

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend subsection (b)(17) of Section 632
Title 14, California Code of Regulations
Re: Marine Protected Areas

I. Date of Initial Statement of Reasons: February 2, 2018

II. Date of Pre-adoption Statement of Reasons: N/A

III. Date of Final Statement of Reasons: August 31, 2018

IV. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing: Date: April 18, 2018
Location: Ventura, CA

(b) Discussion Hearing: Date: June 20, 2018
Location: Sacramento, CA

(c) Adoption Hearing: Date: August 22, 2018
Location: Fortuna, CA

V. Update:

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Action.

On August 22, 2018, the Fish and Game Commission adopted the proposed amendments to subsection (b)(17) of Section 632 of Title 14, California Code of Regulations, concerning the repeal of Rockport Rocks Special Closure.

Typographical errors have been identified in the listing of documents supporting the regulatory change in Section III(e) of the Initial Statement of Reasons.

Attachment 1 should have been listed as "Department Memorandum, dated November 1, 2007 - Special Closures as they apply to the Marine Life Protection Act (MLPA)".

Attachment 4 should have been listed as "MRC Land Ownership History

- Patent # 9994**36** as recorded in Book 22, page 54, of the Mendocino County Book of Records
- Record of Patents, Patent # 9994**36**

- Map of Patent Area, Patent # 999436
- Grant Deed as recorded in Book 22, page 55, of the Mendocino County Book of Records
- Pages 1, 92, and 94 of Grant Deed, dated June 24, 1998”

Attachment 6 should have been listed as “California Marine Life Protection Act North Coast Project – North Coast Special **Closures Recommendation**, October 26, 2010”

All documents were available during the notice period, May 4-August 22, 2018..

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

No public comments, written or oral, were received during the public comment period.

VII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at:
 California Fish and Game Commission
 1416 Ninth Street
 Sacramento, California 95814

VIII. Location of Department Files:

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

IX. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

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

(b) No Change Alternative:

The no-change alternative would leave Rockport Rocks Special Closure in its current location, and continue to impact the **Mendocino Redwood Company, LLC**, (MRC) adversely by limiting legal access to its private land. **If Rockport Rocks Special Closure regulations are not repealed the MRC alleges** “the special closure is a potential encumbrance to being able to sell the parcel or sell a conservation easement to an interested

party.”

(c) Consideration of Alternatives:

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

X. Impact of Regulatory Action:

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

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

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states because the proposed repeal removes an access restriction that may impart limited positive impacts to only one private landowner.

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

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

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

(c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative

private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4, Government Code: None.
- (h) Effect on Housing Costs: None.

Updated Informative Digest/Policy Statement Overview

The Marine Life Protection Act (MLPA) (Fish and Game Code Sections 2850-2863) established a programmatic framework for designating marine protected areas (MPAs) in the form of a statewide network. During this designation process, relatively small special closures were used as a management tool to protect seabird rookeries and marine mammal haul-out sites by restricting ocean-based access to these areas seasonally or year-round.

The Rockport Rocks Special Closure was enacted in 2012 to seasonally protect breeding and nesting seabirds from disturbance by prohibiting visitor access closer than 300 feet March 1 to August 31 [Subsection 632(b)(17), Title 14, California Code of Regulations (CCR)].

In 2015, the Mendocino Redwood Company, LLC, (MRC) submitted a petition to the Fish and Game Commission (Commission) requesting the repeal of the Rockport Rocks Special Closure regulations. The petition alleges the Rockport Rocks Special Closure prohibits MRC from accessing its private property.

The proposed amendment will repeal all aspects of the special closure, except for modification of the name from “Rockport Rocks Special Closure” to “Repealed: Rockport Rocks Special Closure”.

Benefits of the Proposed Regulation

The proposed amendment to Section 632 corrects inadvertent implementation of regulations that conflict with Department policy to not establish MPAs or special closures that prohibit access to private lands. Retaining the name with a slight modification will ensure historical tracking of enforcement citations for this area as well as all other MPAs and special closures in the statewide network, avoid costs of reprinting statewide materials, and avoid an amendment of every MPA serial number in subsection 632(b).

Consistency and Compatibility with Existing State Regulations

Commission staff has searched the CCR and has found no other regulations concerning Rockport Rock Special Closure and therefore has determined that the proposed regulations are neither inconsistent, nor incompatible, with existing state regulations.

UPDATE

On August 22, 2018, the Fish and Game Commission adopted the proposed amendments to subsection (b)(17) of Section 632 of Title 14, California Code of Regulations, concerning the repeal of Rockport Rocks Special Closure.

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