commercial crabbing and salmon trolling. Double Cone Rock SMCA is the only preferred-sized MPA in the southern bioregion and its placement avoids public access points to the north and south. See attachment 4 of the ISOR for site-specific rationale and other design considerations for the RNCP. Take Option B would add recreational take from shore only for cabezon and rockfish (hook and line), abalone (hand), surfperch (hook and line), and surf smelt (dip net or cast net); and therefore be inconsistent with the site specific rationale and other design considerations associated with the RNCP. The Commission selected Double Cone Rock SMCA Take Option A because it was consistent with the unique consensus RNCP developed and agreed upon by all NCRSG members representing diverse interests and cultures. See response to comment 1.
A16, A33, A41, A44, A52, A55-a, A55-b, A59-a, A61, A79	5	Oppose the adoption of False Klamath Cove Special Closure	Comment noted. The Commission adopted False Klamath Cove Special Closure, see response to comment 1. Tribal input was provided to the NCRSG in the development of all MPAs and Special Closures, and the Commission's decision to adopt this special closure is consistent with the RNCP. The False Klamath Cove Special Closure was developed by the NCRSG Special Closure Work Group, which was comprised of a subset of NCRSG members including tribal

			members. Results of this workgroup were reported to the full NCRSG. Site specific rationale and other considerations regarding the proposed NCRSG special closures including the False Klamath Cove Special Closure can be found in ISOR Attachment 10.
A86	6	Support the adoption of False Klamath Cove Special Closure	Comment noted. The Commission adopted False Klamath Cove Special Closure.
A54, A64	7	Oppose Sea Lion Gulch SMR Boundary Option 2	Comment noted. The Commission did not adopt Sea Lion Gulch SMR Boundary Option 2.
A02-a, A16, A19, A41, A43, A59-b, A61, A79	8	Correct the factual record for tribes allowed in Pyramid Point SMCA (Smith River Rancheria) and Point St. George Reef Offshore SMCA (Smith River Rancheria, Elk Valley Rancheria)	While amendment of the factual record is outside the scope of the Regulation, based on input from all previously listed tribes according to Table 2 of the ISOR, the Commission adopted regulations to include Smith River Rancheria as the only federally recognized tribe who may take living marine resources pursuant to existing regulations in Pyramid Point SMCA. The Commission adopted regulations to include both Smith River Rancheria and Elk Valley Rancheria as the only federally recognized tribes who may take living marine resources pursuant to existing regulations in Point St. George Reef Offshore SMCA.
A02-a, A27, A30, A61, A65	9	Tribal gathering should be permitted for family members of tribal members even if they are not tribal, and should be permitted for individuals from federally recognized tribes other than those listed in the factual records received by the Commission if they have support, adequate documentation, and/or permission of listed tribe(s).	Intertribal agreements are solely negotiated between tribes and tribal communities. The regulations adopted by the Commission for north coast 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.
A49-b	10	Look forward to being involved in MPA monitoring efforts	Comment noted.
A29, A39, A68, A80, A92	11	Supportive of regulatory options to allow waterfowl hunting in some north coast estuaries	Comment noted. The Commission adopted regulations which allow waterfowl hunting, consistent with waterfowl hunting regulations, in South Humboldt Bay SMRMA, Ten Mile Estuary SMCA, Big River Estuary SMCA and Navarro River Estuary SMCA.

A14, A68, A87-b	12	Support South Humboldt Bay SMRMA Boundary Option 1	Comment noted. The Commission adopted South Humboldt Bay SMRMA Boundary Option 1.
A12, A19, A35, A43	13	Support Pyramid Point SMCA Boundary Option 1	Comment noted. The Commission adopted Pyramid Point SMCA Option 1.
A14, A19, A36-b, A41, A42, A44, A55-b, A58-a, A61, A67, A69	14	Interested in potential partnerships and/or co-management opportunities with the Department, Commission, tribal communities, and/or local agencies and stakeholders following adoption of MPAs	Comment noted.
A16, A41, A44, A55-a, A55-b, A59-a, A61, A79	15	Support Reading Rock SMR Take Option B	The Commission selected Reading Rock SMR Take Option A, consistent with the RNCP. The Reading Rock SMR was designed as a backbone MPA capturing two key habitats at the very high level of protection. The Reading Rock SMR was also designed to be clustered with the Reading Rock SMCA to capture additional habitats and to be located adjacent to Redwood National and State Park lands. See attachment 4 of the ISOR for site-specific rationale and other design considerations for the RNCP. Take Option B would have reclassified the proposed SMR to an SMCA, and therefore not meet these key design considerations. It is also worth noting that the actual emergent portion of Reading Rock is not within the proposed Reading Rock SMR or SMCA, and therefore does not further restrict tribal activities. See response to comment 1.
A44, A55-a, A55-b, A59-a	16	Support Reading Rock SMCA Name Change Option B	Comment noted. The Commission selected Reading Rock SMR Option A, therefore the Reading Rock name change Option B is not applicable.
A16, A17, A19, A41, A44, A48, A59-b, A67, A69, A75-a, A78-b	17	Appreciative of all the hard work by all those involved with MLPA planning, and/or progress towards State-Tribal relations	Comment noted.
A02-a, A16, A61	18	Oppose aspects of the process to create factual records	Comment noted. At their June 29, 2011 meeting, the Commission asked federally recognized tribes who maintained cultural take within proposed MPA designations (other than SMRs) to submit a factual record of

			historic and current uses in these specific geographies to the Commission within 60 days. While the Commission did receive factual record information from several tribes within the 60 days, no comments regarding any opposition to the factual record process were received by the Commission during this period. In fact, the Commission did not receive any comments regarding opposition to the factual record process following their June 29, 2011 meeting until the discussion hearing on April 11, 2012.
A19	19	Prefers the "No Project Alternative" for Pyramid Point SMCA; however, should the Commission establish the Pyramid Point SMCA, recommend adoption of Boundary Option 1	Comment noted. The Commission adopted Pyramid Point SMCA, selecting Boundary Option 1, consistent with the RNCP. See response to comment 1.
A28, A32, A47, A71-a	20	Note the significance of California completing the statewide MPA network	Comment noted.
A34	21	Oppose name change of Ten Mile SMR to Skip Wollenberg SMR	Comment noted. The Commission did not adopt the name change of Ten Mile SMR to Skip Wollenberg SMR.
A40, A74	22	Recreational take from non-motorized, self-propelled watercrafts such as kayaks should not be restricted	Comment noted. Recreational take from non-motorized, self-propelled modes of transportation, such as kayak, is maintained wherever it is consistent with the MPA designation and regulation. See response to comment 1.
A47	23	Note both policy questions and scientific hypotheses need to be framed and tested as we move forward with MPA implementation	Comment noted.
A47	24	Ocean Protection Council, California Natural Resources Agency, and Secretary Laird are dedicated to working with the Commission, the Department, and communities	Comment noted.

A89	25	Support Ten Mile Beach SMCA Boundary Option 1	Comment noted. The Commission adopted Ten Mile Beach SMCA Boundary Option 1.
A58-a	26	Humboldt Bay Harbor, Recreation and Conservation District pledges to assist in MLPA implementation, particularly with regard to the South Humboldt Bay SMRMA	Comment noted.
A71-b	27	Support Big River Estuary SMCA Take Option A	Comment noted. The Commission adopted Big River Estuary SMCA Take Option B, consistent with the RNCP. Take Option B for the Big River Estuary SMCA and the Navarro River Estuary SMCA are consistent with the RNCP. For all other sub-options considered by the Commission, the option consistent with the RNCP was option A or option 1. Take Option A was not associated with the RNCP, but rather the Department preferred option, and would reduce the take allowed. The Commission selected Big River Estuary SMCA and Navarro River Estuary SMCA Take Option B because it was consistent with the unique consensus RNCP developed and agreed upon by all NCRSG members. See response to comment 1.
A71-b	28	Support Navarro River Estuary SMCA Take Option A	Comment noted. The Commission adopted Navarro River Estuary SMCA Take Option B, consistent with the RNCP. See responses to comments 1 and 27.
A07	29	Mussel populations on the north coast are primarily influenced by logging activities, severe wave damage, and natural predation by the native Ochre sea star; and are minimally influenced by human harvesting activities and Native Americans in particular, according to comprehensive surveys and other rocky intertidal surveys of the Redwood National and State Parks coastline	Comment noted.

A16, A19, A27, A33, A41, A61, A65, A78-a	30	Never have and/or will cede aboriginal tribal gathering rights	As a matter of law, the MLPA cannot interfere with any tribal right that has been conferred by the federal government.
A42	31	No other alternative is as effective as the Regulation in meeting the goals of the MLPA	Comment noted. See response to comment 1.
A25, A30, A56	32	Wiyot Tribal Council supports for Wiyot Tribe and Blue Lake Rancheria be allowed to collect in Samoa SMCA	Comment noted. See response to comment 9.
A27, A30, A41, A65	33	Proposed regulations allow local and/or state entities to impose requirements and impose unnecessary burdens on tribal communities, such as reformatting tribal identification cards to comply, obtaining a state fishing license, and any restrictions other than take and area restrictions	The Regulation is based on the Revised Round 3 MLPA North Coast Regional Stakeholder Group "Unified" MPA proposal (RNCP). Within the RNCP, the Commission chose Tribal Option 1 to provide for specific non-commercial tribal take by federally recognized tribes under the following conditions: (1) A factual record of historic and current uses at specific MPAs is submitted by the tribes; (2) any tribal member possesses a Tribal Identification Card and any valid license, report card, tag, stamp, validation, permit, or any other entitlement that is required by the Fish and Game Code or required by other state, federal, or local entities necessary to take, possess or transport living marine resources; (3) all take is consistent with existing regulations. The factual record condition was deemed necessary by the Commission to provide the substantial evidence justifying the continued tribal take in a particular area. In that regard, the tribal identification requirement is reasonably necessary to ensure that those persons ostensibly engaging in tribal take are in fact tribal members. In order to facilitate the access and take of species off of the reservation and inside MPAs, it is imperative to verify that the tribal member is affiliated, and in good standing, with the tribe that has special access to the MPA. CDFG staff held meetings on November 9 and 10, 2011 with tribal members and communities to verify the information currently available and printed on tribal identification cards. The tribes represented agreed that the information was available and currently in use. The list of required information was derived from these meetings and is standard information required to verify that the person holding the card is indeed the person listed on the card. With regard to the licensing condition, it is important to remember that tribal members

			remain subject to the same licensing requirements as anyone else. As a matter of law, the MLPA cannot interfere with any tribal right that has been conferred by the federal government. However, the requirement that any person who takes public trust resources be appropriately permitted to do so is a reasonable exercise of the State of California's authority. Accordingly, the conditions complained of in the comment are neither unnecessary nor unreasonably burdensome.
A21, A31	34	Oppose South Humboldt Bay SMRMA Boundary Option 2	Comment noted. The Commission did not adopt South Humboldt Bay SMRMA Boundary Option 2.
A43	35	All boundary options for proposed SMCAs need to be reviewed and drafted uniformly to be clear that tribal exemptions will be permitted within any and all boundary options for proposed SMCAs as it is not clear in the proposed regulatory language	Comment noted. When tribal take was proposed for an MPA with proposed boundary options, the proposed tribal take was the same in all for any boundary options for the SMCA. Formatting of the proposed regulatory language was different because of other differences to the proposed take for different boundary options for the SMCA. See response to comment 1.
A57-b	36	If the Commission plans to set limits on traditional seaweed/kelp gathering, stipulate a minimum limit of 100 lbs a day per person	Changes to the kelp daily bag limit are outside the scope of the Regulation.
A27, A65	37	Various forms of proof of identity and Native American ancestry are required for other state applications, like the low income Native American fishing license. Yet the requirements for tribal identification in the proposed regulations repeats this information collected for the license.	Comment noted. See response to comment 33.

A42, A67, A69	38	Support the Regulation, the RNCP, and/or oppose any regulatory sub-option not consistent with the RNCP with respect to the Southern Bioregion	Comment noted. After taking public testimony on the regulatory take sub-options, the Commission selected all sub-options in the Southern Bioregion (from the mouth of the Mattole River to Alder Creek) consistent with the RNCP. See response to comment 1.
A78-a	39	Request Commission to consider supporting tribal traditional non-commercial uses that are unencumbered by new take limitations that apply to other users in MPAs	Comment noted. See responses to comments 1 and 2.
A02-b, A59-b	40	Question whether the Regulation has a Federal nexus with Section 106 of the National Historic Preservation Act, regarding government-government consultations as outlined in regulations at 36 CFR 800	The Regulation does not implicate Section 106 of the National Historic Preservation Act. Section 106 applies only to Federal agencies, not to State or local governments unless they are acting as the "Federal agency" under a specific Federal law. The MLPA is a state law and its implementation does not involve action under any specific Federal law. The Fish and Game Commission's rulemaking is undertaken pursuant to its authority as a constitutionally-created state agency, not as a Federal agency. Further, Federal agencies must comply with Section 106 when they directly undertake Federal activities and when they are involved indirectly through funding, approving, permitting or licensing. Federal agencies also must comply with Section 106 when they are indirectly involved by delegating a Federal program under which State or local agencies issue permits. Since the proposed rulemaking does not involve any of these Federal activities, Section 106 is inapplicable.
A31	41	Bureau of Indian Affairs recommends consulting with the tribes regarding ancestral use before regulations are codified for tribal use within MPAs	Throughout the MLPA Initiative planning process, tribal representatives were actively involved and participated with community groups to develop MPA arrays and served on several MLPA Initiative groups. Seven tribal representatives, representing some of the federally and non-federally recognized tribes and tribal communities near the Study Region, served on the NCRSG and some also served on the Blue Ribbon Task Force (BRTF), Statewide Interests Group, and the NCRSG special closures workgroup. The BRTF and MLPA Initiative staff visited many areas throughout the Study Region, including stops to visit tribes and tribal communities. Additionally, the SAT created a special

			<p>working group to address tribal issues related to science guidelines, which met regularly in Eureka. Many tribal representatives attended MLPA Initiative meetings and participated in public comment periods. At the meeting at Elk Valley Rancheria on January 13th and 14th, 2010, a panel made up of tribal representatives provided the BRTF with several hours of public testimony. Tribes and tribal communities were invited to provide information for the Regional Profile of the North Coast Study Region. Eleven tribes and tribal communities provided information that was compiled verbatim in the record. After the Commission selected a preferred alternative for the MPA arrays, tribes and tribal communities continued to work together with the Commission to establish a mutually acceptable approach for tribal take. With tribal input, the Commission arrived at "Tribal Gathering Option 1." A core component of this option is the submission of a tribal record that encompasses ancestral, as well as present, use of the areas proposed for MPA designations.</p>
A57-b, A77	42	<p>Articles within the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) need to be addressed and followed in the MLPA process, otherwise it will be subject to lawsuits</p>	<p>The UNDRIP is a non-legally binding aspirational document that describes both individual and collective rights of Indigenous peoples around the world. It addresses issues such as culture, identity, language, health and education and provides guidance to countries, the United Nations, and other international organizations on harmonious, cooperative relationships with Indigenous peoples. It is based on the principles of equality, partnership, good faith and mutual respect. Although the UNDRIP encourages actions by "states," that word in the context of international law refers to countries, not sub-national governmental entities like the State of California. In endorsing the UNDRIP, President Obama told Native American leaders that he wanted to improve the "nation-to-nation" relationship between the United States and the tribes and repair broken promises. This statement acknowledges the unique relationship between the federal government and the Native American tribes. Thus, only the federal government can effectuate the purposes of the UNDRIP by imposing substantive legislative requirements. As a practical matter, nothing in the MLPA Initiative planning process is antithetical to the UNDRIP goals. As a matter of law, the MLPA cannot interfere with any tribal right that has been conferred by the federal government.</p>

A77	43	Do not believe enough money is available to implement the MLPA or deal with lawsuits	Comment noted. Funding the MLPA is a subject expressly identified as a draft master plan component (Fish and Game Code subsection 2856(a)(2)). Consistent with the MLPA's emphasis of timeliness over completeness, the MLPA only requires that these components be addressed in the draft master plan in the form of recommendations. There is no authority for the proposition that the MLPA requires funding to be comprehensively and finally addressed prior to, or contemporaneous with, the MPA designation process.
A10, A53, A66, A76	44	How does the MLPA address potential impacts of anthropogenic activities potentially far more damaging to the region such as water diversions, oil and gas drilling and transport, seabed/sand mining, military exercises, naval sonar and other forms of acoustic pollution, hydrokinetic power projects, aquaculture projects or other forms of industrial development, as well as non-point source pollution? Hope to continue to work on identifying ways these activities can be prevented from having negative impacts on MPAs established.	This comment does not pertain to the Regulation, however, while the Department and Commission retain jurisdiction over the management and take of species within the state's sovereign boundaries, including within MPAs, the MLPA cannot supersede otherwise lawful activities that are not within the authority of the Commission to regulate [Fish and Game Code subsection 2852(d)]. Other regulatory agencies, however, may take into consideration the existence of MPAs in their consideration of the environmental impacts of authorizing a given activity. These regulatory agencies include, but are not limited to, the Bureau of Ocean Energy Management, Regulation, and Enforcement; the Federal Energy Regulatory Commission; the U.S. Army Corps of Engineers; the U.S. Environmental Protection Agency; the State Lands Commission; the California Coastal Commission; the State Water Resources Control Board; and Regional Water Quality Control Boards. Mission critical activities of the U.S. Military are not subject to marine managed area classifications (California Public Resources Code, Section 36710). There are currently federal and state moratoriums or bans on leasing of offshore areas for oil and gas mining activities. As such, it would be speculative to characterize or make conclusions regarding future projects of this nature. Similarly, regarding nearshore or intertidal aquaculture, federal and state policies are in development and the characteristics of any future aquaculture projects within or adjacent to the Study Region are speculative. Regarding hydrokinetic power projects, a hydrokinetic power project has been proposed near Point Cabrillo SMR, however it has yet to be implemented and there is no evidence to suggest the project will proceed to fruition.

A45	45	Support the RNCP, but oppose the three existing MPAs in Mendocino County (MacKerricher SMCA, Russian Gulch SMCA, and Van Damme SMCA) because they were not part of the RNCP	As described in Section III(a)(3) of the ISOR, the BRTF received the RNCP at a two-day meeting on October 25-26, 2010, and unanimously voted to forward the RNCP and the Enhanced Compliance Alternative to the Commission for consideration as a preferred alternative. The BRTF adopted a series of additional recommendations to accompany the two MPA alternatives, one of the additional recommendations, at the request of State Parks, being to retain the existing MPAs adjacent to MacKerricher, Russian Gulch, and Van Damme state parks. The Commission included the recommendation to retain these three existing MPAs, with modifications, when developing the Regulation. The modifications included aligning boundaries to meet Department feasibility and to provide for specific non-commercial tribal uses by federally recognized tribes (see response to comment 2). The Commission adopted the Regulation which includes MacKerricher SMCA, Russian Gulch SMCA, and Van Damme SMCA.
A45	46	Opposed to including MacKerricher SMCA, Russian Gulch SMCA, and Van Damme SMCA in the Regulation. Even though minimal bull kelp harvest occurs currently, the edible seaweed industry will not have an opportunity to harvest bull kelp in these areas if adopted. Recommend either removing these three SMCAs from the Regulation or allowing the take of bull kelp in these three SMCAs. Harvesting bull kelp would not impact the ecosystem, and it is already tightly regulated by both the kelp leasing process and by capping the tonnage a harvester can take per year.	Comment noted. The Commission adopted MacKerricher SMCA, Russian Gulch SMCA, and Van Damme SMCA. See response to comment 45. The take of bull kelp within the existing MacKerricher SMCA, Russian Gulch SMCA, and Van Damme SMCA was not permitted pursuant to existing regulations. According to Department logbook data over the past seven years, there is no indication any bull kelp harvest occurred where the boundaries of the existing three MPAs were expanded to align with Department feasibility. In the north coast region, bull kelp is not currently a major targeted species for harvest by the edible algae industry and represents a small proportion of the overall edible algae take. Department logbook data also indicates all locations for bull kelp harvest throughout the north coast region primarily occur outside of the MPAs adopted in the Regulation. Therefore, the impact to the edible algae industry by retaining these three existing, modified SMCAs should not cause any immediate negative economic impact. Moreover, allowing the harvest of bull kelp would likely decrease the ecological protection afforded by the MPAs, particularly because bull kelp is the primary canopy forming species in the north coast region.

A45	47	Opposed to including the three existing Mendocino County SMCAs in the Regulation, however support rationale for retaining existing restrictions of giant kelp take in these three SMCAs because the species occurs in limited amounts and restrictions will help maintain biodiversity	Comment noted for existing giant kelp take restrictions within MacKerricher SMCA, Russian Gulch SMCA, and Van Damme SMCA. See responses to comments 45 and 46.
A51	48	Much of the brackish and freshwater marsh in the Navarro River Estuary SMCA along the river terrace west of Highway 1 was not included. Should be revised to provide marshland protection	Comment noted. The Commission adopted Navarro River Estuary SMCA, selecting Take Option B, consistent with the RNCP. As defined in subsection 632(b)(27)(A), the Navarro River Estuary SMCA consists of waters below the mean high tide line within the Navarro River Estuary. The eastern and western boundaries of this estuarine MPA are established as lines connecting two points. In other words, estuarine marsh habitat below the mean high tide line between a set eastern and western boundary is included in the regulation, but may not be represented accurately on the map provided in the DEIR. The Navarro River Estuary SMCA was designed and informed by local input during the NCRSG deliberation process, and included in the RNCP. See response to comment 1.
A51	49	Establishing an SMCA at Navarro River estuary would conflict with long established recreational use and public access to the southern portion of Navarro Beach and could create challenges to securing Coastal Development Permits in the future to upgrade existing campground and parking facilities	Adopted MPAs apply to the area from the mean high tide line and below and thus do not affect nor conflict with land-based areas. Public access is not impaired. See also response to comment 48.

A70	50	What is California Coastal Commission's participation in the MLPA planning process, and what excluded CCC's authority in the MLPA planning process	The comment requests documentation from the Coastal Commission relinquishing authority over the project area and its reasons for doing so. However, the comment itself refers to a CCC letter to DFG dated August 26, 2001, which explains that the MLPA process is a "wildlife and fishery management program" for purposes of the California Coastal Act ( <a href="#">Attachment 1</a> ). Pursuant to Public Resources Code section 30411(a), the Coastal Commission may not establish or impose any controls with respect to such a program that duplicates or exceeds regulatory controls established by the Department or Commission. The CCC simply concluded that a coastal development permit is not necessary if the MPAs do not limit public access to state waters. Such a conclusion does not constitute relinquishment of its authority. The CCC participated in the process through the North Coast Regional Stakeholders Group.
A16, A55-b	51	The Yurok Tribe was not allowed to present scientific data on the LOP assumptions and were often dismissed with the derogatory term "tribal science" and that the SAT was only concerned with "western science"	<p>The planning process included public participation opportunities far exceeding what is required by the MLPA or CEQA. With respect to public meetings and materials related to the planning process, there were ample opportunities for public participation in a number of locations throughout the region, including numerous efforts directly to engage tribes and tribal communities of the north coast. In addition, NCRSG members were expected to fulfill the roles identified in the formal NCRSG charter (<a href="http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentVersionID=30518">http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentVersionID=30518</a>). Furthermore, numerous public meetings were held throughout the region, many of which were broadcast and archived. In all, there were twelve tribal outreach meetings in addition to sixty-six other public meetings between July 2009 and July 2011. Staff at local Department offices was also available to assist members of the public with access, navigation and review of web-based materials including viewing of web-based streaming materials or web-based mapping such as Google Earth or MarineMap. Also refer to DEIR Chapter 6, Section 6.6 Environmental Justice and Table 6.6-4, on pages 6.6-8 through 6.6-11, for a comprehensive description of opportunities for involvement during MLPA planning process; DEIR page 6.6-12 for a description of outreach and participation efforts with tribes and tribal communities; and response to comment 41.</p> <p>With respect to scientific data, to facilitate the review of data submitted from external</p>

			<p>sources, the SAT adopted a data submission protocol and form for public use at their December 16-17, 2009 meeting (<a href="http://www.dfg.ca.gov/mlpa/pdfs/binders_nc/b2_34.pdf">http://www.dfg.ca.gov/mlpa/pdfs/binders_nc/b2_34.pdf</a>). All members of the public, including tribal and local governments, were offered the opportunity to provide scientific data and information to be used in the SAT deliberations throughout the planning process. A document identifying the basic criteria for scientific data and a form for submitting data that met those criteria were distributed at a workshop in July 2009 when the planning process first began; this opportunity was also made known to the public during SAT meetings, at stakeholder meetings, at task force meetings, via the MLPA website, and in private conversations. Study region information acquired through time spent working and recreating in the area, but that was not gathered in a formal, scientific fashion, was also encouraged for submission to the process beginning in July 2009. Requests for both types of information were also made at a special north coast tribal information session held in Eureka in August 2009.</p> <p>To the best of the Department's knowledge, after reviewing the records of data submission forms received, the Yurok Tribe did not submit data to the SAT through the established form and protocol during the north coast planning process.</p> <p>To encourage further dialogue and sharing of information and data between the SAT and north coast tribes, the SAT established a tribal work group in November 2009 (the month after the SAT was appointed). As described in Table 1 of the ISOR, the SAT tribal work group held four meetings between January and October of 2010 to discuss science issues related to marine protected area planning, including LOPs.</p> <p>Also see Master Response 1 and Master Response 3.</p>
A55-b	52	LOP assumptions are flawed	Comment noted. See Master Response 1 and Master Response 3.
A16, A55-b	53	No evidence has ever been produced showing harm to the environment from Yurok tribal marine harvesting. This	Comment noted. See Master Response 2 and Master Response 3.

		<p>position is supported by every analytical scientific study of mussels conducted on the north coast all showing a robust mussel population with the principal disruptors being rough seas and mussels destroyed by being rolled over in the surf by huge redwood logs (the LOP does not allow the consideration of these factors).</p>	
A16, A55-b	54	<p>In 2010, the SAT initiated a questionnaire requesting the species, quantities, and methods of Native American marine resource harvesting from Native American individuals. The SAT did not have the necessary permit or exemption under the National Research Act of 1974 as governed by 45 Code of Federal Regulations Part 46 because such behavioral research involving humans requires either an Institutional Review Board permit or exemption.</p>	<p>The MLPA Initiative sought tribal input to inform the NCRSG in their development of final Round 3 MPA proposals. Group project members from the University of California, Santa Barbara, Bren School of Environmental Science &amp; Management, Master's of Environmental Science and Management Program developed a data sheet intended to help facilitate tribal input regarding suggested allowed uses in NCRSG Round 2 MPA proposals. The input was used by the NCRSG as they developed the NCRSG MPA Proposal (NCP) during Round 3 of the north coast MPA planning process, and the SAT subsequently evaluated the NCP. The regulations referenced in the comment implement the National Research Act of 1974 and stipulate substantive and procedural requirements for investigators and institutions engaged in U.S. Department of Health and Human Services-supported or -conducted research. No such research is being conducted under the auspices of the MLPA. Moreover, the solicitation of information regarding tribal take of public trust resources is clearly not the same kind of information-gathering that is the subject of the National Research Act, nor can those who responded to the request for input regarding the data sheet be fairly characterized as human subjects of experimentation. While a permit was not needed for data collected by the University of California, Santa Barbara, Bren School of Environmental Science &amp; Management, Master's of Environmental Science and Management Program, program staff did obtain a Human Subjects Exemption permit after the survey was reviewed by the Office of Research at the University of California, Santa Barbara. The protocols and data sheets were exempted from human</p>

			subjects requirements ( <a href="#">Attachment 2</a> ). A letter from MLPA Initiative Executive Director Ken Wiseman was sent on September 3, 2010 to Chairman Thomas O'Rourke of the Yurok Tribe detailing the granted exemption information ( <a href="#">Attachment 3</a> ).
A55-b, A63	55	Request Commission revisit science derived in the planning process to ensure it is up to date and consistent with decision to include tribes and to recognize tribal uses as a separate category to recreational/ consumptive use	Comment noted. See Master Response 1, Master Response 2, and Master Response 3. In addition, recognizing tribal uses as a separate category would require legislation.
A16	56	Concerned the LOP assumption with recreational take defined as the maximum extent allowable by state and federal law is not susceptible to scientific proof and violates best available science procedures	Comment noted. See Master Response 1 and Master Response 3.
A08, A18	57	Existing regulations and/or conditions were not considered in the MLPA	Comment noted. See Master Response 2 and Master Response 4.
A27	58	Propose continued traditional tribal uses for Sherwood Valley Rancheria tribal members in Big Flat SMCA, Double Cone Rock SMCA, Ten Mile Beach SMCA, Point Cabrillo SMCA, Big River Estuary SMCA, and Navarro River Estuary SMCA	Comment noted, see responses to comments 1 and 2. Also note the adopted MPA near Point Cabrillo is not an SMCA, but an SMR.
A63	59	"Tribal take" is restricted to members of federally recognized tribes, despite a significant	Comment noted. Tribal Option 1 allows the continued specific non-commercial tribal take of marine resources pursuant to existing laws/regulations by federally recognized tribes in specific MPAs as they were listed in the factual records received by the Commission.

		portion of Mendocino and Lake counties constituents of Native American heritage that do not belong to federally-recognized tribes, and as such, are excluded from this provision	See responses to comment 2, comment 9, and comment 33.
A63	60	Format of opportunities to provide comment excluded participation because of the internet-centric format of the process	This comment is not related to the documents and meetings related to the rulemaking, but to the planning process. The planning process included public participation opportunities far exceeding what is required by the MLPA or CEQA. With respect to public meetings and materials related to the planning process, there were ample opportunities for public participation in a number of locations throughout the region, including numerous efforts directly to engage tribes and tribal communities of the north coast. These opportunities for public participation exceeded what is required by the MLPA and CEQA. In addition, the NCRSG members were appointed based on their match with, and commitment to fulfilling, among other criteria, their ability to represent first hand knowledge and perspective to bear on the marine resources in the north coast region, willingness to express fundamental interests of one or more important constituent groups, capability of working collaboratively to integrate the interests of a broad range of constituencies, and ability to access and use an effective communication network to reach constituents not attending the public meetings. Furthermore, numerous public meetings were held throughout the region, many of which were broadcast and archived. In all, there were 12 tribal outreach meetings in addition to 66 other public meetings between July 2009 and July 2011. Staff at local Department offices was also available to assist members of the public with access, navigation and review of web-based materials including viewing of web-based streaming materials or web-based mapping such as Google Earth or MarineMap. Also refer to DEIR Chapter 6, Section 6.6 Environmental Justice and Table 6.6-4, on pages 6.6-8 through 6.6-11, for a comprehensive description of opportunities for involvement during MLPA planning process; DEIR page 6.6-12 for a description of outreach and participation efforts with tribes and tribal communities; and response to comment 41.

			<p>Notice of the Proposed Regulation was mailed to interested parties and included instructions on how to receive hard copies and/or electronic copies of rulemaking documents. Public comments on the proposed regulations were accepted via e-mail, fax, postal mail and at public meetings held in Eureka – a location central to the area of the proposed MPAs.</p>
A63	61	<p>Assumed NCRSG members were recognized community leads and no significant effort was made to consult with community groups outside the NCRSG, access to products was hard and the community concerns were not addressed</p>	<p>Comment noted. North coast community group or groups themselves developed and submitted eight external proposed MPA arrays during Round 1 of the north coast MPA planning process. This particular commenter contributed to one of these Round 1 external proposed MPA arrays. See also response to comment 60.</p>
A55-b	62	<p>SAT spacing guidelines did not consider natural reserves</p>	<p>Comment noted. See Master Response 1 and Master Response 2.</p>
A70	63	<p>The MLPA planning violates the public trust doctrine and jurisdiction of State Lands Commission who was not included in the MLPA planning process</p>	<p>The commenter correctly identifies the three traditional public trust servitudes, but incorrectly concludes that the MLPA violates the public trust doctrine because it does not concern fisheries, navigation or commerce. The MLPA indeed concerns fisheries and therefore is well within the ambit of traditional public trust uses. However, there is a growing public recognition that one of the most important public uses of the tidelands--a use encompassed within the tidelands trust--is the preservation of those lands in their natural state, so that they may serve as ecological units for scientific study, as open space, and as environments which provide food and habitat for birds and marine life, and which favorably affect the scenery and climate of the area (Marks v. Whitney (1971) 6 Cal.3d 251, 260.). In that respect, the designation of MPAs is clearly within the modern scope of public trust uses.</p> <p>The MLPA only expressly contemplates the participation of the Department of Parks and Recreation and the State Water Resources Control Board (Fish and Game Code section 2855(b).) By contrast, under the Marine Managed Areas Improvement Act (MMAIA) the State Lands Commission (SLC) is expressly identified as a member of the State Interagency Coordinating Committee (Public</p>

			<p>Resources Code section 36800), which reviews MPA proposals from individuals and organizations. Nevertheless, the SLC has been actively involved in the proposed project; by letter dated April 12, 2012, it submitted a detailed, 5-page comment letter on the North Coast EIR, which is included in this rulemaking file. In fact, the SLC has always been a major participant in marine managed areas planning. SLC was a member of the Ocean Resources Advisory Committee, which produced California's Ocean Resources: An Agenda For The Future (March 1997) (<a href="http://resources.ca.gov/ocean/97Agenda/PDF/">http://resources.ca.gov/ocean/97Agenda/PDF/</a>). The recommendations of this report directly resulted in the MLPA and the MMAIA. The SLC was also on the State Interagency Marine Managed Areas Workgroup (<a href="http://resources.ca.gov/ocean/Final_MMAs/index.html">http://resources.ca.gov/ocean/Final_MMAs/index.html</a>), which is specifically referenced in the MLPA (Fish and Game Code section 2854).</p> <p>The record shows that the SLC was fully engaged in the proposed project. That the SLC did not submit any objections or recommendations specifically directed at the proposed action or to the procedures followed in proposing or adopting the action does not mean that it was somehow ceding its jurisdiction or was otherwise excluded from the MLPA planning process.</p>
A82	64	Implement adaptive management to monitor and control sea urchins to prevent urchin barrens in MPAs	<p>While the interaction of MPAs and sea urchin populations is complex and not easily characterized, there is considerable evidence that the establishment of MPAs in nearshore rocky habitats does not necessarily lead to the formation of sea urchin barrens. For example, the Gerstle Cove area in Sonoma County and the South Caspar Point area in Mendocino County were closed to commercial sea urchin fishing in 1990 in part to study recovery rates of fished down sea urchin populations. Urchin populations have increased in both closures and have been surveyed intermittently during the intervening 18 years along with adjacent control sites. In 2008 surveys, preliminary results showed that kelp abundance was almost identical inside and outside the Caspar Point commercial urchin closure area, a sign that despite their relatively high density inside the closure, red sea urchins had not created an urchin barren after nearly two decades. The MLPA emphasis of timeliness over certainty or perfection of information is further underscored by the concept of adaptive management, which recognizes that this process proceeds in the face of "scientific uncertainty" and prospectively contemplates</p>

			that “monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood” (Fish and Game Code Section 2852). The objective of adaptive management under the MLPA is not to reduce uncertainty through increased scientific rigor, but rather to produce practical information that guides management decisions. To date, the California experience with adaptive management of marine resources is exemplified through the Marine Life Management Act [Fish and Game Code sections 90.1 and subsection 7056(g)] and the Nearshore Fishery Management Plan, which addresses the critical concepts of the precautionary principle, and the variability of adaptive management strategies in data poor, data moderate, and data rich circumstances. Adaptive management as required by the MLPA enables the Commission to address issues such as urchin barrens when identified by the Department in association with long-term monitoring of the MPA network.
A85	65	Before MLPA, California had 148 MPAs that were all declared failures. After 5 yrs of monitoring at the Channel Islands, you announced no detectable or measurable benefits from the closed areas.	Prior to the implementation of the MLPA there were 63 MPAs listed in Title 14, Section 632, none of which were declared failures. The MLPA recognized the need for a more comprehensive approach. Monitoring results from the first five years of post-MPA implementation at the Channel Islands have shown that many species of fish and invertebrates targeted by fishing outside reserves are bigger and more abundant inside no-take reserves, and that reserves have greater biodiversity and biomass than fished areas nearby. A complete summary and detailed monitoring results can be viewed at <a href="http://www.dfg.ca.gov/marine/channel_islands/fiveyears.asp">http://www.dfg.ca.gov/marine/channel_islands/fiveyears.asp</a> .
A85	66	You have not addressed how no fishing zones protect against failed policies like the Marine Mammal Protection Act and overpopulation of seals and sea lions	Comment noted. See Master Response 4.
A85	67	We have the largest MPA-closed area in the world for black abalone, yet they may be on their way to the endangered species list	Comment noted. Comment is related to Section 29.15, Title 14, and Section 5521 of the Fish and Game Code concerning the take of abalone, which does not constitute an MPA. Numerous and varied factors, outside the scope of the Regulation, affect black abalone. This species was placed on the Federal Endangered Species List on January 14, 2009.

A85	68	Request increase in seasons, daily bag limits, and reduce fish size limits in areas adjacent to MPAs so harvest can be applied appropriately if MPAs work as advertised	<p>Comment noted. Amendment of regulations for seasons, bag limits and size limits in areas adjacent to MPAs is outside the scope of the Regulation. The Commission and the Department are interested in discussions of how MPAs may inform fisheries management under the MLMA. For example, the Department convened a workshop in March 2011 to elicit input on the utility and practicality of using the redesigned network of MPAs to inform fisheries management, potential effects of the MPA network on California's marine fisheries, and how best to monitor for these effects and incorporate them into ecosystem management. Proceedings from this workshop can be viewed at <a href="http://www.dfg.ca.gov/mlpa/mfig.asp">http://www.dfg.ca.gov/mlpa/mfig.asp</a>.</p> <p>The MLPA emphasizes the concept of adaptive management, which recognizes that this process proceeds in the face of "scientific uncertainty" and prospectively contemplates that "monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood" (Fish and Game Code Section 2852). The objective of adaptive management under the MLPA is not to reduce uncertainty through increased scientific rigor, but rather to produce practical information that guides management decisions. See also Master Response 1 and Master Response 4.</p>
A12, A16, A35, A65	69	Support adoption of Tribal Option 1 with tribal gathering to continue from shore in SMCAs and SMRs / support tribal take in all north coast MPAs	Comment noted. See responses to comments 1 and 2.
A65	70	Recommend Sherwood Valley Rancheria ceremonial fishing permits, granted and issued by the Tribal Council, to gather for specified ceremonies for a limited, specific purpose, for a specific time span, be recognized by the state	Comment noted. The comment is not specifically directed at the proposed rulemaking, which requires the persons engaging in tribal take to have all applicable licenses and permits. Legislative action is required to make tribal permits valid outside Indian land.
A16, A55-b	71	LOPs have not been properly peer reviewed	Comment noted. See Master Response 3, and also see Master Response 1.

A16, A55-b, A93	72	Natural constraints and other factors such as paralytic shellfish poisoning were not taken into account regarding SAT analyses	Comment noted. See Master Response 2.
A16, A55-b	73	The SAT made decisions based upon a serious material misstatement of law because the SAT operated under the assumption state legislation would be required for tribal uses to be allowed and therefore did not assess the LOPs for take of one particular group	Comment noted. See Master Response 1 and Master Response 3.
A55-b	74	At a policy level, California needs to have a scientific approach to marine protection that is flexible enough to coordinate or support National Marine Sanctuary and Tribal programs	Comment noted.
A48	75	Oppose Double Cone Rock Take Option B	Comment noted. The Commission did not adopt Double Cone Rock Take Option B. See response to comment 4.
A03	76	Found the science in the whole process somewhat suspect	Comment noted. See Master Response 1.
A16	77	The EIR no project alternative never considered the clearly established existence of natural reserves within the northern bioregion	Comment noted. See Master Response 1 and Master Response 2.
A19	78	Smith River Rancheria can help provide signage from shore for Pyramid Point SMCA Boundary Option 1	Comment noted. See response to comment 13.

A25	79	Blue Lake Rancheria did not receive written notice to submit a factual record to the Commission within 60 days, and therefore did not submit a factual record	There was no notice sent to any tribes about submitting a factual record. This direction came at the request of the tribes that asked for an exemption at the Commission's June 29, 2011 meeting.
A16, A57-a	80	Yurok Tribe believes the inclusion of the Resighini Rancheria in the current proposed regulations is inappropriate. While the Resighini Rancheria can apply for future regulatory procedures, the Commission's request at their June 29, 2011 meeting was clear that a 60-day deadline was imposed on all federally-recognized tribes to submit a factual record.	The Resighini did not provide an independent factual record because they submitted a letter indicating they are of Yurok descent and therefore the factual record submitted by the Yurok tribe spoke for them. At the Commission's June 6, 2012 meeting the Yurok tribe disputed this claim so the Commission removed the Resighini tribe from those MPAs where they had been included in the list of exempted tribes.
A78-a	81	The ECA alternative should not be considered as it places limited tribal take in designated SMCAs	Comment noted. The Commission did not adopt the ECA alternative. See response to comment 1.
A78-a	82	Regulation developed by NCRSG determined traditional uses must be separated from recreational category	Comment noted. See response to comment 55.
A34, A50, A70, A85	83	It is illegal and unjust to delegate access to the ocean for only certain individuals, for the take of plants and animals, or access for spiritual communion, public or private, or for	At the outset, we note that the allowance of tribal take within certain State Marine Conservation Areas does not otherwise prohibit access by others. Moreover, the regulations do not grant this privilege to individuals but rather to persons based on their status as members of a federally recognized tribe. Thus, the statement that it is illegal to grant such a privilege based on "race, religion, national origin, cultural identity, professional, economic or scientific status" is

		subsistence food gathering - on the basis of race, religion, national origin, cultural identity, professional, economic or scientific status. Abrogation of these rights is a violation of both the United States, and the California Constitutions, and the essence of equality, civil rights, and fair play	inapposite because membership in a federally recognized tribe is a political classification. Further, the right to fish is not fundamental but only a qualified right or privilege [California Gillnetters Association v. Department of Fish and Game (1996) 39 CA4th 1145]. In adopting the Regulation, the Commission required tribes to submit a record of their historic use of a given area, to provide satisfactory identification of their tribal affiliation, and to obey all other applicable provisions regarding methods and manner of take. The Commission believes these conditions governing tribal take in certain MPAs are reasonably related to the legitimate government interest of preserving Native American culture. Accordingly, the Commission has concluded that the regulations governing tribal take in MPAs respects and protects traditional, noncommercial tribal use without violating any anti-discrimination or equal treatment guarantees.
A36-a	84	Oppose allowance of waterfowl hunting in the Big River Estuary SMCA	Comment noted. See response to comment 11.
A16	85	The Yurok Tribe and the Bureau of Land Management have had a co-management agreement for Reading Rock for many years	Comment noted.
A16	86	Effectiveness monitoring of salmon and other pelagic finfish was not appropriately considered by the SAT	This was adequately addressed in FEIR, response to comment F11-3.
A16	87	Native uses need to be added to consumptive uses	This was adequately addressed in FEIR response to comment AA-5.
A11	88	The drag boat [trawling] industry needs to be restricted because they waste marine species, not recreational fishermen	Trawling is not allowed in the MPAs. Amendment of the trawling regulations is outside the scope of the Regulation. See Master Response 4.

A90	89	Reading Rock is designated as a traditional cultural property	Comment noted. This comment does not pertain to the Regulation.
A88	90	Requested the Commission consider the Yurok Tribe's historical use of Reading Rock when making its decision.	The Commission adopted Option A for Reading Rock SMR – retain SMR no-take status. The Commission adopted Reading Rock SMCA, including an allowance for take by the Yurok Tribe. See responses to comments 1 and 15.
A91	91	Expressed thanks and appreciation for the community and agencies that worked with the tribes on this issue. Note that tribes have concerns with the proposed regulations, but those concerns would be addressed by the individual tribes.	Comments noted.
A49-a	92	With scientific methods and generations of cultural knowledge and understanding, the Yurok Tribe is dedicated to the continued management of our ancestral coastal gathering grounds and to maintaining a sustainable relationship with the ocean	Comment noted. See response to comment 2.

VII. 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

VIII. Location of Department files:

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

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

Alternatives to the Regulation were provided by the NCRSG and Blue Ribbon Task Force (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 Marine Life Protection Act (MLPA) to varying degrees, and attempts to adhere to the Science Advisory Team (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 of the ISOR, and each alternative is summarized below for informational purposes. Details regarding specific proposed MPA boundaries and regulations are contained in Attachment 5 of the ISOR.

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 (see Attachment 5 of the ISOR). No-take State Marine Reserves (SMR) or “very high protection” State Marine Conservation Areas (SMCA) that do not allow fishing encompass 51 sq mi or five percent of state waters within the MLPA North Coast Study Region (NCSR). The remaining MPAs encompass 83 sq mi or eight percent of state waters within the MLPA NCSR.

No other alternatives were identified.

The ECA incorporated narrow nearshore ribbon MPAs along the shoreline adjacent to four of the larger MPAs and therefore created four additional

State Marine Conservation Areas, as compared to the proposed regulation.

Use of nearshore ribbons would offer some accommodation for California tribes and tribal communities, but would not provide exclusive rights for the California tribes and tribal communities. The use of nearshore ribbons creates complex designs that do not meet feasibility guidelines. These ribbon MPAs also have complex take allowances-creating concerns regarding multiple zoning, where zones have complex regulation differences over a small area and are difficult to enforce. Adoption of nearshore ribbon MPAs would result in lower Level of Protection, loss of shoreline protection. The Commission rejected the ECA in the interest of clarity and consistency of regulations and due to difficulty of enforcement. Additionally, the ECA did not represent the unique consensus proposal developed and agreed upon by all NCRSG members representing diverse interests and cultures.

(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 of the ISOR 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 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.

X. 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 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 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 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 an 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 Regulation are described in Attachment 3 of the ISOR (pp 91-96).

#### Commercial Harvesters

The maximum potential net economic impact (profit in real 2007 dollars) to commercial harvesters under the Regulation (see Table 5) 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 estimated 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 Regulation was 3.0 percent.

Table 5. Estimated annual maximum potential net economic impacts to commercial harvesters by fishery relative to the base for the Regulation in the North Coast Study Region.

Fishery	Baseline Ex-Vessel Value	Baseline Profit	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%
<b>All Fisheries</b>	<b>\$23,865,216</b>	<b>\$9,289,008</b>	<b>\$278,177</b>	<b>3.0%</b>

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

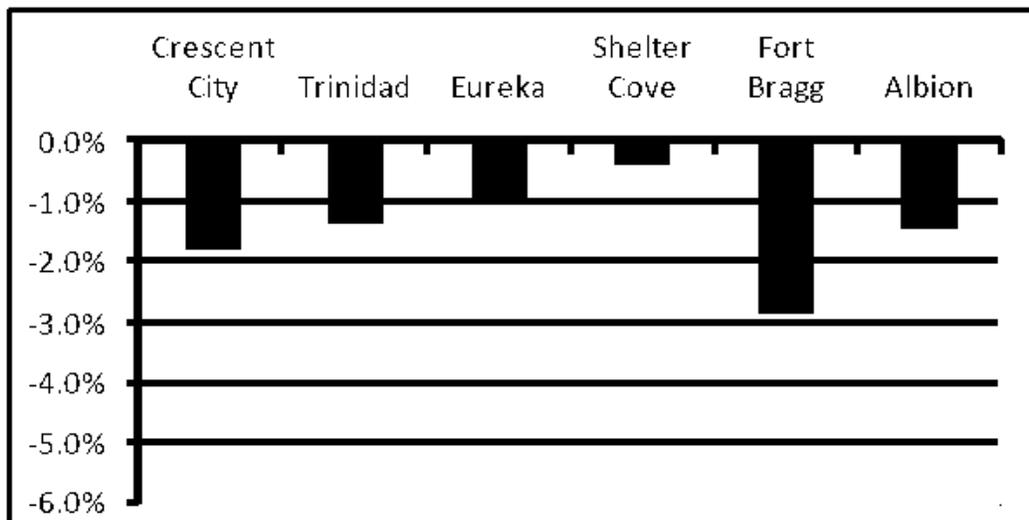


Figure 2. Estimated annual maximum potential net economic impacts of the Regulation to commercial harvesters by port.

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 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 6).

Table 6. Estimated annual maximum potential net economic impacts to commercial passenger fishing vessel fisheries relative to the base.

<b>Port</b>	<b>California Halibut</b>	<b>Dungeness Crab</b>	<b>Pacific Halibut</b>	<b>Rockfish/ Bottomfish</b>	<b>Salmon</b>
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 7 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 7. Estimated percentage of stated value of total recreational fishing grounds affected by port and user group for the 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 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 of the ISOR 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 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 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 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 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 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 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 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

## Updated Informative Digest/Policy Statement Overview

The December 12, 2011 Initial Statement of Reasons (ISOR) contained regulatory sub-options within the California Fish and Game Commission's (Commission) preferred alternative, also known as the Proposed Regulation (Regulation) for boundary or take issues in nine Marine Protected Areas (MPAs).

The Commission adopted the Regulation on June 6, 2012 with the following boundary and/or take sub-options that were consistent with the Revised Round 3 North Coast Regional Stakeholder Group Marine Protected Area Proposal (RNCP):

- Pyramid Point State Marine Conservation Area (SMCA)- Boundary Option 1: Retain coordinates in Proposed Regulation.
- Reading Rock State Marine Reserve (SMR)- Take Option A: Retain SMR designation as in Proposed Regulation.
- Reading Rock SMCA- Name Option: Action for this sub-option was dependent upon the Commission adopting Option B for the Reading Rock SMR. Option A was adopted.
- South Humboldt Bay State Marine Management Area (SMRMA)- Boundary Option 1: Retain coordinates in the Proposed Regulation.
- Sea Lion Gulch SMR- Boundary Option 1: Maintain the boundaries in Proposed Regulation.
- Double Cone Rock SMCA- Take Option A: Retain proposed fishing regulations allowing take of salmon by trolling and Dungeness crab by trap, hoop net, or hand.
- Ten Mile Beach SMCA- Boundary Option 1: Maintain the southern boundary in Proposed Regulation.
- Big River Estuary SMCA- Take Option B: Add recreational take of surfperch and adjust MPA goals and objectives accordingly.
- Navarro River Estuary SMCA- Take Option B: Add recreational take of salmonids consistent with regulations in Title 14, California Code of Regulations (CCR) Section 7.50.

The Commission also adopted the "no-change alternative" for some of the tribes listed in three MPAs:

- Pyramid Point SMCA- Tribal take in the SMCA is allowed for the following tribe: Smith River Rancheria. (The Commission adopted the no-change alternative for the following tribes: Cher-Ae Heights Indian Community of the Trinidad Rancheria, Elk Valley Rancheria, Resighini Rancheria, and Yurok Tribe of the Yurok Reservation.)
- Point St. George Reef Offshore SMCA- Tribal take in the SMCA is allowed for the following tribes: Elk Valley Rancheria and Smith River Rancheria. (The Commission adopted the no-change alternative for the following tribes: Cher-Ae Heights Indian Community of the Trinidad Rancheria, Resighini Rancheria, and Yurok Tribe of the Yurok Reservation.)
- Reading Rock SMCA- Tribal take in the SMCA is allowed for the following

**tribe: Yurok Tribe of the Yurok Reservation. (The Commission adopted the no-change alternative for the following tribes: Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria.)**

**The Commission adopted other regulatory changes as originally proposed including general definitions for “tribal take” and “shore fishing”, MPA and Special Closure locations, MPA allowed uses, and Special Closure seasons.**

**A capitalization error was corrected in subsection 632(a)(11).**

**No additional modifications were made to the originally proposed language of the ISOR.**