

## **Appendix B. The Marine Managed Areas Improvement Act (MMAIA)**

### **PUBLIC RESOURCES CODE SECTION 36700-36900**

36600. This chapter shall be known, and may be cited, as the Marine Managed Areas Improvement Act.

36601. (a) The Legislature finds and declares all of the following:

(1) California's extraordinary ocean and coastal resources provide a vital asset to the state and nation. These resources are important to public health and well-being, ecological health, and ocean-dependent industries.

(2) The ocean ecosystem is inextricably connected to the land, with coastal development, water pollution, and other human activities threatening 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.

(3) California's marine managed areas (MMAs), such as refuges, reserves, and state reserves, are one of many tools for resource managers to use for protecting, conserving, and managing the state's valuable marine resources. MMAs can offer many benefits, including protecting habitats, species, cultural resources, and water quality; enhancing recreational opportunities; and contributing to the economy through such things as increased tourism and property values. MMAs may also benefit fisheries management by protecting representative habitats and reducing extractive uses.

(4) The array of state MMAs in California is the result of over 50 years of designations through legislative, administrative, and statewide ballot initiative actions, which has led to 18 classifications and subclassifications of these areas.

(5) A State Interagency Marine Managed Areas Workgroup was convened by the Resources Agency to address this issue, bringing together for the first time all of the state agencies with jurisdiction over these areas. This group's report indicates that California's state MMAs have evolved on a case-by-case basis, without conforming to any plan for establishing MMAs in the most effective way or in a manner which ensures that the most representative or unique areas of the ocean and coastal environment are included.

(6) The report further states that California's MMAs do not comprise an organized system, as the individual sites are not designated, classified, or managed in a systematic manner. Many of these areas lack clearly defined purposes, effective management measures, and enforcement.

(7) To some, this array of MMAs creates the illusion of a comprehensive system of management, while in reality, it falls short of its potential to protect, conserve, and manage natural, cultural, and recreational resources along the California coast. Without a properly designed and coordinated system of MMAs, it is difficult for agencies to meet management objectives, such as maintaining biodiversity, providing education and outreach, and protecting marine resources.

(8) Agency personnel and the public are often confused about the laws, rules, and regulations that apply to MMAs, especially those adjacent to a terrestrial area set aside for management purposes. Lack of clarity about the manner in which the set of laws, rules, and

regulations for the array of MMAs interface and complement each other limits public and resource managers' ability to understand and apply the regulatory structure.

(9) Designation of sites and subsequent adoption of regulations often occur without adequate consideration being given to overall classification goals and objectives. This has contributed to fragmented management, poor compliance with regulations, and a lack of effective enforcement.

(10) Education and outreach related to state MMAs is limited and responsibility for these activities is distributed across many state agencies. These factors hamper the distribution of information to the public regarding the benefits of MMAs and the role they can play in protecting ocean and coastal resources.

(11) There are few coordinated efforts to identify opportunities for public/private partnerships or public stewardship of MMAs or to provide access to general information and data about ocean and coastal resources within California's MMAs.

(12) Ocean and coastal scientists and managers generally know far less about the natural systems they work with than their terrestrial counterparts. Understanding natural and human-induced factors that affect ocean ecosystem health, including MMAs, is fundamental to the process of developing sound management policies.

(13) Research in California's MMAs can provide managers with a wealth of knowledge regarding habitat functions and values, species diversity, and complex physical, biological, chemical, and socioeconomic processes that affect the health of marine ecosystems. That information can be useful in determining the effectiveness of particular sites or classifications in achieving stated goals.

(b) With the single exception of state estuaries, it is the intent of the Legislature that the classifications currently available for use in the marine and estuarine environments of the state shall cease to be used and that a new classification system shall be established, with a mission, statement of objectives, clearly defined designation guidelines, specific classification goals, and a more scientifically-based process for designating sites and determining their effectiveness. The existing classifications may continue to be used for the terrestrial and freshwater environments of the state.

(c) Due to the interrelationship between land and sea, benefits can be gained from siting a portion of the state's marine managed areas adjacent to, or in close proximity to, terrestrial protected areas. To maximize the benefits that can be gained from having connected protected areas, whenever an MMA is adjacent to a terrestrial protected area, the managing agencies shall coordinate their activities to the greatest extent possible to achieve the objectives of both areas.

36602. The following definitions govern the construction of this chapter:

(a) "Committee" is the State Interagency Coordinating Committee established pursuant to Section 36800.

(b) "Designating entity" is the Fish and Game Commission, State Park and Recreation Commission, or State Water Resources Control Board, each of which has the authority to designate specified state marine managed areas.

(c) "Managing agency" is the Department of Fish and Game or the Department of Parks and Recreation, each of which has the authority to manage specified state marine managed areas.

(d) "Marine managed area" (MMA) is a named, discrete geographic marine or estuarine area along the California coast designated by law or administrative action, and intended to protect, conserve, or otherwise manage a variety of resources and their uses. The resources and uses may include, but are not limited to, living marine resources and their habitats, scenic views,

water quality, recreational values, and cultural or geological resources. General areas that are administratively established for recreational or commercial fishing restrictions, such as seasonal or geographic closures or size limits, are not included in this definition. MMAs include the following classifications:

- (1) State marine reserve, as defined in subdivision (a) of Section 36700.
- (2) State marine park, as defined in subdivision (b) of Section 36700.
- (3) State marine conservation area, as defined in subdivision (c) of Section 36700.
- (4) State marine cultural preservation area, as defined in subdivision (d) of Section 36700.
- (5) State marine recreational management area, as defined in subdivision (e) of Section 36700.

(6) State water quality protection areas, as defined in subdivision (f) of Section 36700.

(e) "Marine protected area" (MPA), consistent with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3 of the Fish and Game Code) is a named, discrete geographic marine or estuarine area seaward of the mean 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 or administrative action to protect or conserve marine life and habitat. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs). MPAs include the following classifications:

- (1) State marine reserve, as defined in subdivision (a) of Section 36700.
- (2) State marine park, as defined in subdivision (b) of Section 36700.
- (3) State marine conservation area, as defined in subdivision (c) of Section 36700.

36620. The mission of the state MMA system is to ensure the long-term ecological viability and biological productivity of marine and estuarine ecosystems and to preserve cultural resources in the coastal sea, in recognition of their intrinsic value and for the benefit of current and future generations. In support of this mission, the Legislature finds and declares that there is a need to reexamine and redesign California's array of MMAs, to establish and manage a system using science and clear public policy directives to achieve all of the following objectives:

(a) Conserve representative or outstanding examples of marine and estuarine habitats, biodiversity, ecosystems, and significant natural and cultural features or sites.

(b) Support and promote marine and estuarine research, education, and science-based management.

(c) Help ensure sustainable uses of marine and estuarine resources.

(d) Provide and enhance opportunities for public enjoyment of natural and cultural marine and estuarine resources.

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. "Areas of special biological significance" are a subset of state water quality protection areas, and require special protection as determined by the State Water Resources Control Board pursuant to the California Ocean Plan adopted and reviewed pursuant to Article 4 (commencing with Section 13160) of Chapter 3 of Division 7 of the Water Code and pursuant to the Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (California Thermal Plan) adopted by the state board.

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.