

DRAFT California Department of Fish and Wildlife Recommendations for California Fish and Game Commission Action on Bin 1 Marine Protected Area Petitions

In 2023, the California Department of Fish and Wildlife (CDFW) released the first 10-year [comprehensive review](#) of California's Marine Protected Area (MPA) Network and Management Program that included [28 adaptive management recommendations](#) for the next decade of MPA management. One of the near-term priority recommendations (#4) called for applying what was learned from the review to support proposed changes to the [MPA Network and Management Program](#). To help advance this recommendation, the California Fish and Game Commission (CFGC) informed members of the public that they could submit petitions to amend MPA regulations for receipt at CFGC's December 2023 meeting. California Native American Tribes and tribal communities were invited to submit MPA petitions by the February 2024 meeting. CFGC received [20 petitions](#) with over 80 unique requests for changes to the MPA Network.

At its February 14-15, 2024 meeting, CFGC referred all 20 MPA petitions received to CDFW for review, evaluation, and recommendation. CDFW developed a draft [3-phase approach](#) to evaluate MPA petitions that was supported by the Marine Resources Committee (MRC) and approved by CFGC in April. CDFW completed Phase 1, which involved sorting the petitions into two bins, Bin 1, which are "near-term" petitions where CDFW had enough information to evaluate the petition and make a recommendation, and Bin 2 petitions, which are longer-term because there is a need for policy guidance, additional data or information, and/or resources to support evaluation.

CDFW presented the draft proposed binning of petitions for tribal and public input and discussion at the July 17 MRC meeting. Five petitions were sorted into Bin 1 and the remaining 15 were sorted into Bin 2. MRC supported the [draft outcomes from binning](#), which were subsequently approved by CFGC in August. CFGC requested that CDFW bring draft recommendations on Bin 1 actions to the November 2024 MRC meeting.

In response to CFGC's request in August 2024, CDFW has prepared draft recommendations for each Bin 1 petition action evaluated against the applicable metrics in CFGC's approved [petition evaluation framework](#) (see attachment 6, page 232) for consideration by MRC at its November 6-7, 2024 meeting. The approved framework includes metrics such as, but not limited to:

- Compatibility with [Marine Life Protection Act](#) goals and [MPA Master Plan guidelines](#) including CDFW's design [feasibility guidelines](#) and existing regulations.
- Ability to help advance any of the 28 Decadal Management Review recommendations.
- Garners community support from diverse sectors.

Table 1 includes the Bin 1 petitions split into their individual actions, recommendations on how to proceed on each action, and brief justifications on how each action does or does not meet the petition evaluation framework. Each action is identified by the CFGC tracking number and action ID assigned by CFGC when petitions were first received, the MPA affected by the proposal, action category (e.g. modify existing regulations, establish new MPA and no action), and action type (e.g. MPA classification change, boundary change, or change in take).

Table 1. DRAFT Bin 1 recommendations for each petition action with brief justifications, and preferred pathway. More information regarding current regulations referenced below can be found at the following links: [California Code of Regulations \(CCR\) Title 14 \(Section 632\)](#), [California Fish and Game Code \(FGC Sections 2850-2863\)](#), and [Public Resources Code \(PRC Sections 36600-36690\)](#).

CFGC Tracking No.	Petitioner Contact	Action ID	Affected MPA	Action Category	Action Type	Petition Proposed Action	CDFW Recommendation	Brief Justification and Proposed Action
2023-22MPA	Wendy Berube, Orange County Coastkeeper	2023-22MPA_1	Bolsa Chica Basin SMCA	No Action	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.
		2023-22MPA_2	Laguna Beach SMCA	No Action	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.
		2023-22MPA_3	Crystal Cove SMCA	Modify	Allowable Uses	Add "non-living, geological or cultural" to marine resource tidepool take prohibition for consistency with 632(a)1(C).	Deny w/ alternative pathway	Redundant with 632(a)1(C) that already prohibits tidepool take. Recommend striking specific language regarding tidepools from the Crystal Cove SMCA regulations for clarity and consistency.
		2023-22MPA_4	Crystal Cove SMCA	Modify	Allowable Uses	Change description of tidepools to "rocky intertidal zone" with a modified definition, "the rocky intertidal zone includes all hard substrate between the highest high tide and lowest low tide."	Grant w/ alternative pathway	Simplifies regulatory language and could help enhance public understanding. Recommend striking from regulations for this individual MPA and add a definition of rocky intertidal habitat to general provisions in a new subsection 632(a)(16).
		2023-22MPA_5	Dana Point SMCA	Modify	Allowable Uses	Add "non-living, geological or cultural" to marine resource tidepool take prohibition for consistency with 632(a)1(C).	Deny w/ alternative pathway	Redundant with 632(a)1(C) that already prohibits tidepool take. Recommend striking specific language regarding tidepools from the Crystal Cove SMCA regulations for clarity and consistency.
		2023-22MPA_6	Dana Point SMCA	Modify	Allowable Uses	Change description of tidepools to "rocky intertidal zone" with a modified definition, "the rocky intertidal zone includes all hard substrate between the highest high tide and lowest low tide."	Grant w/ alternative pathway	Simplifies regulatory language and could help enhance public understanding. Recommend striking from regulations for this individual MPA and add a definition of rocky intertidal habitat to general provisions in a new subsection 632(a)(16).
		2023-22MPA_7	All Orange County MPAs, except Upper Newport Bay	Modify	Allowable uses	Add an amendment that "Scientific research, monitoring, restoration, and education is allowed pursuant to any required federal, state, or local permits, or as otherwise authorized by the department.	Deny	Redundant with what is already allowed in SMCAs pursuant to statute (PRC sections 36600-36690).

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2023-25MPA	Burton Miller	2023-25MPA_1	Blue Cavern Onshore SMCA	No Action	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.
		2023-25MPA_2	Casino Point SMCA	Modify	Allowable uses	Remove allowance for feeding fish.	Deny	Fish feeding has been a long-standing practice in this area associated with local tourism that outdates the MLPA planning process. Because of this, and the enhancement of wildlife viewing, and educational opportunities provided by the practice, the MLPA Initiative Blue Ribbon Task Force recommended, and CFGC adopted, an exemption for feeding fish in subsection 632(a)(6) if specifically authorized in 632(b) to continue to allow the practice for this MPA.
		2023-25MPA_3	Casino Point SMCA	No Action	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.
		2023-25MPA_4	Long Point SMR	Modify	Boundaries	Change the type of boundary from a latitude and longitude to a certain, specified distance from shore. To maintain overall size, the northeast corner could be trimmed and fitted to western edge of offshore boundary to create a standard distance from shore (in similar fashion to Arrow Point to Lion Head SMCA).	Deny	Requested change does not align with CDFW's Feasibility Guidelines to align MPA boundaries with whole minutes of latitude and longitude whenever possible to enhance enforceability. Using distance from shore is also inconsistent with this guidance. CDFW Law Enforcement Division is not supportive because it could decrease enforceability and result in reduced protection of marine resources.

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2023-25MPA (continued)	Burton Miller	2023-25MPA_5	Lover's Cove SMCA	Modify	Allowable uses	Remove allowance for feeding fish.	Deny	Fish feeding has been a long-standing practice in this area associated with local tourism that outdates the MLPA planning process. Because of this, and the enhancement of wildlife viewing, and educational opportunities provided by the practice, the MLPA Initiative Blue Ribbon Task Force recommended, and CFGC adopted, an exemption for feeding fish in subsection 632(a)(6) if specifically authorized in 632(b) to continue to allow the practice for this MPA.
2023-26MPA	Katie O'Donnell, WILDCOAST	2023-26MPA_1	Swami's SMCA	Modify	Boundaries	Shift the entire MPA boundary shape south (from lifeguard tower to State/Solana Beach line to cover tidepool on south side).	Deny	Northern boundary change was not evaluated at request of petitioner. Requested change at southern boundary does not align with CDFW's Feasibility Guidelines to align MPA boundaries with whole minutes of latitude and longitude whenever possible to enhance enforceability. CDFW Law Enforcement Division is not supportive because it could decrease enforceability and result in reduced protection of marine resources.
		2023-26MPA_2	Batiquitos Lagoon SMCA	No Action	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.
		2023-26MPA_3	San Elijo Lagoon SMCA	No Action	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.
		2023-26MPA_4	Famosa Slough SMCA	No Action	Non-regulatory	Change color of no-take SMCA from purple to red on outreach maps.	Support w/ alternative pathway	This proposed action does not require a change to existing regulations. Discuss alternative pathway to identify how best to implement the change.
2023-30MPA	Robert Jamgochian	2023-30MPA_1	Big River Estuary SMCA	Modify	Take	Make recreational take of Dungeness crab more restrictive by changing crab gear regulations to only allow Type A hoops and eliminate hoop net Type B option.	Deny	Outside the scope of MPA management. Action more appropriate to be considered through fishery management process.

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2023-30MPA (continued)	Robert Jamgochian	2023-30MPA_2	Big River Estuary SMCA	Modify	Take	Make recreational take of Dungeness crab more restrictive by reducing the number of set traps from 10 to 5 for recreational take of Dungeness crab.	Deny	Outside the scope of MPA management. Action more appropriate to be considered through fishery management process.
		2023-30MPA_3	Big River Estuary SMCA	Modify	Take	Make recreational take of Dungeness crab more restrictive by reducing the recreational bag limit from 10 to 5 crabs per person.	Deny	Outside the scope of MPA management. Action more appropriate to be considered through fishery management process.
2023-31MPA	Ashley Eagle-Gibbs, Environmental Action Committee of West Marin	2023-31MPA_1	Drake's Estero SMCA	Modify	Classification/Take	Reclassify Drakes Estero SMCA to an SMR to prohibit take.	Grant	Drake's Estero was designated as an SMCA to allow the existing aquaculture activities to continue operating. The MLPA North Central Coast Regional Stakeholder Group recommended changing the classification from an SMCA to an SMR if it is feasible to do so. Aquaculture activities ceased in 2014. Redesignation to an SMR could help protect biodiversity in the eelgrass beds that have recovered since the removal of the aquaculture infrastructure. There is limited recreational clamming activity that would be displaced by the classification change.
		2023-31MPA_2	Estero de Limantour SMR	Modify	Boundaries	Combine SMR with a reclassified Drake's Estero SMR into one single SMR.	Grant	Creating one SMR would eliminate the confusing boundary between the current SMCA and SMR.