

**CALIFORNIA MARINE LIFE PROTECTION ACT INITIATIVE:  
APPENDICES TO THE PRELIMINARY DRAFT MASTER PLAN FRAMEWORK  
February 15, 2005**

- A. Glossary**
- B. Master List of Species Likely to Benefit from MPAs**
- C. Description of Existing State Marine Protected Areas**
- D. Outline of Information Required for Proposals for Alternative Networks of Marine Protected Areas**
- E. Implementation of the MLPA: 1999-2004**
- F. Summary of Recent and Ongoing Processes Related to the MLPA Initiative**
- G. Strategy for Stakeholder and Interested Public Participation**
- H. The Marine Life Protection Act**
- I. The Marine Managed Areas Improvement Act**

## A. Glossary

The MLPA includes the definition of several key terms. These are as follows:

The following terms are defined in Fish and Game Code Section 2852:

“(a) "Adaptive management," with regard to marine protected areas, means a management policy that seeks to improve management of biological resources, particularly in areas of scientific uncertainty, by viewing program actions as tools for learning. Actions shall be designed so that, even if they fail, they will provide useful information for future actions, and monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood.”

“(b) "Biogeographical regions" refers to the following oceanic or near shore areas, seaward from the high tide line or the mouth of coastal rivers, with distinctive biological characteristics, unless the master plan team establishes an alternative set of boundaries (emphasis added):

- (1) The area extending south from Point Conception.
- (2) The area between Point Conception and Point Arena.
- (3) The area extending north from Point Arena.”

(As authorized by Fish and Game Code Section 2852(b), the Master Plan Team established an alternate set of boundaries. See XXX.)

“(c) "Marine protected area" (MPA) means a named, discrete geographic marine or estuarine area seaward of the high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law, administrative action, or voter initiative to protect or conserve marine life and habitat. An MPA includes marine life reserves and other areas that allow for specified commercial and recreational activities, including fishing for certain species but not others, fishing with certain practices but not others, and kelp harvesting, provided that these activities are consistent with the objectives of the area and the goals and guidelines of this chapter. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs), which are broader groups of named, discrete geographic areas along the coast that protect, conserve, or otherwise manage a variety of resources and uses, including living marine resources, cultural and historical resources, and recreational opportunities.”

“(d) "Marine life reserve," for the purposes of this chapter, means a marine protected area in which all extractive activities, including the taking of marine species, and, at the discretion of the commission and within the authority of the commission, other activities that upset the natural ecological functions of the area, are prohibited. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state.”

Fish and Game Code Section 2860 (b) further clarifies permissible activities in “marine life reserves”:

“Notwithstanding any other provision of this code, the taking of a marine species in a marine life reserve is prohibited for any purpose, including recreational and commercial fishing, except that the commission may authorize the taking of a marine species for scientific purposes, consistent with the purposes of this chapter, under a scientific collecting permit issued by the department .“(emphasis added)

*The MLPA uses but does not define other terms. The glossary will include suggested definitions of these terms, based upon short-term research now underway. The scope of work of that research is as follows:*

- *Review state and federal statutes as well as relevant scientific and other literature regarding the usage, definition, and interpretation of key terms in the MLPA;*
- *Describe the range of definitions and interpretations of these terms as well as any controversies of relevance to interpretation and application of the MLPA;*
- *Suggest a working definition for the MLPA.*

*Terms that will be defined include, among others, these terms from the MLPA:*

- *natural diversity*
- *abundance*
- *ecosystem*
- *ecosystem structure*
- *ecosystem function*
- *ecosystem integrity*
- *ecosystem disturbance*
- *habitat*
- *representative habitat*
- *unique habitat*
- *intrinsic value*
- *objectives*
- *management*
- *network*
- *system*
- *adaptive management*
- *community*
- *environmental impacts*
- *socioeconomic impacts*
- *rebuild*
- *depleted*
- *biodiversity*
- *marine natural heritage*
- *best readily available science*

## B. Species Likely to Benefit from MPAs

By definition, the primary change from the establishment of an MPA is a reduction in fishing effort within the MPA and a reduction in the removal of organisms due to fishing. Those species likely to benefit by a decrease in the level of harvest are those that are directly targeted by fisheries as well as those which are caught incidental to fishing for the target species (bycatch) and which cannot be returned to the water with a high rate of survival.

An equally important consideration is the tendency of individuals of a species, which are at or above harvestable size, to move, either ontogenetically (related to growth) or seasonally (related to spawning or migrational cycles). Species with a strong tendency to move will not benefit significantly from the establishment of MPAs unless individual sites are large enough to encompass their entire range of movement. These include pelagic species such as northern anchovy, Pacific sardine, Pacific mackerel, jack mackerel, Pacific herring, and California market squid, highly migratory species such as albacore, tuna (bigeye, bluefin, yellowfin tuna, and skipjack), Pacific bonito, wahoo, opah, dolphin fish, swordfish, and striped marlin, most shark species (with the possible exception of leopard and angel sharks), and other migratory species, including chinook and cojo salmon, striped bass, white seabass, giant seabass, yellowtail, barracuda, Pacific hake, and sablefish. However, establishing MPAs in areas which are known spawning grounds for such species would benefit stocks by allowing successful spawning by those sexually mature individuals which have not been harvested in open fishing areas.

The following is a list of harvested marine species in California which are likely to benefit from the establishment of MPAs. The list follows the order in which species are listed in the Department's Table 15, Final Commercial Landings for 1999, and adds species which are taken recreationally but not commercially. Although some abalone species are prohibited to take, they are also listed. The list of rockfishes is from Lea (1992), except that rare and uncommon species not seen in recreational or commercial catches are omitted.

<i>Fishes</i>	<i>Rockfish, black-and-yellow</i>	<i>Rockfish, tiger</i>
<i>Bass, kelp</i>	<i>Rockfish, blackgill</i>	<i>Treefish</i>
<i>Bass, barred sand</i>	<i>Rockfish, blue</i>	<i>Rockfish, vermilion</i>
<i>Bass, spotted sand</i>	<i>Bocaccio</i>	<i>Rockfish, widow</i>
<i>Blacksmith</i>	<i>Rockfish, brown</i>	<i>Rockfish, yelloweye</i>
<i>Butterfish (Pacific pompano)</i>	<i>Rockfish, calico</i>	<i>Rockfish, yellowtail</i>
<i>Cabezon</i>	<i>Rockfish, canary</i>	<i>Sanddab, Pacific</i>
<i>Corbina, California</i>	<i>Chilipepper</i>	<i>Sargo</i>
<i>Corvina, shortfin</i>	<i>Rockfish, China</i>	<i>Scorpionfish, California</i>
<i>Croaker, white</i>	<i>Rockfish, copper</i>	<i>Sculpin, staghorn</i>
<i>Croaker, yellowfin</i>	<i>Cowcod</i>	<i>Shark, Pacific angel</i>
<i>Eel, California moray</i>	<i>Rockfish, darkblotched</i>	<i>Shark, leopard</i>
<i>Eel, wolf</i>	<i>Rockfish, flag</i>	<i>Sheephead, California</i>
<i>Flounder, arrowtooth</i>	<i>Rockfish, freckled</i>	<i>Skate, big</i>
<i>Flounder, starry</i>	<i>Rockfish, gopher</i>	<i>Skate, California</i>

Goby, bluebanded  
Greenling, kelp  
Greenling, rock  
Grenadier  
Grunion, California  
Guitarfish, shovelnose  
Hagfish  
Halfmoon  
Halibut, California  
Halibut, Pacific  
Jacksmelt  
Lingcod  
Lizardfish, California  
Midshipman, plainfin  
Opaleye  
Prickleback, monkeyface  
Queenfish  
Ratfish, spotted  
Ray, Pacific electric  
Ray, bay  
Rockfish, aurora  
Rockfish, bank  
Rockfish, black

Rockfish, grass  
Rockfish, greenblotched  
Rockfish, greenspotted  
Rockfish, greenstriped  
Rockfish, halfbanded  
Rockfish, honeycomb  
Rockfish, kelp  
Rockfish, Olive  
Pacific Ocean perch  
Rockfish, pink  
Rockfish, pinkrose  
Rockfish, quillback  
Rockfish, redbanded  
Rockfish, redstripe  
Rockfish, rosethorn  
Rockfish, rosy  
Rockfish, sharpchin  
Rockfish, shortbelly  
Rockfish, speckled  
Rockfish, splitnose  
Rockfish, squarespot  
Rockfish, starry  
Rockfish, stripetail  
Rockfish, swordspine

Smelt, night  
Smelt, surf  
Smelt, whitebait  
Sole, butter  
Sole, Dover  
Sole, English  
Sole, fantail  
Sole, Petrale  
Sole, rex  
Sole, rock  
Sole, sand  
Surfperch, barred  
Surfperch, black  
Surfperch, pile  
Surfperch, rainbow  
Surfperch, redtail  
Surfperch, rubberlip  
Surfperch, striped  
Surfperch, white  
Thornyhead, longspine  
Thornyhead, shortspine  
Tomcod, Pacific  
Turbot, curlfin  
Whitefish, ocean

**Invertebrates**

**Crustaceans**

Crab, box  
Crab, Dungeness  
Crab, brown rock  
Crab, red rock  
Crab, sand  
Crab, spider  
Crab, yellow rock  
Lobster, California spiny  
Prawn, ridgeback  
Prawn, spot  
Shrimp, bay  
Shrimp, coonstriped  
Shrimp, ghost and mud  
Shrimp, Pacific Ocean

**Echinoderms**

Cucumber, sea (several species)  
Sea stars  
Urchin, purple  
Urchin, red  
Urchin, white

**Mollusks**

Abalone, black  
Abalone, flat  
Abalone, green  
Abalone, pink  
Abalone, pinto  
Abalone, red  
Abalone, threaded  
Abalone, white  
Chiones (several species)  
Clam, California jackknife  
Clam, littleneck  
Clam, gaper  
Clam, geoduck  
Clam, Manila  
Clam, razor  
Clam, softshell

*Clam, Washington  
Cockles (several species)  
Limpets (several species)  
Mussel (several species)  
Octopus (several species)  
Oyster, native  
Scallop, rock  
Sea hare  
Snail, moon  
Snail, top  
Snail, turban  
Whelk, Kellet's*

***Other invertebrates***  
*worms (several species)*

***Plants***  
*Bull kelp  
Giant kelp  
Palm kelp  
Gelidium sp.  
Gracilaria sp.  
Porphyra sp.*

### **C. Description of Existing State Marine Protected Areas.**

For descriptions of existing MPAs, please consult <http://www.dfg.ca.gov/mrd/mlpa/descriptions.html>.

The Marine Life Protection Act (MLPA) requires an analysis of the state's current MPAs, based on the preferred siting alternative for a proposed statewide network of MPAs. The analysis shall include "recommendations as to whether any specific MPAs should be consolidated, expanded, abolished, reclassified, or managed differently so that, taken as a group, the MPAs best achieve the goals" of the MLPA and conform to MLPA guidelines.

The Department has assembled basic descriptions and analyses of existing MPAs at <http://www.dfg.ca.gov/mrd/mlpa/descriptions.html>. Since a preferred siting alternative has not yet been developed, these analyses of existing MPAs are preliminary and are intended as a starting point for the more detailed analyses called for in the MLPA. Each characterization contains a general description of the habitats and depth range, a summary of existing regulations, the primary objectives for establishing the MPA, a summary of relevant research and monitoring within the MPA, and relevant scientific literature citations.

Also included is a preliminary assessment of the overall effectiveness of each MPA. This preliminary assessment is based on a variety of criteria, including baseline monitoring studies, comparisons of factors such as species diversity and density, individual animal sizes, the ability to provide research, educational, and non-extractive recreational opportunities, and the ability of the regulations to be enforced. One problem in evaluating MPA effectiveness for many existing MPAs is the lack of clearly defined goals when they were established. Many of the estuarine MPAs do not have a preliminary assessment of overall effectiveness due to a current lack of available information.

A subsequent, more detailed, evaluation of each MPA will take place as the MLPA Initiative process focuses on individual regions and begins to develop and evaluate options for networks of MPAs for each region. Because one of the requirements of the MLPA is to "encompass a representative variety of marine habitat types and communities, across a range of depths and environmental communities", in the form of marine life refuges (defined as no-take areas in the act and now known as state marine reserves), the subsequent evaluations must consider the need for changing existing MPAs or adding new ones in order to meet this and other requirements of the MLPA.

The literature cited in these preliminary evaluations includes those studies found as of December 2004, and is intended to be an initial review. The literature citations are organized into four categories and listed by reference number from the literature cited section of this report:

1. Published references which relate to the effectiveness of the particular MPA,
2. Published references which relate to the use of the particular MPA as a site for research,
3. Unpublished references which relate to the effectiveness of the particular MPA, and
4. Unpublished references which relate to the use of the particular MPA as a site for research.

If no citations are listed in the description of an MPA, none could be found for that MPA. New references may be added to this report as they become available. At the end of this report is a general list of published and unpublished references that relate to MPAs, including theoretical studies of MPA design where the work was not specifically conducted within or adjacent to MPAs off California. More references are available on the Department's web site at: <http://www.dfg.ca.gov/mrd/mlpa>

The MPAs evaluated at the MLPA web site are organized geographically from north to south by county, as follows:

### [Humboldt County](#)

- Punta Gorda State Marine Reserve

### [Mendocino County](#)

- MacKerricher State Marine Conservation Area
- Point Cabrillo State Marine Conservation Area
- Russian Gulch State Marine Conservation Area
- Van Damme State Marine Conservation Area
- Manchester and Arena Rock State Marine Conservation Area

### [Sonoma County](#)

- Del Mar Landing State Marine Park
- Salt Point State Marine Conservation Area
- Gerstle Cove State Marine Conservation Area
- Fort Ross State Marine Conservation Area
- Sonoma Coast State Marine Conservation Area
- Bodega State Marine Reserve

### [Napa County](#)

- Fagan Marsh State Marine Park

### [Marin County](#)

- Tomales Bay State Marine Park
- Point Reyes Headlands State Marine Conservation Area
- Estero de Limantour State Marine Conservation Area
- Duxbury Reef State Marine Conservation Area
- Corte Madera Marsh State Marine Park
- Marin Islands State Marine Park

### [San Francisco County](#)

- Farallon Islands State Marine Conservation Area

### *Solano County*

- Peytonia Slough State Marine Park

### *Alameda County*

- Albany Mudflats State Marine Park
- Robert W. Crown State Marine Conservation Area

### *San Mateo County*

- Redwood Shores State Marine Park
- Bair Island State Marine Park
- James V. Fitzgerald State Marine Park

### *Monterey County*

- Elkhorn Slough State Marine Reserve
- Hopkins State Marine Reserve
- Pacific Grove State Marine Conservation Area
- Carmel Bay State Marine Conservation Area
- Point Lobos State Marine Reserve
- Julia Pfeiffer Burns State Marine Conservation Area
- Big Creek State Marine Reserve

### *San Luis Obispo County*

- Atascadero Beach State Marine Conservation Area
- Morro Beach State Marine Conservation Area
- Pismo State Marine Conservation Area
- Pismo-Oceano Beach State Marine Conservation Area

### *Santa Barbara County*

- Vandenberg State Marine Reserve
- Richardson Rock State Marine Reserve (San Miguel Island)
- Judith Rock State Marine Reserve (San Miguel Island)
- Harris Point State Marine Reserve (San Miguel Island)
- South Point State Marine Reserve (Santa Rosa Island)
- Carrington Point State Marine Reserve (Santa Rosa Island)
- Skunk Point State Marine Reserve (Santa Rosa Island)
- Painted Cave State Marine Conservation Area (Santa Cruz Island)

- Gull Island State Marine Reserve (Santa Cruz Island)
- Scorpion State Marine Reserve (Santa Cruz Island)
- Refugio State Marine Conservation Area
- Goleta Slough State Marine Park
- Santa Barbara Island State Marine Reserve

#### Ventura County

- Anacapa State Marine Reserve
- Anacapa State Marine Conservation Area
- Big Sycamore Canyon State Marine Reserve

#### Los Angeles County

- Abalone Cove State Marine Park
- Point Fermin State Marine Park
- Catalina Marine Science Center State Marine Reserve
- Farnsworth Bank State Marine Conservation Area
- Lover's Cove State Marine Conservation Area

#### Orange County

- Bolsa Chica State Marine Park
- Upper Newport Bay State Marine Park
- Robert E. Badham State Marine Park
- Crystal Cove State Marine Conservation Area
- Irvine Coast State Marine Park
- Laguna Beach State Marine Park
- Heisler Park State Marine Reserve
- South Laguna Beach State Marine Park
- Niguel State Marine Park
- Dana Point State Marine Park
- Doheny State Marine Park
- Doheny State Marine Conservation Area

#### San Diego County

- Buena Vista Lagoon State Marine Park
- Agua Hedionda Lagoon State Marine Reserve
- Batiquitos Lagoon State Marine Park
- Encinitas State Marine Conservation Area
- Cardiff and San Elijo State Marine Conservation Area
- San Elijo Lagoon State Marine Park
- San Dieguito Lagoon State Marine Park

- San Diego-Scripps State Marine Conservation Area
- La Jolla State Marine Conservation Area
- Mia J. Tegner State Marine Conservation Area

*Preliminary Draft*

#### **D. Outline of Information Required for Proposals for Alternative Networks of Marine Protected Areas**

The Marine Life Protection Act (MLPA) requires the development and evaluation of alternative network proposals for marine protected areas in the various regions of the state. There are several sources of guidance regarding the contents and evaluation of proposals for alternative networks:

- The MLPA
- Discussions of the Master Plan Team established under the MLPA
- Criteria developed by the State Interagency Coordinating Committee for Marine Managed Areas pursuant to the Marine Managed Areas Improvement Act
- Experience with establishing MPA networks in California and elsewhere.

Distillation of this guidance will assist in developing and evaluating MPA network proposals by identifying early in the process the required or desirable information, synthesis, analysis, and evaluation. The current limited capacity of state agencies to carry out all of these functions argues for encouraging the private sector to take on more of these activities. The more the information and analytical requirements of the MLPA are met by MPA network proposals from the private sector, the more likely it will be that responsible agencies can carry out due diligence review of these proposals.

The proposed outline of information required for proposals for alternative networks of MPAs is based on the guidance identified above. Definition of key terms will require further discussion as part of the broader MLPA Initiative. Whether prepared by a public agency or by a private organization, a proposal for a regional network of MPAs should aim at addressing most, if not all, of the requirements listed below.

The outline is organized in four sections:

- A summary
- The setting
- The proposed alternative networks
- Individual MPAs within the preferred network.

## Information Required for Proposals for Alternative Networks of Marine Protected Areas

### Summary

- Objectives of network
- How the proposal addresses the requirements of the MLPA and other relevant law

### The Setting

- Description of region
  - Legal description of the boundaries of study area
    - Rationale for boundaries
  - Species or groups of species likely to benefit from MPAs (FGC §2856[a]2[B]). (See list of species at [www.dfg.ca.gov/mrd/mlpa/guidelines.html](http://www.dfg.ca.gov/mrd/mlpa/guidelines.html) and [www.dfg.ca.gov/mrd/mlpa/table\\_inv.html](http://www.dfg.ca.gov/mrd/mlpa/table_inv.html).)
    - Distribution of these species in the region and beyond
    - Status of these species in the region and beyond
  - Representative or unique marine ecosystems in the region (FGC §2853[b]1)
    - Distribution of these ecosystems
    - Status of these ecosystems (principally “function” and “integrity”)
  - Distribution of representative and unique habitats in the region generally, and specifically for species likely to benefit:
    - Rocky reefs
    - Intertidal zones
    - Sandy or soft ocean bottoms
    - Submerged pinnacles
    - Kelp forests
    - Submarine canyons
    - Seagrass beds
  - Distribution of oceanic features that may influence target species, including currents and upwelling zones (FGC §2856[a]2[B])
  - Current and anticipated distribution of human uses
    - Aquatic
      - Commercial fishing
      - Recreational fishing
      - Diving
      - Etc.
    - Terrestrial
      - Discharges
      - Recreation
      - Aesthetics
      - Other

- Current management of human activities affecting target species, ecosystems, and habitats
- Evaluation of current management of human activities affecting target species, ecosystems, and habitats in relations to the goals and objectives of the MLPA

### The Proposed Network

- Process used to develop the proposal
  - Participants and their roles
  - Sources of information
- Gap analysis
  - Description of existing MPAs
  - Adequacy of existing management plans and funding
  - Target habitats and ecosystems entirely unrepresented or insufficiently protected by existing MPAs and other management activities,
  - Target habitats and ecosystems insufficiently protected by existing MPAs and other management activities, without replicates in the region or with replicates too widely spaced.
- Framework for regional network of MPAs
- Regional goals and objectives for a network of MPAs
  - Relation of goals and objectives to the MLPA generally and to resource problems and opportunities in the region specifically
- General description of preferred network (and alternatives)
  - Spacing of MPAs and overall regional level of protection
  - Proposed management measures
  - Proposed monitoring for evaluating the effectiveness of the site in achieving its goals
  - Proposed research programs,
  - Proposed education programs,
  - Enforcement needs and means of meeting those needs,
  - Funding requirements and sources,
  - Proposed mechanisms for coordinating existing regulatory and management authority,
  - Opportunities for cooperative state, federal, and local management,
  - Name of network.
- Evaluation of the proposed network:
  - How does the network emphasize (*much of this is from the MPT*):
    - areas where habitat quality does (or potentially can) support diverse and high-density populations,
    - benthic habitats and non-pelagic species,

- hard bottom as opposed to soft bottom, because fishing activities within state waters have had the greatest impact on fishes associated with hard bottom, and because soft bottom habitat is interspersed within areas containing rocky habitat,
- habitats associated with those species that are officially designated as overfished, with threatened or endangered species, and productive habitats such as kelp forests and seagrass beds?
- How does the network include:
  - unique habitats,
  - a variety of ocean conditions such as upwelling centers, upwelling shadows, bays, estuaries, and exposed and semi-protected coastlines?
- How does the network incorporate or expand upon existing MPAs that are considered to be effective?
- How does the network include a variety of sizes and types of MPAs that are dispersed in a network that does the following:
  - Provide enough space within individual MPAs for the movement of juveniles and adults of many species,
  - Achieve beneficial ratios of edge to area,
  - Help to include a variety of habitats,
  - Facilitate analysis of the effects of different-sized MPAs,
  - Facilitate analysis of the effects of different types of MPAs,
  - Provide a network of sources for larval dispersal that are interconnected,
  - Enable the use of MPAs as reference sites to evaluate the effects of climate change and other factors on marine ecosystems, without the effects of fishing,
  - Enable the use of MPAs as reference sites for fisheries management,
  - Minimize the likelihood that catastrophic events will impact all replicate MPAs within a biogeographic region.
  - If an MPA is less restrictive than a reserve, how do different uses and restrictions affect achieving the objectives immediately above?
- How does the network use simple and easily recognizable boundaries to facilitate identification and enforcement of MPA regulations?
- Where feasible, how does the network locate MPAs in areas where there is onsite presence to facilitate enforcement?
- How does the network consider non-extractive uses, cultural resources, and existing fisheries and fishing regulations?
- How does the network consider proximity to ports, safe anchorage sites, and points of access, to minimize negative impacts on people and increase benefits?
- How does the network facilitate monitoring of MPA effectiveness by including well-studied sites, both in MPAs and unprotected areas?
- How does the network consider positive and negative socioeconomic consequences?
- What are the socio-economic impacts of the proposed networks?
  - Current uses:
    - What are the current uses of the site that are likely to be affected?
    - What are the likely impacts of the site upon these uses?

- Future uses:
  - How are current uses expected to change in response to the site?
  - What are the socio-economic impacts of these changes?
- Costs and benefits:
  - What uses are likely to benefit from the site, and how?
  - What uses are likely to suffer from the site, and how?
- What is the improved marine life reserve component of the preferred network? (FGC §2857[c])
  - Which regional habitat types are represented in two or more marine reserves in this network?
    - Do these reserves include these habitat types and communities across different depth ranges?
    - Do these reserves include these habitat types and communities across different environmental conditions?
    - Is each of these habitat types and communities represented in two or more reserves in this region?
- Which species will benefit from the proposed network and how? (See list of species at [www.dfg.ca.gov/mrd/mlpa/guidelines.html](http://www.dfg.ca.gov/mrd/mlpa/guidelines.html) and [www.dfg.ca.gov/mrd/mlpa/table\\_inv.html](http://www.dfg.ca.gov/mrd/mlpa/table_inv.html).)
- How does this network meet the goals and guidelines of the MLPA (FGC § 2853[b]), viz:
  - Protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems;
  - Help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted;
  - Improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity;
  - Protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value;
  - Ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines;
  - Ensure that the State's MPAs are designed and managed, to the extent possible, as a network.
- Information necessary for fulfilling required CEQA analysis requirements of network alternatives.

### **Individual MPAs within the Preferred Network**

- What are the boundaries of this MPA?
- What is the total area of the MPA?

- What is the total shoreline length of the MPA?
- Does this MPA expand upon an existing MPA?
- What is the overall goal of this MPA?
- What are the objectives that serve this goal?
- What species, populations, habitats, or ecosystem functions are of most concern in this area?
  - What are the chief threats to these features?
    - Which of these threats are amenable to management?
  - What restrictions are proposed that address these threats?
  - What additional restrictions or designations (e.g. water quality protection areas) would help address these threats?
- Many of the general design issues identified for the regional network apply here as well.
- What features does the site display among those identified for different types of MPAs by the State Interagency Coordinating Committee for Marine Managed Areas? (See Attachment A.)

## **ATTACHMENT A**

### **Excerpted from California State Interagency Coordinating Committee for MMAs CRITERIA FOR DESIGNATING MARINE MANAGED AREAS**

Pursuant to statute, these designation criteria have been developed by the State Interagency Coordinating Committee for Marine Managed Areas to assist individuals or groups in developing site proposals. While the criteria are based on language in California law, it is not required that a site meet all of the criteria listed for a specific classification. Because different MMAs will have different goals and purposes, some of the criteria listed overlap or are mutually exclusive. All the criteria are presented here to help applicants prepare appropriate documentation. Site proposals need only address those criteria that apply to the specific site and classification being proposed (see item #6 on the application form).

[Note that the word “potential” has been added before each set of criteria in this attachment. This word has been added during development of the draft master plan framework for the MLPA Initiative and was not part of the original attachment as developed by the California State Interagency Coordinating Committee for MMAs.]

#### **I. STATE MARINE RESERVE**

##### **A. Potential Biological Criteria**

1. The proposed site will protect or restore rare, threatened, or endangered native species or habitats.
2. The proposed site will protect outstanding, representative, or imperiled marine species, communities, habitats, or ecosystems.
3. The proposed site will protect populations of one or more fish species that have been declared “overfished” by the National Marine Fisheries Service. [see [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) for list]
4. The proposed site will protect populations of harvested species that are of concern to state or federal fishery managers.
5. One or more habitats within the proposed site is/are designated as essential fish habitat (EFH) by the National Marine Fisheries Service. [see [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) for list]
6. The proposed site will protect habitat, or biological communities, populations, species or gene pools that are under-represented or not replicated in the existing network of state marine managed areas.
7. The proposed site will protect connections between geographic areas and/or habitat types, including estuarine and marine, wetland and intertidal, intertidal and subtidal, and deep and shallow water.

8. The proposed site is biologically highly productive.
9. The proposed site contains multiple habitat types.
10. The proposed site has historically received relatively heavy fishing effort, it is likely that some populations of fished species are locally depleted, and populations of fished species are expected to rebound if protected.

**B. Potential Socio-Economic Criteria**

1. The proposed site currently or potentially provides public access, consistent with resource protection goals.
2. The proposed site currently or potentially provides educational and interpretive activities for the public.
3. The proposed site has historically received relatively little fishing effort.
4. Designation of the proposed site is not likely to have a significant negative socio-economic impact on those who have traditionally used the area.
5. Designation of the proposed site is likely to have a positive socio-economic impact.
6. The proposed site is bordered by similar habitat in which spillover effects from protecting one or more species could benefit those fishing adjacent to the site.

**C. Potential Management and Enforcement Criteria**

1. The proposed site overlaps or is adjacent to an existing protected or managed area, thus facilitating enforcement.
2. The proposed site is adjacent to a populated area in which public stewardship would facilitate enforcement.
3. The proposed site has boundaries that are practical and enforceable.
4. Designating this site would lessen the impact of human uses on sensitive populations of marine or estuarine organisms.
5. The proposed site has little or no direct access from land, or the access is controlled.
6. The proposed site has or will have funding sources and/or in-kind resources for enforcement.
7. The proposed site has or will have funding sources and/or in-kind resources for management activities.

**D. Potential Evaluation and Research Criteria**

1. The proposed site will provide an opportunity for scientific research or monitoring in outstanding, representative, or imperiled marine habitats or ecosystems.
2. The proposed site has or will have funding for scientific research or monitoring.
3. The proposed site has been the site of previous scientific research or monitoring studies.
4. Seafloor habitat within the proposed site has been partially or totally mapped using side-scan sonar or equivalent technology.

**II. STATE MARINE PARK**

**A. Potential Biological Criteria**

1. The proposed site will protect a spacious natural system.
2. The proposed site will protect outstanding, representative, or imperiled marine species, communities, habitats, or ecosystems.
3. The proposed site will afford some protection to populations of harvested species that are of concern to state or federal fishery managers.
4. One or more habitats within the proposed site are designated as essential fish habitat (EFH) by the National Marine Fisheries Service. [see [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) for list]
5. The proposed site will protect habitat, or biological communities, populations or species that are under-represented or not replicated in the existing network of state marine managed areas.
6. The proposed site will protect connections between geographic areas and/or habitat types, including estuarine and marine, wetland and intertidal, intertidal and subtidal, and deep and shallow water.
7. The proposed site is biologically highly productive.
8. The proposed site contains multiple habitat types.
9. The proposed site has historically received relatively heavy fishing effort, it is likely that some populations of fished species are locally depleted, and populations of fished species are expected to increase if protected.
10. The proposed site will protect populations of one or more fish species that have been declared “overfished” by the National Marine Fisheries Service. [see [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) for list]

**B. Potential Cultural Criteria**

1. The proposed site has cultural objects or sites of historical, archaeological or scientific interest.

**C. Potential Socio-Economic Criteria**

2. The proposed site currently or potentially provides public access, consistent with resource protection goals.
3. The proposed site currently or potentially provides educational and interpretive activities for the public.
4. The proposed site will provide sustainable recreational opportunities in the absence of conflicting uses.
5. The proposed site will provide recreational opportunities to meet other than purely local needs.
6. The proposed site has historically received relatively little fishing effort.
7. Designation of the proposed site is not likely to have a significant negative socio-economic impact on those who have traditionally used the area.
8. Designation of the proposed site is likely to have a positive socio-economic impact.
9. The proposed site is bordered by similar habitat in which spillover effects from protecting one or more species could benefit those fishing adjacent to the area.

**D. Potential Geological Criteria**

1. The proposed site has outstanding or unique geological features that contribute to the biological productivity of the area.
2. The proposed site has geological features that are critical to the lifecycle of native marine or estuarine species.

**E. Potential Management and Enforcement Criteria**

1. The proposed site overlaps or is adjacent to an existing protected or managed area, thus facilitating enforcement.
2. The proposed site is adjacent to a populated area in which public stewardship would facilitate enforcement.
3. The proposed site has boundaries that are practical and enforceable.
4. Designating this site would lessen the impact of human activities on sensitive populations of marine or estuarine organisms.

5. The proposed site has or will have funding sources and/or in-kind resources for enforcement.
6. The proposed site has or will have funding sources and/or in-kind resources for management activities.

#### **F. Potential Evaluation and Research Criteria**

1. The proposed site will provide an opportunity for scientific research or monitoring in outstanding, representative, or imperiled marine habitats or ecosystems.
2. The proposed site has or will have funding for scientific research or monitoring.
3. The proposed site has been the site of previous scientific research or monitoring studies.
4. Seafloor habitat within the proposed site has been partially or totally mapped using side-scan sonar or equivalent technology.

### **III. STATE MARINE CONSERVATION AREA**

#### **A. Potential Biological Criteria**

1. The proposed site will protect or restore rare, threatened, or endangered native species or habitats.
2. The proposed site will protect outstanding, representative, or imperiled marine species, communities, habitats, or ecosystems.
3. The proposed site will protect populations of one or more fish species that have been declared "overfished" by the National Marine Fisheries Service. [see [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) for list]
4. The proposed site will protect populations of harvested species that are of concern to state or federal fishery managers.
5. One or more habitats within the proposed site are designated as essential fish habitat (EFH) by the National Marine Fisheries Service. [see [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov) for list]
6. The proposed site will protect habitat, or biological communities, populations, species or gene pools that are under-represented or not replicated in the existing network of state marine managed areas.
7. The proposed site will protect connections between geographic areas and/or habitat types, including estuarine and marine, wetland and intertidal, intertidal and subtidal, and deep and shallow water.
8. The proposed site is biologically highly productive.

9. The proposed site contains multiple habitat types.
10. The proposed site has historically received relatively heavy fishing effort, it is likely that some populations of fished species are locally depleted, and populations of fished species are expected to rebound significantly if protected.

**B. Potential Socio-Economic Criteria**

1. The proposed site currently or potentially provides public access, consistent with resource protection goals.
2. The proposed site currently or potentially provides educational and interpretive activities for the public.
3. The proposed site has historically received relatively little fishing effort.
4. Designation of the proposed site is not likely to have a significant negative socio-economic impact on those who have traditionally used the area.
5. Designation of the proposed site is likely to have a positive socio-economic impact.
6. The proposed site is bordered by similar habitat in which spillover effects from protecting one or more species could benefit those fishing adjacent to the area.

**C. Potential Geological Criteria**

1. The proposed site has outstanding or unique geological features that contribute to the biological productivity of the area.
2. The proposed site has geological features that are critical to the lifecycle of native marine or estuarine species.

**D. Potential Management and Enforcement Criteria**

1. The proposed site overlaps or is adjacent to an existing protected or managed area, thus facilitating enforcement.
2. The proposed site is adjacent to a populated area in which public stewardship would facilitate enforcement.
3. The proposed site has boundaries that are practical and enforceable.
4. Designating this site would lessen the impact of human activities on sensitive populations of marine or estuarine organisms.

5. The proposed site has living marine resources that if managed properly will allow for sustainable harvest.
6. The proposed site has or will have funding sources and/or in-kind resources for enforcement.
7. The proposed site has or will have funding sources and/or in-kind resources for management activities.

**E. Potential Evaluation and Research Criteria**

1. The proposed site will provide an opportunity for scientific research or monitoring in outstanding, representative, or imperiled marine habitats or ecosystems.
2. The proposed site has or will have funding for scientific research or monitoring.
3. The proposed site has been the site of previous scientific research or monitoring studies.
4. Seafloor habitat within the proposed site has been partially or totally mapped using side-scan sonar or equivalent technology.

## **E. Implementation of the MLPA 1999-2004.**

In April 2001 a general informational two-page letter was mailed to approximately 7,000 constituents. The letter provided information about the MLPA process and asked for initial recommendations about the effectiveness of existing MPAs, possible modifications of existing MPAs, and possible additional MPAs. About half of the letters were sent to commercial fishers, for which the Department of Fish and Game (DFG) maintains a comprehensive mailing list. However, at the time DFG did not have an adequate mailing list for recreational anglers and other members of the public, and many constituents did not become aware of the MLPA process, in particular the July 2001 public workshops, until during or after July.

In April 2001 supplementary letters were included with the informational letters and sent to commercial fishers as well as those recreational fishing constituents in our data base at the time. This included all commercial passenger fishing vessel (CPFV) landings and the primary recreational diving and angling organizations (including Cen Cal Divers and United Anglers representatives). These letters contained DFG fishing block maps (numbered 10 x 10 square mile areas partially or entirely within state waters) and requested informational on areas of primary use, with the intention of using this information to help reduce potential socioeconomic impacts from recommended MPAs.

Approximately 215 responses were received during the next several months. These were of limited value to the Master Plan Team; many of the DFG block maps indicated all blocks were important within a region.

Initial Draft Concepts, which identified areas the Master Plan Team thought worthy of consideration as MPAs, were developed during January to July 2001 by the Master Plan Team. They were primarily based on the recommendations of the Master Plan Team scientists. Although fishery data were considered, there was little input from constituent user groups nor was there any initial socioeconomic analysis. The team realized that the proposals would generate controversy but it was felt that the Initial Draft Concepts would serve as a starting point from which to consider public input on potential negative impacts to users. The team stated at all public workshops in July 2001 that these proposals would be revised based on public input.

Each of the four Initial Draft Concepts was made available on DFG's MLPA website, and at DFG Marine Region offices, during June-July 2001, approximately two weeks before the scheduled workshops for a particular region.

The draft concepts for the four regions differed because each region is characterized by differences in environmental conditions, the status of marine populations and ecosystems, the levels of historical and on-going extraction and human use; and the extent of existing MPAs. No predetermined percentage of state waters was designated for any form of protection in any of the regions.

To meet the MLPA goals, the MLPA Master Plan Team employed the following criteria in developing the draft concepts for regional networks of MPAs for California. Design elements included MPA location, shape, size, number, association with existing MPAs and other area-based regulations. The criteria are organized into three categories: 1) habitat; 2) size and spacing; and 3) practicality.

As stated previously, the team presented the Initial Draft Concepts to the public at ten workshops throughout the state. An informational two-page notice was mailed to the same list of approximately 7,000 constituents in mid-June, provided to the press, and made available at Marine Region offices and on the MLPA website. In all, approximately 2,500 people attended the workshops.

The informal phase of public comment for the MLPA process was an extensive one and began with the mass mailing of the previously mentioned informational letter in mid April 2001. From then until mid June 2001, when the first Initial Draft Concept (North Central Region) became available to the public, approximately 340 comments were received, primarily via letter and email. Of these approximately 215 were related to the supplementary informational letters and contained the DFG block maps. Understandably, most comments were of a general nature but varied substantially in content.

Between mid June and mid November approximately 2,915 additional comments were received, including the following subsets: 400 individual letters, 235 form letters, 235 emails, 1,215 form emails, 420 form faxes, and 370 form postcards. It would serve no purpose to quantify these comments as, for or against MPAs in general, or with the many subtle variations of compromises in between.

All comments were distributed to appropriate team members for their consideration. If comments applied only to a specific region they were sent only to the regional team members and to the three at-large members (Jim Barry, Frank Palmer, John Dixon). Although most comments were received and distributed, in general individuals did not receive acknowledgment or response. Exceptions included letters sent to the Governor or the Director of Fish and Game and subsequently forwarded to the South Central region coordinator for response.

After the July public workshops it became apparent to the team that additional venues were necessary for public input in the MLPA process. From late August to December 2001, team members within each region conducted small group meetings with constituent representatives to discuss concerns with the process and with the Initial Draft Concepts. Constituent groups were contacted based on input from DFG, team members, and the constituents themselves, who often requested a meeting. An attempt was made to reach every major constituent group within each region.

Regional coordinators were responsible for providing a summary of each meeting to all team members. These summaries were eventually placed on the MLPA website for public review. Many useful suggestions were made, including alternative sites, modification of existing sites, either in proposed boundaries and/or regulations. Areas were identified that would create a significant negative socioeconomic impact on users if designated as MPAs..

## **F. Summary of Recent and Ongoing Processes Related to the MLPA Initiative (Revised November 2004)**

Several state, federal, and local agencies have either jurisdictional authority for or a vested interest in establishing marine protected areas (MPAs) in California. This document describes these various entities and their roles and provides a summary review of recent or ongoing processes that are separate from, but related to, the Marine Life Protection Act Initiative. Note that these summaries have not been reviewed by the organizations whose activities are described.

### **List of Ongoing and Recent MPA Processes**

These state, federal and local processes are described in more detail in section III.

#### ***State Processes***

- Channel Islands MPAs (Department of Fish and Game) - State waters monitoring of an MPA network implemented in 2003

#### ***Federal Processes***

- Presidential Executive Order on MPAs (National MPA Center) - Charges federal agencies with the task of establishing a national network of MPAs
- Channel Islands National Marine Sanctuary - Federal waters implementation of the joint state/federal MPAs recommendation
- Monterey Bay National Marine Sanctuary – Working group is reviewing the need for MPAs in the sanctuary
- Gulf of the Farallones National Marine Sanctuary - Working group is reviewing the need for additional protection in coastal estuaries
- California Coastal National Monument (Bureau of Land Management) - Established by presidential proclamation to protect important biological and geological values
- Point Reyes National Seashore (National Park Service) - Evaluating a potential new MPA around Bird Rock

#### ***Local Processes***

- Fitzgerald State Marine Park (San Mateo County Department of Parks and Recreation) - Interested in changing the park designation to a state marine reserve.
- Ed Ricketts Park, Monterey (City of Monterey) - The city has established a park which prohibits the use of spearguns or pole spears without the concurrence of the Department of Fish and Game or Fish and Game Commission.
- Pacific Grove State Marine Conservation Area (City of Pacific Grove) - The city has established restrictions on the take of marine invertebrates without the concurrence of the Department of Fish and Game or Fish and Game Commission.
- Diablo Canyon Nuclear Power Plant (Regional Water Quality Control Board) - Pacific Gas & Electric suggested that the creation of new MPAs could serve as partial mitigation for the impacts

associated with the power plant, though the Department of Fish and Game has not determined that MPAs are appropriate or complete mitigation for these impacts.

## **State, Federal and Local Agencies with MPA Interests and Their Authority to Establish MPAs**

### ***State Agencies***

#### ***California Department of Fish and Game (DFG)***

The California Department of Fish and Game has management authority over living marine resources within state waters (generally between 0 and 3 nautical miles from shore or around offshore islands) as well as authority to regulate fisheries that deliver catch to California ports. Thus, DFG has some authority beyond state waters and often enforces regulations outside the 3 nautical mile line. DFG enforces laws established by the California Legislature and regulations established by the Fish and Game Commission (Commission). The Commission has authority to establish, modify, or delete state marine reserves and state marine conservation areas. The Commission may establish fishing regulations for state marine parks, but must have the concurrence of the Park and Recreation Commission (see below) to establish, modify or delete a state marine park. Other Commission fishing regulations may also affect or be affected by MPA designations.

#### ***California Department of Parks and Recreation (State Parks)***

Responsible for almost one-third of California's scenic coastline, the Department of Parks and Recreation manages coastal wetlands, estuaries, beaches, and dune systems within State Park units. Through State Water Bottom Leases, State Parks has management authority over several underwater areas, though does not have authority to restrict the take of living marine resources. State Parks enforces regulations established by the Park and Recreation Commission. The Park and Recreation Commission has authority to establish, modify or delete state marine reserves, state marine parks, and state marine conservation areas, but must have the concurrence of the Fish and Game Commission on any proposed restrictions to the extraction of living marine resources.

#### ***State Water Resources Control Board (SWRCB)***

The State Water Resources Control Board has regulatory authority over discharges into marine waters from point and nonpoint sources, as well as other water-quality related aspects. SWRCB has authority to create state water quality protection areas, which are a classification of marine managed areas (MMAs) and are not MPAs. Regional water quality control boards are the units within the SWRCB that oversee local management issues throughout the state.

### ***Federal Agencies***

#### ***National Oceanic and Atmospheric Administration (NOAA)***

The National Oceanic and Atmospheric Administration conducts research and gathers data about the global oceans, atmosphere, space, and sun. A U.S. Department of Commerce agency, NOAA provides these services through five major organizations, three of which have direct interest in MPA issues: the

National MPA Center, the National Ocean Service (under which the National Marine Sanctuary Program is found) and NOAA Fisheries.

National MPA Center - The Executive Order on MPAs (see below) established the National MPA Center to oversee national efforts to create a national system of MPAs and to assist government agencies in participating in this effort. The National MPA Center also supports the MPA Federal Advisory Committee established under executive order as well as a Science Institute which provides scientific information and policy analysis to support the planning, management and evaluation of the nation's MPAs.

National Marine Sanctuaries - The sanctuaries' primary objectives are resource protection, research, education, and public use. Sanctuaries have broad authority for establishing regulations under the Sanctuaries Act to protect sanctuary resources. The designation documents of the four California sanctuaries (Channel Islands, Monterey, Gulf of the Farallones and Cordell Bank) do not currently allow for the imposition of fishing regulations. They may, however, amend their designation through a management plan review process. For changes to designation documents that may impact state waters, the governor has the power to overrule such changes.

NOAA Fisheries (the National Marine Fisheries Service or NMFS) - NMFS has regulatory authority for marine finfishes, invertebrates, and marine mammals other than sea otters in waters 3-200 nautical miles from shore. Among other laws, NMFS derives its authority from the Magnuson-Stevens Fisheries Conservation Act of 1976. Under the Magnuson-Stevens Act, NMFS manages any fishery that is the subject of a fishery management plan developed by regional fishery management councils (see below) as well as some non-FMP species.

Pacific Fishery Management Council (PFMC) - PFMC is one of eight regional fishery management organizations established by the Magnuson-Stevens Act. The councils develop fishery management plans for fisheries within 200 miles of shore; these plans must be approved by the Secretary of Commerce and are implemented by NMFS. The PFMC has management authority for approximately 80 species of finfishes, primarily those associated with the bottom (groundfish), but also highly migratory species and others.

Unlike the California MPA program, the federal government does not have a standardized system for classifying MPAs in federal waters. Also, it is unclear whether the National Marine Sanctuaries Act authority or Magnuson-Stevens Act authority would be used in the various federal processes described below. Under the Sanctuaries Act, if a sanctuary designation document lists fishing as an activity that may be regulated and it is determined that fishing must be regulated in order to meet the sanctuary's goals, the sanctuary must provide the appropriate regional fishery management council with the opportunity to prepare draft fishing regulations. If a regional council does not do so, or if the sanctuary program determines that the draft regulations are insufficient, the sanctuary program itself may prepare draft fishing regulations. These regulations may be adopted under the National Marine Sanctuaries Act or under the Magnuson-Stevens Act. Under the National Marine Sanctuaries Act, fishing and other regulations may be adopted for state waters only with the concurrence of the appropriate state agency, such as the Fish and Game Commission.

*National Park Service (NPS)*

NPS has regulatory authority for certain activities within its jurisdiction, but cannot regulate the harvest of living marine resources.

*Bureau of Land Management (BLM)*

BLM has management responsibility for the recently-established California Coastal National Monument, an aggregation of thousands of small rocks and pinnacles above mean high tide in state and federal waters off California. BLM works cooperatively with the appropriate state and federal agencies with authority to regulate the extraction of living marine resources, including DFG, for marine resource issues.

***Local Agencies***

Many county, city and local organizations have taken interest in MPA issues for their jurisdictions. None has regulatory or management authority over living marine resources, nor the statutory authority to establish MPAs. Even so, several existing county and city areas were established with the intent of protecting marine resources and in some cases function as MPAs.

One example is the City of Avalon Casino Point Underwater Park at Catalina Island. This area was established in 1964 with a city ordinance that prohibits the use of spearguns. There are no state regulations regarding take in the area, and by the letter of the law, one could take lobster or even fish from a boat or the shore. The public, however, generally believes this is a no-take area and it is enforced as such.

The following local agencies are discussed in greater detail in section III:

San Mateo County Parks and Recreation Division - San Mateo County has management responsibility over the terrestrial portion of Fitzgerald Marine Reserve and co-management responsibility with DFG over Fitzgerald State Marine Park (the marine portion). San Mateo County has no regulatory authority over harvest of marine resources, but can restrict activities or access from shore

City of Monterey - Monterey has no regulatory authority over the harvest of marine resources adjacent to the city but has taken action to attempt to prohibit certain activities in an area along Cannery Row.

City of Pacific Grove - Pacific Grove has no regulatory authority over the harvest of marine resources adjacent to the city but has taken action to attempt to prohibit certain activities in an area along Point Pinos.

**Recent and Ongoing MPA Processes**

***State Processes***

### Channel Islands National Marine Sanctuary- State Waters

In April, 1998, a group of concerned recreational anglers, with support from the Channel Islands National Park, submitted a proposal to the Commission to close 20% of the waters within 1 mile of the northern Channel Islands to all fishing. Following nearly a year of Commission meetings on the topic, DFG and the Channel Islands National Marine Sanctuary (CINMS, which includes waters six miles around the four northern Channel Islands: Santa Barbara, Anacapa, Santa Cruz, Santa Rosa, and San Miguel) offered to establish a stakeholder process to discuss the issue at a local level.

The Commission accepted the offer and DFG and CINMS established a marine reserves working group (MRWG) composed of representatives from diverse interest groups. The MRWG considered alternative networks of marine reserves (no-take MPAs) in both state and federal waters. The MRWG met monthly between July 1999 and June 2001 before forwarding their work to the Sanctuary Advisory Council (SAC). The MRWG achieved consensus on a problem statement, goals and objectives, and implementation recommendations for MPAs. Though the MRWG did not reach consensus on a single network proposal, they did provide more than 40 fully analyzed alternatives and areas of agreement and disagreement to the SAC. The SAC asked DFG and CINMS to use the information to create a preferred alternative, which was presented to the Commission in August 2001.

On October 23, 2002 the Commission voted to adopt the preferred alternative for MPAs within the state waters of the CINMS. These areas represent 19% of state waters within the sanctuary; they include 95 square nautical miles in 10 no-take state marine reserves and 7 square nautical miles in 2 limited-take state marine conservation areas. The new MPAs became effective on April 1, 2003.

The original MPA network proposed by DFG and CINMS included additional area offshore of, and contiguous with, the new MPAs. Most of this area was in federal waters and all was within the sanctuary. A separate process is now underway to consider establishing MPAs in the federal waters.

The Channel Islands proposal came more than a year before the MLPA and was pursued independently of the MLPA process. While the goals of the two processes were very similar, the Channel Islands process was focused on a specific area. Furthermore, at Channel Islands only the state marine reserve classification, in which all extractive activity is prohibited, was formally considered for MPAs. However, the designation of state marine conservation areas was discussed throughout the process and included in the final recommendation.

A monitoring program is now in place within and adjacent to the new Channel Islands MPAs. The program is a cooperative venture among state and federal agencies, universities and other research institutions, and fishermen. The program builds on existing long-term monitoring programs and is obtaining data, intertidally and in shallow and deep water, at all of the MPAs in order to determine changes in species diversity, relative abundance, and size distribution, with which to evaluate the effectiveness of the MPAs in meeting their established goals.

### ***Federal Processes***

#### *Presidential Executive Order 13158*

In May 2000, President Clinton signed Executive Order 13158 regarding marine protected areas. This order was reaffirmed in June 2001 by President George W. Bush. The executive order charges federal agencies, consistent with domestic and international law, to:

- Strengthen the management, protection, and conservation of existing MPAs and establish new or expanded MPAs;
- Develop a scientifically based, comprehensive national system of MPAs representing diverse U.S. marine ecosystems, and the nation's natural and cultural resources;
- Avoid causing harm to MPAs through federally conducted, approved, or funded activities; and
- Consult with states, territories, tribes, regional fishery management councils, and other entities as appropriate to facilitate coordination of federal, state, territorial, and tribal actions to establish and manage MPAs.

The National MPA Center is working closely with DFG to assist in the implementation of the MLPA wherever possible. They have offered technical expertise, in-kind services and financial assistance to the MLPA Initiative.

#### *Channel Islands National Marine Sanctuary- Federal Waters*

As noted above, most of the alternative MPAs developed by MRWG included federal as well as state waters. While the Fish and Game Commission had the authority to designate MPAs in state waters within the sanctuary, designation of MPAs outside state waters is a federal responsibility and requires the completion of a separate process.

Upon the Commission's establishment of the MPAs in state waters, CINMS initiated the federal process to consider establishing a network of MPAs to complement the MPAs in state waters. They are working in conjunction with the Pacific Fishery Management Council (PFMC). As described previously, PFMC is given the opportunity to draft sanctuary fishing regulations to meet sanctuary goals and objectives. The focus of the current process is the preparation of a draft environmental impact statement (DEIS) which examines a range of management and regulatory alternatives associated with consideration of MPAs within the Sanctuary.

The DEIS is expected to be completed and released for comment in the spring of 2005. PFMC will comment on the DEIS for the Channel Islands and has already provided input on a preliminary range of options. PFMC has established a marine reserves subcommittee to review the CINMS DEIS and provide recommendations to the council members. The subcommittee has been meeting regularly for several years to discuss the issue of MPAs. This federal phase of the CINMS MPA process may take more than two years to complete.

#### *Monterey Bay National Marine Sanctuary*

The Monterey Bay National Marine Sanctuary (MBNMS) extends from Marin County south to Cambria in San Luis Obispo County and is the largest sanctuary on the West Coast. In 2001 MBNMS staff began a public process to review and update the sanctuary's 1992 management plan. Two years later, after extensive public outreach and input, the MBNMS produced a series of proposed action plans in its joint

management plan review document, which have been approved by the Sanctuary Advisory Council (SAC) and are now being reviewed by the National Marine Sanctuary Program headquarters.

One of these action plans is titled "Special Marine Protected Areas." A formal working group with a diverse array of stakeholder representation was formed during the management plan review process. Due to the considerable interest in, and sensitive nature of, the topic, this group continues to meet three to four times per year under the guidance of the MBNMS superintendent. The Department of Fish and Game has a representative on the working group.

The stated goal of the Special MPA Action Plan is as follows:

"To determine the role, if any, of additional marine protected areas in maintaining the integrity of biological communities in the Monterey Bay National Marine Sanctuary, and to protect, where appropriate, restore and enhance natural habitats, populations and ecological processes. If additional MPAs are to be created, provide for the design of MPAs that are compatible with the continuation of long-term sustainable fishing in the Sanctuary, as fishing is a key cultural and economic component of the region.

The action plan will outline the framework for coordinating with and providing input to appropriate state and federal agencies on the need for, purpose, design and implementation of MPAs within the MBNMS region, whether initiated or coordinated by the sanctuary or other agencies. A multi-stakeholder workgroup will work together to implement the components of the action plan."

Recently the MBNMS SAC recommended that this action plan receive high priority by sanctuary staff. While there is no target date for the completion of the working group's activities, much useful information has already been generated, including a draft list of conservation goals and objectives related to MPAs and information on the socioeconomic value of different portions of Sanctuary waters.

The sanctuary working group efforts are being coordinated with the MLPA Initiative process, which are related in two important ways. Part or all of the state waters within the sanctuary may be within the MLPA Initiative central coast project region. Many of the members of the sanctuary MPA working group were part of the original regional working group in the Monterey-Santa Cruz area for the previous MLPA process.

#### *Gulf of the Farallones National Marine Sanctuary*

Staff at the Gulf of the Farallones National Marine Sanctuary recently formed a working group to discuss additional protection for estuarine areas called esteros, which border the sanctuary. While the additional protection focuses on water quality, which is not a stated goal of the MLPA process, one of the esteros is already a state-designated MPA. Currently, the working group is not considering MPAs within state waters outside the esteros.

#### *California Coastal National Monument*

Designated by presidential proclamation on January 11, 2000, the California Coastal National Monument (Monument) runs the entire length of the California coast and extends 12 nautical miles from

the shoreline. The Monument encompasses thousands of unincorporated islands, rocks, exposed reefs, and pinnacles above mean high tide. Since 1983, the BLM has managed these resources in cooperation with DFG; a memorandum of understanding formalizes this agreement and includes the Department of Parks and Recreation. The primary purpose of the Monument is to protect important biological and geological values. The islands, rocks, reefs, and pinnacles provide forage and breeding grounds for significant populations of birds and sea mammals.

In September 2004 the Bureau of Land Management (BLM) released for public review and comments a draft resource management plan (RMP)/draft environmental impact statement (EIS) for the Monument. The draft RMP/draft EIS focuses on protection of the scenic and geologic formations of the monument and the habitat they provide for seabirds, marine mammals, and vegetation. In the document, BLM states, "many of the regulations needed to manage the resources are already in place; therefore, this plan is not proposing any new regulations." However, the preferred alternative describes a process by which seasonal restrictions on fishing and other activities would be imposed around rocks and islands to protect sensitive populations of marine birds and mammals. BLM would need to work with the Fish and Game Commission to establish regulations within state waters, which are under state jurisdiction.

BLM is aware of the MLPA Initiative and has been encouraged to coordinate any efforts related to increased protection for marine birds and mammals with that effort.

#### *National Park Service*

The National Park Service (NPS) manages Point Reyes National Seashore, a federally-designated marine managed area (MMA) along the Marin County coast. Park Service staff have stated their intention to create an MPA around Bird Rock, a popular recreational fishing site in close proximity to a public launch ramp in Tomales Bay. NPS has chosen not to take their proposal to the Fish and Game Commission separately, and is aware of the MLPA Initiative. Bird Rock has existing state MMA status as an area of special biological significance (ASBS or water quality protection area).

#### ***Local and Regional Efforts within the Central Coast***

##### *San Mateo County Parks and Recreation Division*

The San Mateo County Parks and Recreation Division (PRD) provides on-site management and enforcement for the Fitzgerald State Marine Park (formerly called Fitzgerald Marine Reserve), presently the only MPA in ocean waters between San Francisco and Monterey. PRD staff recently produced a final environmental impact report for the "Fitzgerald Marine Reserve Master Plan". The master plan includes supporting the reclassification of the park designation to a state marine reserve, which would by definition prohibit all extractive uses. Any increased restrictions on recreational fishing within the MPA are controversial. PRD is aware of the MLPA Initiative but has chosen not to take their proposal to the Fish and Game Commission, though the county has no authority to establish an MPA or change the current designation.

##### *City of Monterey*

The City of Monterey has taken independent action to establish an underwater park in depths out to 60 feet between the Coast Guard breakwater and Hopkins Marine Station. The city has approved

regulations which prohibit the use of spear guns and pole spears to take finfish. The Department of Fish and Game has informed the city that the city has no jurisdiction over the management of marine resources, and the state does not recognize the establishment of the city park. The MLPA process would be the proper forum to consider an increase in the degree of protection for this area.

*City of Pacific Grove*

As with the City of Monterey, the City of Pacific Grove has taken independent action to protect marine resources. Primarily due to grass roots efforts of a local conservation organization called the Tidepool Coalition, the city passed an ordinance which prevents all extraction of marine invertebrates within the intertidal area of the city limits, including extraction related to scientific collecting. Similar to the situation in Monterey, DFG has informed the city that the city has no jurisdiction over the management of marine resources. Present state regulations prohibit the commercial harvest of all marine organisms except squid, sardines, mackerel, anchovies, and herring, and prohibit the recreational harvest of all marine plants, mollusks, and crustaceans out to a depth of 60 feet, in the area now designated as a Pacific Grove State Marine Conservation Area. In response to the city and Tidepool Coalition's concerns, DFG instituted a policy prohibiting scientific collecting in the southern half of the MPA, although scientific collecting with a permit is technically allowed throughout the entire area. The Tidepool Coalition objects to this policy, but has yet to take a proposal for increased intertidal protection to the Fish and Game Commission. Through membership on a previous working group, the Tidepool Coalition was actively engaged in the MLPA process.

*San Luis Obispo County*

DFG has been involved in reviewing and commenting on plans to mitigate for impacts to receiving waters by the operation of the Diablo Canyon Nuclear Power Plant by Pacific Gas and Electric Company (PG&E) since the conception and siting stage for the power plant. The most recent discussions began in the mid-1990s as a result of allegations that PG&E, the power plant owner and operator, were violating the terms of the existing National Pollution Discharge Elimination System permit (a discharge permit).

In response, PG&E suggested that creating a new MPAs could serve as partial mitigation for the impacts associated with the operation of Diablo Canyon. Shortly after September 2001, a new, *de facto* no-take MPA was established within a one-mile radius of the Diablo Canyon power plant for national security reasons (no access is permitted). DFG does not believe that MPAs are appropriate or complete mitigation for impacts associated with power plants. DFG has drawn attention to the MLPA process and indicated that some mitigation funds could potentially be used for monitoring or management of existing areas.

**G. Strategy for Stakeholder and Interested Public Participation**

*This section to be added upon adoption by the MLPA Blue Ribbon Task Force.*

*Preliminary Draft*

## **H. The Marine Life Protection Act (MLPA)**

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 10.5 (commencing with Section 2850) is added to Division 3 of the Fish and Game Code, to read:

### CHAPTER 10.5. MARINE LIFE PROTECTION ACT

2850. This chapter shall be known and may be cited as the Marine Life Protection Act.

2851. The Legislature finds and declares all of the following:

(a) California's marine protected areas (MPAs) were established on a piecemeal basis rather than according to a coherent plan and sound scientific guidelines. Many of these MPAs lack clearly defined purposes, effective management measures and enforcement. As a result, the array of MPAs creates the illusion of protection while falling far short of its potential to protect and conserve living marine life and habitat.

(b) California's extraordinary marine biological diversity is a vital asset to the state and nation. The diversity of species and ecosystems found in the state's ocean waters is important to public health and well-being, ecological health, and ocean-dependent industry.

(c) Coastal development, water pollution, and other human activities threaten the health of marine habitat and the biological diversity found in California's ocean waters. New technologies and demands have encouraged the expansion of fishing and other activities to formerly inaccessible marine areas that once recharged nearby fisheries. As a result, ecosystems throughout the state's ocean waters are being altered, often at a rapid rate.

(d) Fish and other sea life are a sustainable resource, and fishing is an important community asset. MPAs and sound fishery management are complementary components of a comprehensive effort to sustain marine habitats and fisheries.

(e) Understanding of the impacts of human activities and the processes required to sustain the abundance and diversity of marine life is limited. The designation of certain areas as sea life reserves can help expand our knowledge by providing baseline information and improving our understanding of ecosystems where minimal disturbance occurs.

(f) Marine life reserves are an essential element of an MPA system because they protect habitat and ecosystems, conserve biological

diversity, provide a sanctuary for fish and other sea life, enhance recreational and educational opportunities, provide a reference point against which scientists can measure changes elsewhere in the marine environment, and may help rebuild depleted fisheries.

(g) Despite the demonstrated value of marine life reserves, only 14 of the 220,000 square miles of combined state and federal ocean water off California, or six-thousandths of 1 percent, are set aside as genuine no take areas.

(h) For all of the above reasons, it is necessary to modify the existing collection of MPAs to ensure that they are designed and managed according to clear, conservation-based goals and guidelines that take full advantage of the multiple benefits that can be derived from the establishment of marine life reserves.

2852. The following definitions govern the construction of this chapter:

(a) "Adaptive management," with regard to marine protected areas, means a management policy that seeks to improve management of biological resources, particularly in areas of scientific uncertainty, by viewing program actions as tools for learning. Actions shall be designed so that, even if they fail, they will provide useful information for future actions, and monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood.

(b) "Biogeographical regions" refers to the following oceanic or near shore areas, seaward from the high tide line or the mouth of coastal rivers, with distinctive biological characteristics, unless the master plan team establishes an alternative set of boundaries:

- (1) The area extending south from Point Conception.
- (2) The area between Point Conception and Point Arena.
- (3) The area extending north from Point Arena.

(c) "Marine protected area" (MPA) means a named, discrete geographic marine or estuarine area seaward of the high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law, administrative action, or voter initiative to protect or conserve marine life and habitat. An MPA includes marine life reserves and other areas that allow for specified commercial and recreational activities, including fishing for certain species but not others, fishing with certain practices but not others, and kelp harvesting, provided that these activities are consistent with the objectives of the area and the goals and guidelines of this chapter. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs), which are broader groups of

named, discrete geographic areas along the coast that protect, conserve, or otherwise manage a variety of resources and uses, including living marine resources, cultural and historical resources, and recreational opportunities.

(d) "Marine life reserve," for the purposes of this chapter, means a marine protected area in which all extractive activities, including the taking of marine species, and, at the discretion of the commission and within the authority of the commission, other activities that upset the natural ecological functions of the area, are prohibited. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state.

2853. (a) The Legislature finds and declares that there is a need to reexamine and redesign California's MPA system to increase its coherence and its effectiveness at protecting the state's marine life, habitat, and ecosystems.

(b) To improve the design and management of that system, the commission, pursuant to Section 2859, shall adopt a Marine Life Protection Program, which shall have all of the following goals:

(1) To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.

(2) To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.

(3) To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.

(4) To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.

(5) To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.

(6) To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.

(c) The program may include areas with various levels of protection, and shall include all of the following elements:

(1) An improved marine life reserve component consistent with the guidelines in subdivision (c) of Section 2857.

(2) Specific identified objectives, and management and enforcement measures, for all MPAs in the system.

(3) Provisions for monitoring, research, and evaluation at

selected sites to facilitate adaptive management of MPAs and ensure that the system meets the goals stated in this chapter.

(4) Provisions for educating the public about MPAs, and for administering and enforcing MPAs in a manner that encourages public participation.

(5) A process for the establishment, modification, or abolishment of existing MPAs or new MPAs established pursuant to this program, that involves interested parties, consistent with paragraph (7) of subdivision (b) of Section 7050, and that facilitates the designation of MPAs consistent with the master plan adopted pursuant to Section 2855.

2854. Notwithstanding Section 7550.5 of the Government Code, the State Interagency Marine Managed Areas Workgroup established by the Resources Agency shall submit its final report to the Legislature and the commission by January 15, 2000. The workgroup shall, after appropriate consultation with members of the public, determine future actions for implementing the recommendations of its final report.

2855. (a) The commission shall adopt a master plan that guides the adoption and implementation of the Marine Life Protection Program adopted pursuant to Section 2853 and decisions regarding the siting of new MPAs and major modifications of existing MPAs. The plan shall be based on the best readily available science.

(b) (1) The department shall prepare, or by contract shall cause to be prepared, a master plan in accordance with this subdivision. In order to take full advantage of scientific expertise on MPAs, the department shall convene a master plan team to advise and assist in the preparation of the master plan, or hire a contractor with relevant expertise to assist in convening such a team.

(2) The team members convened pursuant to this subdivision shall have expertise in marine life protection and shall be knowledgeable about the use of protected areas as a marine ecosystem management tool. The members shall also be familiar with underwater ecosystems found in California waters, with the biology and habitat requirements of major species groups in the state's marine waters, and with water quality and related issues.

(3) The team shall be composed of the following individuals:

(A) Staff from the department, the Department of Parks and Recreation, and the State Water Resources Control Board, to be designated by each of those departments.

(B) Five to seven members who shall be scientists, one of whom may have expertise in the economics and culture of California coastal communities.

(C) One member, appointed from a list prepared by Sea Grant marine advisers, who shall have direct expertise with ocean habitat and sea

life in California marine waters.

(4) The master plan shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons. In preparing the master plan, the department shall confer, to the extent feasible, with the commission, the Pacific Fishery Management Council, the National Marine Fisheries Service, the United States Navy, the United States Geological Survey's national biological survey, staff from national marine sanctuaries off California, Sea Grant researchers, marine advisers, and national parks personnel.

(5) The department may engage other experts to contribute to the master plan, including scientists, geographic information system (GIS) experts, and commercial and recreational fishermen, divers, and other individuals knowledgeable about the state's underwater ecosystems, the history of fishing effort or MPA management, or other relevant subjects.

(c) The department and team, in carrying out this chapter, shall take into account relevant information from local communities, and shall solicit comments and advice for the master plan from interested parties on issues including, but not necessarily limited to, each of the following:

(1) Practical information on the marine environment and the relevant history of fishing and other resources use, areas where fishing is currently prohibited, and water pollution in the state's coastal waters.

(2) Socioeconomic and environmental impacts of various alternatives.

(3) Design of monitoring and evaluation activities.

(4) Methods to encourage public participation in the stewardship of the state's MPAs.

2856. (a) (1) The department and team shall use the best readily available scientific information in preparing the master plan adopted pursuant to Section 2855, and shall organize the location-specific contents, where feasible, by biogeographical region. In preparing the plan, the department and team shall use and build upon the findings of the Sea Grant survey of protected areas in California waters, which is entitled "California's Marine Protected Areas," the report of the State Interagency Marine Managed Areas Workgroup, the Department of Parks and Recreation's planning information and documents regarding existing and potential underwater parks and reserves, maps and other information from the department's marine nearshore ecosystem mapping project, and other relevant planning and scientific materials.

(2) The master plan shall include all of the following components:

(A) Recommendations for the extent and types of habitat that should be represented in the MPA system and in marine life reserves. Habitat types described on maps shall include, to the extent possible using existing information, rocky reefs, intertidal zones, sandy or soft ocean bottoms, underwater pinnacles, sea mounts, kelp forests, submarine canyons, and seagrass beds.

(B) An identification of select species or groups of species likely to benefit from MPAs, and the extent of their marine habitat, with special attention to marine breeding and spawning grounds, and available information on oceanographic features, such as current patterns, upwelling zones, and other factors that significantly affect the distribution of those fish or shellfish and their larvae.

(C) Recommendations to augment or modify the guidelines in subdivision (c) of Section 2857, if necessary to ensure that the guidelines reflect the most up-to-date science, including, for example, recommendations regarding the minimum size of individual marine life reserves needed to accomplish the various goals set forth in Section 2853.

(D) Recommended alternative networks of MPAs, including marine life reserves in each biogeographical region that are capable of achieving the goals in Section 2853 and designed according to the guidelines in subdivision (c) of Section 2857.

(E) A simplified classification system, which shall be consistent with the goals of Section 2853 and the guidelines in subdivision (c) of Section 2857, and which may include protections for specific habitats or species, if no system that meets these specifications has already been developed.

(F) Recommendations for a preferred siting alternative for a network of MPAs that is consistent with the goals in Section 2853 and the guidelines in subdivision (c) of Section 2857.

(G) An analysis of the state's current MPAs, based on the preferred siting alternative, and recommendations as to whether any specific MPAs should be consolidated, expanded, abolished, reclassified, or managed differently so that, taken as a group, the MPAs best achieve the goals of Section 2853 and conform to the guidelines in subdivision (c) of Section 2857.

(H) Recommendations for monitoring, research, and evaluation in selected areas of the preferred alternative, including existing and long-established MPAs, to assist in adaptive management of the MPA network, taking into account existing and planned research and evaluation efforts.

(I) Recommendations for management and enforcement measures for the preferred alternative that apply systemwide or to specific types

of sites and that would achieve the goals of this chapter.

(J) Recommendations for improving the effectiveness of enforcement practices, including, to the extent practicable, the increased use of advanced technology surveillance systems.

(K) Recommendations for funding sources to ensure all MPA management activities are carried out and the Marine Life Protection Program is implemented.

(b) The team shall, as necessary, identify and define additional appropriate components of the master plan as soon as possible after enactment of this section.

2857. (a) On or before July 1, 2001, the department shall convene, in each biogeographical region and to the extent practicable near major working harbors, siting workshops, composed of interested parties, to review the alternatives for MPA networks and to provide advice on a preferred siting alternative. The department and team shall develop a preferred siting alternative that incorporates information and views provided by people who live in the area and other interested parties, including economic information, to the extent possible while maintaining consistency with the goals of Section 2853 and guidelines in subdivision (c) of this section.

(b) The preferred alternative may include MPAs that will achieve either or both of the following objectives:

(1) Protection of habitat by prohibiting potentially damaging fishing practices or other activities that upset the natural ecological functions of the area.

(2) Enhancement of a particular species or group of species, by prohibiting or restricting fishing for that species or group within the MPA boundary.

(c) The preferred siting alternative shall include MPA networks with an improved marine life reserve component, and shall be designed according to each of the following guidelines:

(1) Each MPA shall have identified goals and objectives. Individual MPAs may serve varied primary purposes while collectively achieving the overall goals and guidelines of this chapter.

(2) Marine life reserves in each bioregion shall encompass a representative variety of marine habitat types and communities, across a range of depths and environmental conditions.

(3) Similar types of marine habitats and communities shall be replicated, to the extent possible, in more than one marine life reserve in each biogeographical region.

(4) Marine life reserves shall be designed, to the extent practicable, to ensure that activities that upset the natural ecological functions of the area are avoided.

(5) The MPA network and individual MPAs shall be of adequate size,

number, type of protection, and location to ensure that each MPA meets its objectives and that the network as a whole meets the goals and guidelines of this chapter.

(d) The department and team, in developing the preferred siting alternative, shall take into account the existence and location of commercial kelp beds.

(e) The department and team may provide recommendations for phasing in the new MPAs in the preferred siting alternative.

2858. The department shall establish a process for external peer review of the scientific basis for the master plan prepared pursuant to Section 2855. The peer review process may be based, to the extent practicable, on the peer review process described in Section 7062.

2859. (a) On or before January 1, 2002, the department shall submit to the commission a draft of the master plan prepared pursuant to this chapter.

(b) On or before April 1, 2002, after public review, not less than three public meetings, and appropriate modifications of the draft plan, the department shall submit a proposed final master plan to the commission. On or before July 1, 2002, the commission shall adopt a final master plan and a Marine Life Protection Program based on the plan and shall implement the program, to the extent funds are available. The commission's adoption of the plan and a program based on the plan shall not trigger an additional review under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) The commission shall hold at least two public hearings on the master plan and the Marine Life Protection Program prior to adopting the plan and program. The commission may adopt the plan and the program immediately following the second public hearing or at any duly noticed subsequent meeting.

(d) Notwithstanding Section 7550.5 of the Government Code, upon the commission's adoption of the program, the commission shall submit the master plan and program description, including marine life reserve and other MPA designations, to the Joint Committee on Fisheries and Aquaculture for review and comment. Upon receipt of the plan, the joint committee shall have 60 days to review the plan and to submit written recommendations to the commission regarding the plan and program. The joint committee shall only submit a recommendation to the commission if a majority of the members agree to that recommendation. The commission shall consider all recommendations submitted by the joint committee, and may amend the program to incorporate the recommendations. If the commission does not incorporate any recommendations submitted by the joint committee, the commission shall set forth, in writing, its reasons for not

incorporating that recommendation.

2860. (a) The commission may regulate commercial and recreational fishing and any other taking of marine species in MPAs.

(b) Notwithstanding any other provision of this code, the taking of a marine species in a marine life reserve is prohibited for any purpose, including recreational and commercial fishing, except that the commission may authorize the taking of a marine species for scientific purposes, consistent with the purposes of this chapter, under a scientific collecting permit issued by the department.

2861. (a) The commission shall, annually until the master plan is adopted and thereafter at least every three years, receive, consider, and promptly act upon petitions from the department or any other interested party, to add, delete, or modify MPAs, favoring those petitions that are compatible with the goals and guidelines of this chapter.

(b) Notwithstanding Section 7550.5 of the Government Code, prior to the adoption of a new MPA or the modification of an existing MPA that would make inoperative a statute, the commission shall provide a copy of the proposed MPA to the Legislature for review by the Joint Committee on Fisheries and Aquaculture or, if there is no such committee, to the appropriate policy committee in each house of the Legislature.

(c) Nothing in this chapter shall restrict any existing authority of the department or the commission to make changes to improve the management or design of existing MPAs or designate new MPAs prior to the completion of the master plan. The commission may abbreviate the master plan process to account for equivalent activities that have taken place before enactment of this chapter, providing that those activities are consistent with this chapter.

2862. The department, in evaluating proposed projects with potential adverse impacts on marine life and habitat in MPAs, shall highlight those impacts in its analysis and comments related to the project and shall recommend measures to avoid or fully mitigate any impacts that are inconsistent with the goals and guidelines of this chapter or the objectives of the MPA.

2863. The department shall confer as necessary with the United States Navy regarding issues related to its activities.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of

Section 6 of Article XIII B of the California Constitution.

*Preliminary Draft*

**I. The Marine Managed Areas Improvement Act (MMAIA)**

PUBLIC RESOURCES CODE SECTION 36700-36900

36700. Six classifications for designating managed areas in the marine and estuarine environments are hereby established as described in this section, to become effective January 1, 2002. Where the term "marine" is used, it refers to both marine and estuarine areas. A geographic area may be designated under more than one classification.

(a) A "state marine reserve" is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(b) A "state marine park" is a nonterrestrial marine or estuarine area that is designated so the managing agency may provide opportunities for spiritual, scientific, educational, and recreational opportunities, as well as one or more of the following:

(1) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(2) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding representative or imperiled marine habitats or ecosystems.

(3) Preserve cultural objects of historical, archaeological, and scientific interest in marine areas.

(4) Preserve outstanding or unique geological features.

(c) A "state marine conservation area" is a nonterrestrial marine or estuarine area that is designated so the managing agency may achieve one or more of the following:

(1) Protect or restore rare, threatened, or endangered native plants, animals, or habitats in marine areas.

(2) Protect or restore outstanding, representative, or imperiled marine species, communities, habitats, and ecosystems.

(3) Protect or restore diverse marine gene pools.

(4) Contribute to the understanding and management of marine resources and ecosystems by providing the opportunity for scientific research in outstanding, representative, or imperiled marine habitats or ecosystems.

(5) Preserve outstanding or unique geological features.

(6) Provide for sustainable living marine resource harvest.

(d) A "state marine cultural preservation area" is a nonterrestrial marine or estuarine area designated so the managing agency may preserve cultural objects or sites of historical, archaeological, or scientific interest in marine areas.

(e) A "state marine recreational management area" is a nonterrestrial marine or estuarine area designated so the managing agency may provide, limit, or restrict recreational opportunities to meet other than exclusively local needs while preserving basic resource values for present and future generations.

(f) A "state water quality protection area" is a nonterrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Resources Control Board through its water quality control planning process.

36710. (a) In a state marine reserve, it is unlawful to injure, damage, take, or possess any living geological, or cultural marine resource, except under a permit or specific authorization from the managing agency for research, restoration, or monitoring purposes. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state. Access and use for activities including, but not limited to, walking, swimming, boating, and diving may be restricted to protect marine resources. Research, restoration, and monitoring may be permitted by the managing agency. Educational activities and other forms of nonconsumptive human use may be permitted by the designating entity or managing agency in a manner consistent with the protection of all marine resources.

(b) In a state marine park, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial exploitation purposes. Any human use that would compromise protection of the species of interest, natural community or habitat, or geological, cultural, or recreational features, may be restricted by the designating entity or managing agency. All other uses are allowed, including scientific collection with a permit,

research, monitoring, and public recreation, including recreational harvest, unless otherwise restricted. Public use, enjoyment, and education are encouraged, in a manner consistent with protecting resource values.

(c) In a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes, that the designating entity or managing agency determines would compromise protection of the species of interest, natural community, habitat, or geological features. The designating entity or managing agency may permit research, education, and recreational activities, and certain commercial and recreational harvest of marine resources.

(d) In a state marine cultural preservation area, it is unlawful to damage, take, or possess any cultural marine resource. Complete integrity of the cultural resources shall be sought, and no structure or improvements that conflict with that integrity shall be permitted. No other use is restricted.

(e) In a state marine recreational management area, it is unlawful to perform any activity that, as determined by the designating entity or managing agency, would compromise the recreational values for which the area may be designated. Recreational opportunities may be protected, enhanced, or restricted, while preserving basic resource values of the area. No other use is restricted.

(f) In a state water quality protection area, point source waste and thermal discharges shall be prohibited or limited by special conditions. Nonpoint source pollution shall be controlled to the extent practicable. No other use is restricted.

36711. The classifications contained in Section 36710 may not be inconsistent with United States military activities deemed mission critical by the United States military.

36725. (a) The Fish and Game Commission may designate, delete, or modify state marine recreational management areas established by the commission for hunting purposes, state marine reserves, and state marine conservation areas. The Fish and Game Commission shall consult with, and secure concurrence from, the State Park and Recreation Commission prior to modifying or deleting state marine reserves and state marine conservation areas designated by the State Park and Recreation Commission. The Fish and Game Commission shall not delete or modify state marine recreational management areas designated by the State Park and Recreation Commission.

(b) The State Park and Recreation Commission may designate,

delete, or modify state marine reserves, state marine parks, state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas. The State Park and Recreation Commission may not designate, delete, or modify a state marine reserve, state marine park, or state marine conservation area without the concurrence of the Fish and Game Commission on any proposed restrictions upon, or change in, the use of living marine resources.

(c) If an unresolved conflict exists between the Fish and Game Commission and the State Park and Recreation Commission regarding a state marine reserve, state marine park, or state marine conservation area, the Secretary of the Resources Agency may reconcile the conflict.

(d) The State Water Resources Control Board may designate, delete, or modify state water quality protection areas.

(e) The Fish and Game Commission, State Park and Recreation Commission, and State Water Resources Control Board each may restrict or prohibit recreational uses and other human activities in the MMAs for the benefit of the resources therein, except in the case of restrictions on the use of living marine resources. Pursuant to this section, and consistent with Section 2860 of the Fish and Game Code, the Fish and Game Commission may regulate commercial and recreational fishing and any other taking of marine species in MMAs.

(f) (1) The Department of Fish and Game may manage state marine reserves, state marine conservation areas, state marine recreational management areas established for hunting purposes and, if requested by the State Water Resources Control Board, state water quality protection areas.

(2) The Department of Parks and Recreation may manage state marine reserves, state marine parks, state marine conservation areas, state marine cultural preservation areas, and state marine recreational management areas. Department authority over units within the state park system shall extend to units of the state MMAs system that are managed by the department.

(3) The State Water Resources Control Board and the California regional water quality control boards may take appropriate actions to protect state water quality protection areas. The State Water Resources Control Board may request the Department of Fish and Game or the Department of Parks and Recreation to take appropriate management action.

36750. Any MMA in existence on January 1, 2002, that has not been reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the

Fish and Game Code), shall be reclassified under the classification system described in Section 36700 by January 1, 2003, based upon the management purpose and level of resource protection at each site on January 1, 2002. Upon the reclassification of existing sites, but no later than January 1, 2003, the use of all other classifications shall cease for the marine and estuarine environments of the state, though the classifications may continue to be used for the terrestrial and freshwater environments where applicable. The reclassification process shall be the responsibility of the State Interagency Coordinating Committee established pursuant to Section 36800, and shall occur to the extent feasible in conjunction and consistent with the MMA master planning process created pursuant to the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code).

36800. The Secretary of the Resources Agency shall establish and chair the State Interagency Coordinating Committee, whose members are representatives from those state agencies, departments, boards, commissions, and conservancies with jurisdiction or management interests over marine managed areas, including, but not limited to, the Department of Fish and Game, Department of Parks and Recreation, California Coastal Commission, State Water Resources Control Board, and State Lands Commission. The Secretary of the Resources Agency shall designate additional members of the committee. The committee shall review proposals for new or amended MMAs to ensure that the minimum required information is included in the proposal, to determine those state agencies that should review the proposal, and to ensure consistency with other such designations in the state. The committee shall also serve to ensure the proper and timely routing of site proposals, review any proposed site-specific regulations for consistency with the state system as a whole, and conduct periodic reviews of the statewide system to evaluate whether it is meeting the mission and statement of objectives.

36850. Designation guidelines based on the classification goals adopted for the state system of MMAs shall be developed jointly by the appropriate managing agencies in cooperation with the committee on or before January 1, 2002. These guidelines shall be used to provide a general sense of requirements for designating a site in any particular classification, and may include characteristics such as uniqueness of the area or resource, biological productivity, special habitats, cultural or recreational values, and human impacts to the area. These designation guidelines shall be provided on a standard set of instructions for each classification.

36870. On or before January 1, 2002, the committee shall establish a standard set of instructions for each classification to guide organizations and individuals in submitting proposals for designating specific sites or networks of sites. On or before January 1, 2003, the relevant site proposal guidelines shall be adopted by each designating entity.

(a) At a minimum, each proposal shall include the following elements for consideration for designation as an MMA:

- (1) Name of individual or organization proposing the designation.
- (2) Contact information for the individual or organization, including contact person.
- (3) Proposed classification.
- (4) Proposed site name.
- (5) Site location.
- (6) Need, purpose, and goals for the site.
- (7) Justification for the manner in which the proposed site meets the designation criteria for the proposed classification.

(8) A general description of the proposed site's pertinent biological, geological, and cultural resources.

(9) A general description of the proposed site's existing recreational uses, including fishing, diving, boating, and waterfowl hunting.

(b) The following elements, if not included in the original proposal, shall be added by the proposed managing agency in cooperation with the individual or organization making the proposal, prior to a final decision regarding designation:

- (1) A legal description of the site boundaries and a boundary map.
- (2) A more detailed description of the proposed site's pertinent biological, geological, cultural, and recreational resources.
- (3) Estimated funding needs and proposed source of funds.
- (4) A plan for meeting enforcement needs, including on-site staffing and equipment.
- (5) A plan for evaluating the effectiveness of the site in achieving stated goals.
- (6) Intended educational and research programs.
- (7) Estimated economic impacts of the site, both positive and negative.
- (8) Proposed mechanisms for coordinating existing regulatory and management authority, if any exists, within the area.
- (9) An evaluation of the opportunities for cooperative state, federal, and local management, where the opportunities may exist.

36900. Individuals or organizations may submit a proposal to

designate an MMA directly through the committee or an appropriate designating entity. Proposals submitted to a designating entity shall be forwarded to the committee to initiate the review process. Proposals for designating, deleting, or modifying MMAs may be submitted to the committee or a designating entity at any time. The committee and scientific review panel established pursuant to subdivision (b) shall annually consider and promptly act upon proposals until an MPA master plan is adopted pursuant to subdivision (b) of Section 2859 of the Fish and Game Code, and thereafter, no less than once every three years. Upon adoption of a statewide MPA plan, subsequent site proposals determined by the committee to be consistent with that plan shall be eligible for a simplified and cursory review of not more than 45 days.

(a) The committee shall review proposals to ensure that the minimum required information is included in the proposal, to determine those state agencies that should review the proposal, and to ensure consistency with other designations of that type in the state. After initial review by the coordinating committee and appropriate agencies, the proposal shall be forwarded to a scientific review panel established pursuant to subdivision (b).

(b) The Secretary of the Resources Agency shall establish a scientific review panel, with statewide representation and direction from the committee, to evaluate proposals for technical and scientific validity, including consideration of such things as site design criteria, location, and size. This panel, to the extent practical, shall be the same as the master plan team used in the process set forth in the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code). Members shall maintain familiarity with the types and effectiveness of MMAs used in other parts of the world for potential application to California. Members shall be reimbursed reasonable costs to participate in the activities of the panel. Where feasible, advice shall be sought from the appropriate federal agencies and existing regional or statewide marine research panels and advisory groups. After review by the scientific review panel, the committee shall forward the proposal and any recommendations to the appropriate designating entity for a public review process.

(c) Designating entities shall establish a process that provides for public review and comment in writing and through workshops or hearings, consistent with the legal mandates applicable to designating entities. All input provided by the committee and scientific review panel shall be made available to the public during this process. Outreach shall be made to the broadest ocean and coastal constituency possible, and shall include commercial and sport

fishing groups, conservation organizations, waterfowl groups and other recreational interests, academia, the general public, and all levels of government.

(d) This process does not replace the need to obtain the appropriate permits or reviews of other government agencies with jurisdiction or permitting authority.

(e) Nothing in this section shall be construed as altering or impeding the process identified under the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) or the actions of the master plan team described in that act.

*Preliminary Draft*