

**TITLE 14. Fish and Game Commission  
Notice of Proposed Changes in Regulations**

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by Sections 200, 202, 205(c), 220, 240, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code, and to implement, interpret or make specific Sections 200, 202, 205(c), 220, 240, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code, proposes to amend Section 632, Title 14, California Code of Regulations, relating to tribal take in north coast marine protected areas.

**Informative Digest/Policy Statement Overview**

The Marine Life Protection Act (Fish and Game Code Sections 2850-2863) established a programmatic framework for designating marine protected areas (MPAs) in the form of a statewide network. The Marine Managed Areas Improvement Act (Public Resources Code Sections 36600-36900) standardized the designation of marine managed areas (MMAs), which include MPAs. The overriding goal of these acts is to protect, conserve, and help sustain California's valuable marine resources including maintaining natural biodiversity through adaptive management.

Existing regulations in Section 632, Title 14, California Code of Regulations (CCR) provide definitions, and site-specific area classifications, boundary descriptions, commercial and recreational take restrictions, and other restricted/allowed uses, including exemptions from the area and take regulations for those tribes in the north coast region that submitted factual records of historic and current uses in specific geographies.

**Proposed Amendments:**

The regulatory text in subsection 632(b)(6) is proposed to be amended to add Cher-Ae Heights Indian Community of the Trinidad Rancheria and Resighini Rancheria to the list of tribes exempt from the area and take regulations for Reading Rock State Marine Conservation Area.

The regulatory text in subsections 632(b)(1) and 632(b)(2) is proposed to be updated to reflect Smith River Rancheria's name change to Tolowa Dee-Ni' Nation.

Other changes are proposed for clarity and consistency

**Goals and Benefits of the Proposed Regulations**

The proposed regulations will provide clarity and consistency within the regulations and will align current exemptions from the area and take regulations in the north coast

region with factual records of historic and current uses submitted by federally recognized tribes to the Commission.

### Consistency with Other State Regulations

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

**NOTICE IS GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Red Lion Hotel, 1929 4<sup>th</sup> Street, Eureka, California, on Wednesday, October 19, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Hilton Garden Inn San Diego Mission Valley/Stadium, 3805 Murphy Canyon Road, San Diego, California, on Wednesday, December 7, 2016, at 8:00 a.m., or as soon thereafter as the matter may be heard. **Written comments mailed to the address given below or emailed to [FGC@fgc.ca.gov](mailto:FGC@fgc.ca.gov) must be received before 12:00 noon on December 2, 2016. All comments must be received no later than December 7, 2016, at the hearing in San Diego, California.** If you would like copies of any modifications to this proposal, please include your name and mailing address.

### Availability of Documents

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout format can be accessed through our website at [www.fgc.ca.gov](http://www.fgc.ca.gov). The regulations as well as all related documents upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, Valerie Termini, Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct requests for the above mentioned documents and inquiries concerning the regulatory process to Valerie Termini or Sherrie Fonbuena at the preceding address or phone number.

### Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

### **Impact of Regulatory Action/Results of the Economic Impact Assessment**

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed amendments will neither increase nor decrease recreational or commercial fishing opportunities within marine protected areas..

- (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, and Other Benefits:

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

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

The proposed regulations will provide clarity and consistency within the regulations and will align current exemptions from the area and take regulations in the north coast region with factual records of historic and current uses submitted by federally recognized tribes to the Commission.

- (c) Cost Impacts on a Representative Private Person or Business:  
The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business. The Commission has drafted the regulations in Plain English pursuant to Government Code Sections 11342.580 and 11346.2(a)(1).

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

FISH AND GAME COMMISSION

Dated: September 27, 2016

Valerie Termini  
Executive Director