

Staff Summary for December 11-12, 2024

11B. Marine Resources Committee (MRC)**Today's Item**Information Action

Receive summary and consider approving recommendations from the November 6-7, 2024 committee meeting. Discuss referred topics and consider revisions to topics and timing.

Summary of Previous/Future Actions

- Previous MRC meeting November 6-7, 2024; MRC
- **Today consider MRC recommendations** **December 11-12, 2024**
- Next MRC meeting March 13, 2024; MRC

Background

MRC works under Commission direction to set and accomplish its work plan (Exhibit 1). Today, the Commission will receive a report on the previous MRC meeting and recommendations, as well as provide direction for any referred topics and revisions to MRC topics and timing.

Previous Committee Meeting

MRC met on November 6-7 in Sacramento, with webinar and phone options. Official minutes (meeting video) are posted on the [Commission's YouTube page](#) with a link also available on the Commission's meeting page at fgc.ca.gov/Meetings/2024. Each discussion topic is briefly summarized in this document.

Marine Protected Area (MPA) Regulation Change Petitions – Evaluation Process

Bin 1 evaluations: The Department evaluated the five “bin 1” MPA petitions and provided draft recommendations for the 21 individual actions within those petitions, categorized as allowable uses, take or classification/take, boundaries, or non-regulatory (see Exhibit 2 for background). MRC refined the draft recommendations based on public and Department input; its recommendations are scheduled for potential action today under Agenda Item 8, MPA Petitions.

Bin 2 petition amendments: Staff proposed a process for petitioners with “bin 2” petitions to request an amendment to their original petition, with the goal of receiving such requests prior to the February 2025 Commission meeting. MRC supported the approach and identified January 10 as a suitable deadline to help the Department proceed with “bin 2” evaluations. Staff subsequently sent a letter to petitioners to notify them of the proposed process and potential deadline (Exhibit 3).

Application for New Aquaculture Lease – San Andreas Shellfish Company

San Andreas Shellfish Company, a state water bottom lease applicant, presented an overview of its proposed lease project in Tomales Bay with the aim of gathering public input for consideration during the environmental and public interest analyses, consistent with the Commission's enhanced leasing process. Staff presented background on the enhanced leasing process and how the new lease application fits within it (see link for Exhibit 4) and

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provided a joint staff and Department staff evaluation of aquaculture lease requirements in support of a public interest determination (Exhibit 5).

Market Squid Fishery Management and Fishery Management Plan Review

The Department shared the Department Squid Fishery Advisory Committee report and recommendations, addressing topics raised in July 2024 regarding marine mammal deterrents, lighting impacts and conservation for Scripp's murrelet, and potential small-scale fishery access in northern California. MRC supported the Department's recommendations to advance a rulemaking and FMP amendment process for specific measures (require electronic logbooks, a rib line and rope purse line, and a weekend closure extension), while pursuing non-regulatory options for minimizing nighttime lighting disturbance of Scripps' murrelet, and exploring small-scale access outside traditional fishing grounds through the Experimental Fishing Permit Program.

Recreational Barred Sand Bass Fishery

The Department presented an update on the recreational barred sand bass fishery working group, including a proposed year-round sub-bag limit reduction from 5 to 4 fish for three years, during which time data will be enhanced and longer-term management measures developed. While recognizing the concerns of fishery participants, MRC questioned the sufficiency of the proposed limit, especially during the summer spawning season. MRC recommended options for consideration during today's meeting under Agenda Item 5, Barred Sand Bass.

Recreational Crab Trap Gear Options and Trap Validation for Commercial Passenger Fishing Vessels

The Department discussed industry outreach and potential regulation changes to address gear and marine life entanglement concerns in the recreational fishery, and a new trap validation for commercial passenger fishing vessels. MRC requested that the Department consider adding a color-specific gear marking requirement.

Commercial Harvest of Marine Algae Sea Palm

The Department presented recommended regulations governing commercial harvest of sea palm (*Postelsia*), following outreach to tribes and harvesters. The proposed regulations would define allowable harvest methods, improve harvest reporting requirements, and prohibit harvest south of Pigeon Point, San Mateo County.

Experimental Fishing Permit (EFP) Program

- **Brown Box Crab EFPs:** The Department provided an update on the box crab EFP research project, summarizing participation, data collection, and next steps. Continued research is needed to inform the potential for a commercial fishery. The Department recommends not expanding box crab EFP research north of Point Conception until testing of on-demand fishing systems (pop-up gear) and gear marking is completed through the existing EFP.
- **Broader EFP Program and Pop-Up Gear Testing:** The Department also presented broader EFP Program and management activities, with a focus on testing on-demand

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fishing systems. The first annual report, due in March 2025, may inform future on-demand gear testing, gear marking applications, and authorization.

Staff and Agency Updates

- California Ocean Protection Council (OPC) staff provided updates on OPC's 30x30 initiative, developing a 2026-2030 strategic plan, recent requests for proposals to advance mid-depth rocky reef habitat monitoring, and hiring for three positions to engage with offshore wind development.
- The Department's Marine Region provided an update on extending red abalone fishery closure regulations, which expire April 1, 2026.
- The Department's Marine Enforcement District provided an update on illegal activity in the California spiny lobster fishery.
- Staff provided an update on initial implementation steps for the Commission *Coastal Fishing Communities Policy*, including outreach efforts with members of the fishing community. Staff also announced the selection of Caroline Newell as the 2025 California Sea Grant State Fellow, who will begin her fellowship early next year.

MRC Recommendations

There are five MRC recommendations for Commission consideration today:

1. *Marine Protected Area (MPA) Regulation Change Petitions – Evaluation Process*

- Under Agenda Item 8, MPA Petitions for Regulation Change and Non-Regulatory Action, consider individual regulatory proposals and non-regulatory requests in "bin 1" MPA petitions (see Exhibit 2 of Agenda Item 8).
- Support the staff-developed process for petition amendment requests, set a deadline of January 10, 2024 for submitting bin 2 petition amendments, and direct staff to share amendment requests with the Department as received, prior to formal receipt and referral at the February 2025 Commission meeting.

2. *Market Squid Fishery Management and Fishery Management Plan Review*

- Schedule a three-meeting concurrent process, to begin in April 2024, to consider amendments to the existing *Market Squid Fishery Management Plan* and to amend market squid regulations to require electronic logbooks, a rib line and rope purse line, and a weekend closure extension (statewide from 7 a.m. Friday to noon Sunday, except until midnight Sunday in Monterey Bay), as recommended by the Department.
- As an alternative to developing new or changing existing regulations to protect nesting seabirds from lighting disturbance, support Department efforts to (1) distribute a fishery "best practices" guide to minimize seabird nesting disturbance from lighting, (2) continue research on modeled forecasting, (3) evaluate potential wildlife interactions, and (4) explore through the EFP Program potential small-scale fishing opportunities outside of traditional fishing grounds.

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3. *Recreational Barred Sand Bass Fishery*

- At the December 2024 Commission meeting (under Agenda Item 5 today), authorize notice of intent to amend regulations to set a barred sand bass sub-bag limit of [1 to 5] for June through August, and [1 to 5] for September through May, with no more than five bass in combination (barred sand bass, kelp bass, and spotted sand bass), and a regulation expiration of June 1, 2028.
- Support the Department's two-pronged approach, to (1) collaboratively address data gaps and (2) develop a long-term conservation strategy for barred sand bass spawning aggregations before the sub-bag limit measures expire.

4. *Recreational Crab Trap Gear Options and Trap Validation for Commercial Passenger Fishing Vessels*

In April 2025, advance to rulemaking proposed changes to the recreational crab trap fishery related to gear and marine life entanglement concerns and trap validation for commercial passenger fishing vessels, as recommended by the Department. Request that the Department continue exploring color-specific marker buoy options for hoop nets for potential inclusion in the rulemaking.

5. *Commercial Harvest of Marine Algae Sea Palm (Postelsia)*

Advance to rulemaking the proposed regulatory changes as recommended by the Department, with public notice in February 2025. Request that the Department continue exploring density trends in Humboldt and Sonoma counties by reaching out to harvesters in the area.

Committee Work Plan and Future Meetings

The updated MRC work plan (Exhibit 1) outlines topics and timelines for Commission-referred items, including MRC-proposed changes. The Department recommends referring one new topic to MRC related to the recreational red abalone fishery closure sunset date and scheduling a discussion for the March 2025 MRC meeting, to consider a potential extension of the recreational fishery closure before it expires on April 1, 2026.

Completed Topics

Three completed topics are identified by staff for removal from the work plan as they were completed in July 2024 and advanced to the Commission for consideration:

- California halibut review – Bycatch evaluation for set gill net (lessons learned)
- Commercial sea urchin fishing (including review of petition 2023-04 for northern fishery)
- Electronic recreational fishing report cards rulemaking

Significant Public Comments

A former commercial abalone diver suggests replacing the term “recovery” with “conservation” in the red abalone recovery plan, as “recovery” is a defined term under the federal Endangered Species Act. They attach relevant literature documenting causes of red abalone declines in California over the past century. (Exhibit 6)

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Recommendation

Consider MRC recommendations 1 and 3 under Agenda Items 8 and 5, respectively; approve MRC recommendations 2, 4, and 5; and approve the MRC work plan in Exhibit 1, with any adjustments made during today's meeting.

Exhibits

1. [MRC work plan, updated December 2, 2024](#)
2. [Staff summary for Agenda Item 2, MPAs, from November 6-7, 2024 MRC meeting \(for background purposes only\)](#)
3. [Staff letter to "bin 2" petitioners transmitting the MRC-recommended petition amendment process and deadline, sent November 26, 2024](#)
4. Staff presentation: "Process Overview for Vetting Application for New Aquaculture Lease Applicant: San Andreas Shellfish Company", presented at November MRC meeting (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227328&inline>)
5. [Staff and Department evaluation of aquaculture lease requirements for San Andreas Shellfish Company state water bottom lease application, dated October 28, 2024](#)
6. [Letter from Steve Rebeck, received November 1, 2024](#)

Motion

Moved by _____ and seconded by _____ that the Commission approves MRC recommendations 2, 4, and 5 from the November 6-7, 2024 meeting and approves changes to the work plan, as discussed today.

California Fish and Game Commission Marine Resources Committee (MRC) Work Plan

Updated December 2, 2024

Note: Proposed changes to topics/timing are shown in blue underscore or ~~strike-out~~ font.

Topics	Category	Jul 2024	Nov 2024	Mar 2025
Planning Documents, Fishery Management Plans (FMPs)				
MLMA Master Plan for Fisheries – Implementation Updates	Plan Implementation			
Red Abalone Recovery Plan (statewide)	Recovery Plan	*		
- Risk Tolerance for Reopening Fishery Harvest	Recovery		X	<u>X</u>
California Halibut Fishery Management Review (CHal Review) – CHal Trawl Grounds Review	Management Review	*		
CHal Review – Bycatch Evaluation for Set Gill Net (Lessons Learned)	Management Review	X		
CHal Review – Bycatch Evaluation for Trawl Gear	Management Review			
Market Squid Fishery Management and FMP Review	Management/ FMP Review	X	X/R	
Kelp Recovery and Management Plan (KRMP) Development	Recovery/ Management Plan		*	
Marine Protected Area (MPA) Network 2022 Decadal Management Review Implementation: <i>MPA Petitions</i>	Management Review	X/R	X/R	<u>X</u>
Regulations				
Kelp and Algae Commercial Harvest – Sea Palm (<i>Postelsia</i>)	Commercial Take	*	X/R	
Commercial Sea Urchin Fishing (Including Review of Petition 2023-04 for Northern Fishery)	Commercial Take	X/R		
Recreational Crab Trap Gear Options and Trap Validation for Commercial Passenger Fishing Vessels	Recreational Take	X	X/R	
Electronic Recreational Fishing Report Cards Rulemaking	Recreational Take	X/R		
Recreational Barred Sand Bass Fishery	Recreational Take	X	X/R	
Recreational Red Abalone Fishery Closure Sunset Date	Recreational Take			<u>X</u>
Marine Aquaculture and State Water Bottom Leases				
Statewide Aquaculture Action Plan	Planning Document			
Status of Existing Leaseholder Requests	Current Leases			<u>X</u>
Applications for New Leases	Lease Applications	*	X	<u>X</u>
Lease Best Management Practices Plans (Hold, TBD)	Leases–Regulatory			
Special Projects, Informational Topics, and Emerging Management Issues				
Coastal Fishing Communities Project	MRC Project	*	*	<u>X</u>

Topics	Category	Jul 2024	Nov 2024	Mar 2025
Kelp Restoration and Recovery Tracking	Kelp			
Experimental Fishing Permit (EFP) Program				
Box Crab Exploratory Fishing	EFP		X	
Pop-Up Gear in State-Managed Fisheries	EFP		X	

Key: X = Discussion X/R = Recommendation and may move to Commission * = Written or oral agency update

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2. Marine Protected Area (MPA) Regulation Change Petitions – Evaluation Process

Today's Item	Information <input type="checkbox"/>	Action <input checked="" type="checkbox"/>
(A) Receive and discuss Department evaluation and recommendations for MPA petitions in Bin 1 (petitions ready to be evaluated in the near-term) and develop potential committee recommendation		
(B) Discuss sorting of MPA petitions in Bin 2 (petitions that require additional policy guidance, information and/or resources before evaluation), and next evaluation steps		
(C) Receive general input on MPA petitions (<i>as time allows</i>)		

Summary of Previous/Future Actions

- Received decadal management review (DMR) report and Department presentation February 8-9, 2023
- Marine Resources Committee (MRC) and Commission discussed and prioritized adaptive management recommendations from DMR 2023; various
- Received 20 MPA regulation change petitions December 13-14, 2023
- Referred 20 MPA petitions to Department for review and to MRC for discussion February 14-15, 2024
- MRC received and discussed Department-proposed approach for reviewing and evaluating petitions for MPA regulation changes March 19, 2024; MRC
- Department presented proposed Phase 1 “binning” of MPA petitions into bins 1 and 2, and MRC developed recommendation July 17, 2024; MRC
- Approved MRC recommendation for Bin 1 and Bin 2 petitions; requested updates on process for Bin 2 petitions and proposed timeline August 14-15, 2024
- Department provided update on developing Bin 1 recommendations and proposed next steps for evaluating Bin 2 petitions. October 9-10, 2024
- **Today receive and discuss Department Bin 1 petitions evaluation and draft recommendations; discuss sorting of Bin 2 MPA petition actions and next evaluation steps** **November 6, 2024; MRC**
- Commission considers MRC recommendations; receives Department annual MPA Management Program update December 11-12, 2024; MRC

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Background

Twenty public MPA regulation change petitions, containing over 80 individual petition actions, are currently under review by the Department for evaluation and recommendations following Commission referral in February 2024. The Department is following the three-phase framework for evaluating MPA petition requests, which the Commission approved in April 2024 based on MRC recommendation, including four core petition evaluation considerations (see Exhibit 1, pages 3-4). The petition evaluation framework organizes further evaluation considerations into three MPA cornerstones: Governance, Management Program Activities, and Network Performance (See Exhibit 1, page 5).

Phase 1 Binning of Individual Petitions – July 2024 MRC

The Department presented draft binning of individual petitions into Bin 1 (near-term evaluation) and Bin 2 (longer-term evaluation) at the July MRC meeting. In August, the Commission supported the draft placement of petitions into the bins as proposed, initiating Department evaluation of the petitions in Bin 1. The Commission requested a process update in October.

Department Progress Update in October 2024

In October, the Department presented: (1) the status of Bin 1 petition evaluations under the approved MPA petition evaluation framework; (2) proposed next steps for the petition evaluation framework (for discussion at MRC in November 2024); (3) near-term milestones for MRC and Commission meetings (through early 2025); and (4) the Department's newly-launched [MPA Petitions StoryMap](#). The agenda topic materials are in Exhibit 1. The Commission expressed strong interest in tracking the MPA petitions discussions as the evaluation process unfolds.

Following the October meeting, the Department submitted a report to the Pacific Fishery Management Council for the November Council meeting, to provide a high level overview of the process underway with the Commission (Exhibit 5).

Today's Meeting – November 6, 2024

The Department will give a presentation to serve as a roadmap for today's discussion about the Bin 1 evaluation and draft recommendations, and the next phases of the evaluation framework (Exhibit 2).

(A) Bin 1 Petitions Evaluation and Draft Recommendations

The Department has released its draft recommendations and rationale for all petitioned actions in the five petitions sorted into Bin 1 (exhibits 3 and 4). To clarify terminology used in the draft recommendations, "Support" is exclusively for non-regulatory actions, while "Grant" or "Deny" are formal terms used for regulatory actions, aligning with the Commission's authority under the State's Administrative Procedure Act.

Following its introductory presentation, the Department will then walk through the individual draft recommendations for each Bin 1 MPA petition action, categorized into four groups based on the type of action:

- *Non-regulatory*
- *Allowable uses*

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- *Classification/take*
- *Boundaries*

Today, MRC will discuss the Department's draft recommendations and potentially develop an MRC recommendation for Commission consideration.

(B) *Next Steps for Bin 2 Petitions Sorting and Action Evaluation*

This item is to discuss next steps for sorting and evaluating individual actions within Bin 2 petitions (those requiring additional policy guidance, information, or resources) as well as other process considerations.

The Department has begun separating Bin 2 petitions into the individual actions for review. In October 2024, the Department proposed to further sort Bin 2 actions using the Phase 1 considerations to identify those actions ready for near-term evaluation versus those on a longer-term evaluation time scale (Exhibit 1). Based on the Bin 1 review and discussion, today is an opportunity to consider the potential effectiveness of the evaluation method for more involved or complex actions.

There are several sources of information and context to support discussion and potential MRC guidance on the Bin 2 sorting and evaluations:

- *Evaluation framework:* In addition to evaluation guidelines related to compatibility with MLPA and master plan, advancing MLPA goal(s), garnering community support, and advancing DMR adaptive management recommendations, the MPA petition evaluation framework organizes evaluation considerations into the three cornerstones: governance, management program activities, and network performance (found in Exhibit 1). There are multiple ways the sorted actions could be grouped for evaluation purposes, one of which is to use the framework categories to separate actions aimed at adaptive management of existing MPAs through management program changes versus those focused on expanding or adding MPAs to improve network performance. Such an approach is in contrast to, say, focusing discussions in specific regions, or grouping by action type. Each of the approaches may be reasonable, depending on the proposed actions.
- *Staff-proposed petition revision process:* In October, the Commission confirmed its willingness to receive requests from MPA petitioners to amend their original MPA petition. Staff has developed a proposed petition amendment process for MRC consideration (Exhibit 6).
- *Tools for evaluation (design and scientific analysis):* At the October Commission meeting, the California Ocean Protection Council shared its intent to invest in updating two existing tools with recent data: SeaSketch and the Connectivity Model. During today's meeting, Ocean Protection Council staff will provide an update on the tools, anticipated timing for when data updates will be complete, and clarify what the potential applications of each tool are for petition review and evaluation (Exhibit 7).
- *Design feasibility and science guidelines:* Staff and the Department have noted the potential application of existing design feasibility and science guidelines (found in the master plan for MPAs) in reviewing petitioned actions.

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(C) *General Input on MPA Petitions (as time allows)*

Upon completion of 2(A) and 2(B), this section provides a place for comments related to specific MPA petitions or MPAs more broadly. A number of general comments were received by the public comment deadline.

Next Steps – December 11-12, 2024 Commission Meeting

At its December meeting, the Commission will receive any MRC recommendations related to: (1) actions on MPA petitions in Bin 1; (2) a potential petition revision process for Bin 2 petitions; and (3) potential sorting or evaluation guidance for individual actions in Bin 2 petitions, including the use of design and evaluation tools. Additionally, the Department will present its annual MPA Management Program update under the Department's Marine Region update.

Significant Public Comments

(A) Bin 1 Petitions – Department Evaluation and Recommendations

- *Petition 2023-26MPA (Swami's State Marine Conservation Area, SMCA)*

Amend: The petitioner requests to withdraw the boundary change proposals, but retain proposed color changes for no-take SMCAs in outreach materials (Exhibit 8).

Oppose: A recreational fishing and hunting organization and two recreational fishermen oppose the proposed boundary changes, citing concerns about scientific basis, fishing access, and enforcement challenges (exhibits 9 through 11).

- *Petition 2023-31MPA (Drakes Estero SMCA) or Petition 2023-30 (Big River SMCA)*

Support 2023-31MPA: The petitioner provides additional support for the petition from various individuals and organizations (National Park Service, Marin County Supervisor Rodoni, scientists, non-governmental and community-based organizations, local individuals, and tribes) (Exhibit 12).

Oppose 2023-31MPA and 2023-30MPA: A recreational fishing and hunting organization opposes both petitions due to potential impacts on recreational harvest and lack of clear scientific rationale (Exhibit 9).

- *Petition 2023-22MPA (several Orange County MPAs)*

Support 2023-22MPA_7: Twenty-two individuals support adding language to Orange County MPAs stating 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."

(B) Bin 2 Petitions – Sorting and Next Steps in Evaluation Process

- *MPA Petition Evaluation Process*: Four fishing organizations and three individual fishermen have raised concerns about the MPA petition evaluation process, especially for advancing large-scale MPA change petitions. They cite issues such as insufficient scientific support, inadequate stakeholder engagement, potential conflicts with the Commission's new Coastal Fishing Communities Policy, and coastal fishing communities facing multiple marine spatial developments (offshore wind, 30x30, quillback-driven area closures). Some commenters recommend prioritizing adaptive

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management adjustments actions, separating evaluations for network expansion, and pausing the process for new MPA proposals to allow for a more thorough and inclusive approach (see examples in exhibits 13-18).

(C) General Comments

- *Disputing MPA Effectiveness*: Two recreational fishing organizations submitted documents as evidence from scientific sources challenging the effectiveness of MPAs in increasing fish abundance (Exhibit 19).
- *Amend: Petition 2023-15MPA (Channel Islands MPAs)*: The petitioner requests to amend the petition with several options offered for take allowance, including full access and restrictions on gear types, and addresses potential impacts on nearshore areas. Also provides rationale to allow fishing for highly migratory species (HMS) in three Channel Islands MPAs (states HMS have minimal impact on MPA ecosystems; current regulations are overly restrictive due to unintentional gear movement and military closures; and the proposal aligns with adaptive management principles). (Exhibit 20)
- *Support, Oppose or Additional Information*: Over a dozen letters and emails in support of or opposition to specific Bin 2 petitions (Exhibit 21).
- *Petition 2023-23MPA*: Petitioner provides additional information about outreach and compromises made, responds to objections to petition, identifies where additional policy guidance is needed, and attaches a table with all MPA petitions with proposed actions and justifications, and other non-MPA related information (Exhibit 22).

Recommendation

Commission staff: (A) Review the Department's draft recommendations for Bin 1 petition actions and provide feedback. Develop an MRC recommendation for each Bin 1 action, considering public input and potential modifications to the Department's proposals, if any. (B) Discuss the categorization of Bin 2 petitions into individual actions. Provide guidance on the evaluation process, including any specific information or criteria that should be displayed.

Department: (A) Support the Department's draft Bin 1 actions recommendations as proposed. (B) Discuss potential next steps for Bin 2 petition evaluations and amendments.

Exhibits

1. [Staff summary and exhibits from October 9-10, 2024 Commission meeting, Agenda Item 10\(C\), Marine Region Report](#), regarding MPA regulation change petitions (*for background purposes only*)
2. [Department presentation](#)
3. [Department memo: MPA Regulations Change Petitions-Evaluation Process](#), received October 25, 2024
4. [Department recommendations for Bin 1 petition actions](#), received October 25, 2024
5. [Department report on the California MPA Petition Process](#), Agenda Item D.2.b Marine Planning, Pacific Fishery Management Council, November 2024
6. [Staff-proposed process for revising MPA petitions](#), dated October 25, 2024
7. [California Ocean Protection Council presentation](#) – evaluation tools

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(A) Comments on Bin 1 Petitions

8. [Letter from Katie O'Donnell, U.S. Ocean Conservation Manager, WILDCOAST](#), received October 10, 2024
9. [Letter from Joel Weltzien, California Chapter Coordinator, Backcountry Hunters & Anglers](#), received October 23, 2024
10. [Email from Volker Hoehne](#), received October 16, 2024
11. [Letter from David Clutts](#), member, San Diego Freedivers, Norcal skindivers, and Richmond Pelican Skindivers, received October 21, 2024
12. [Letter from Ashley Eagle-Gibbs, Executive Director, Environmental Action Committee of West Marin](#), received October 24, 2024

(B) Comments on Bin 2 Petition Evaluation Process

13. [Letter from Kim Selkoe, Executive Director, Chris Voss, President, and Ava Schulenberg, Assistant Director, Commercial Fishermen of Santa Barbara](#), received October 24, 2024
14. [Letter from Kim Selkoe, Founder and CEO, and Victoria Voss, COO, Get Hooked Seafood](#), received October 24, 2024
15. [Letter from Miles Wallace, Owner, Open Ocean Seafood, and Board Member, California Lobster and Trap Fishermen's Association](#), received October 24, 2024
16. [Email from Matthew Bond, AllWaters PAC](#), received October 24, 2024
17. [Letter from Ava Schulenberg, Executive Director, California Lobster and Trap Fishermen's Association](#), received October 24, 2024
18. [Letter from Ava Schulenberg](#), commercial fisherman, received October 24, 2024

(C) Comments on Individual Petitions or MPAs Generally

19. [Emails and attachments from Chris Killen, AllWaters PAC, and Bill Shedd, Coastal Conservation Association California](#), received October 9 to October 23, 2024
20. [Letter from Blake Hermann](#), petitioner for Petition 2023-15MPA, received October 15, 2024
21. [Compilation of eleven letters and emails](#), received October 9 to October 24, 2024
22. [Letter and attachments from Keith Rootsart, Founder, Giant Giant Kelp Restoration](#), and petitioner for 2023-23MPA, received October 24, 2024

Committee Direction/Recommendation

The Marine Resources Committee recommends that the Commission support the Department draft recommendations for petitioned actions in Bin 1 MPA regulation change petitions; and schedule those petitions for action at the February 2024 Commission meeting.

OR

The Marine Resources Committee recommends that the Commission support the Department draft recommendations for petitioned actions in Bin 1 MPA regulation change petitions, except

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for: _____ for which the MRC recommends: _____, and
schedule those petitions for action at the February 2024 Commission meeting.

From: FGC

Sent: Tuesday, November 26, 2024 09:09 AM

Cc: Miller-Henson, Melissa@FGC [REDACTED] Ashcraft,
Susan@FGC [REDACTED] >; Shuman, Craig@Wildlife
[REDACTED] Waggoner, Claire@Wildlife
[REDACTED] Worden, Sara@Wildlife
[REDACTED] Calla, Allison [REDACTED] Lewis,
Staci@CNRA [REDACTED] Esgro, Michael@CNRA
[REDACTED] Rossi, Devon-Contractor@FGC
[REDACTED]

Subject: Opportunity to request an amendment to your MPA petition

Dear marine protected area (MPA) petitioner:

We are reaching out to you regarding next steps in the review of your MPA regulation change petition, received by the California Fish and Game Commission in December 2023, and an expected opportunity to request amendments to your petition.

In August 2024, based on a recommendation from the California Department of Fish and Wildlife (CDFW) and the Marine Resources Committee (MRC), the Commission divided petitions into two categories: Bin 1 (with five petitions identified for near-term evaluation) and Bin 2 (with fifteen petitions identified for longer-term evaluation).

Your petition was included in Bin 2.

Over the last year, many Bin 2 petitioners have been engaged in dialogue with stakeholders, local communities, government agencies, and Native American tribes and tribal communities, to help ensure the actions proposed in their petitions are supported and appropriate for the relevant area. Several petitioners have expressed the desire to make revisions to one or more parts of their original petition and have inquired about the process for making such changes. Commissioners have been supportive of accepting requests from MPA petitioners to revise petitioned actions within their original MPA petition.

MRC Recommendation

At its November 6-7, 2024 meeting, MRC discussed a staff-proposed petition amendment process (see the attached document). MRC is recommending that the Commission approve the process as outlined, and also is **recommending a deadline of January 10, 2025 for all amendment requests.**

Commission Action

The Commission will consider the MRC recommendation at its upcoming meeting, on December 11-12. If you wish to provide feedback on the recommended petition

amendment process or the proposed amendment request deadline, we encourage you to submit comments by the public comment deadline of December 2 at 5:00 p.m., or by the supplemental public comment deadline of December 6 at noon. Alternatively, you may provide oral comment during the meeting under Agenda Item 11B, Marine Resources Committee.

Please refer to the attached document for the proposed process and requirements for submitting MPA petition amendment requests. Questions? Feel free to contact Devon Rossi, Sea Grant State Fellow, or me at fgc@fgc.ca.gov or (916) 443-4899.

Sincerely,

Susan Ashcraft
Marine Advisor

California Fish and Game Commission
Staff-Proposed Process for Submitting Revisions to an Existing
Marine Protected Area (MPA) Regulation Change Petition

October 25, 2024

At its December 2023 meeting, the California Fish and Game Commission (Commission) received 20 regulation change petitions proposing changes to California's MPA network. In most cases, multiple requested MPA changes were bundled into single petitions; over 80 individual requested actions were included in the 20 petitions. Based on a recommendation from the California Department of Fish and Wildlife (CDFW), in August 2024 the Commission divided petitions into two categories: Bin 1 (with five petitions identified for near-term evaluation) and Bin 2 (with fifteen petitions identified for longer-term evaluation). In December 2024, the Commission is expected to receive a recommendation for proposed actions for the Bin 1 petitions.

Over the last ten months, many Bin 2 petitioners have been engaged in dialogue with other stakeholders, local communities, government agencies, and Native American tribes and tribal communities, to help ensure the actions proposed in their petitions are supported and appropriate for the relevant area. During conversations, petitioners have noted the desire to make revisions to their original petition and have inquired about the process for making such changes. The Commission has agreed to accept requests from MPA petitioners to revise petitioned actions within their original MPA petition; this document proposes a process and parameters for revisions to the 15 MPA petitions.

Who: Petitioners with a petition in Bin 2 may submit a request to amend their original petition. There are 15 petitions included in Bin 2.

Format: Submit to fgc@fgc.ca.gov a revised version of Form FGC 1 (petition for regulation change) that you originally submitted to the Commission.

- Please show revisions in strike-out (~~for deletions~~) and underline (for new content). Alternatively, you may use the track changes function in word processing software.
- Create a cover message detailing which petition action(s) you request to change, what is the specific change, and the rationale (what is the purpose).

Extent of changes: Only revisions to or withdrawal of petition actions in the original petition may be requested. *No new proposed actions will be accepted as revisions to a petition.*

Deadline: All requests must be received by the Commission no later than [to be determined: mid-to-late January 2025 at 5:00 p.m.]

Commission receipt and action: The Commission will receive requests for MPA petition revisions at its February 12-13, 2025 meeting.

- Petition numbers will remain the same, with an "R" added at the end to indicate it is a revised version.
- Staff will recommend the Commission refer revised MPA petitions to the Department and the Commission Marine Resources Committee.

California Fish and Game Commission and California Department of Fish and Wildlife

**Application for State Water Bottom Lease:
Staff Evaluation of Aquaculture Lease Requirements in Support of
Public Interest Determination**

***Proposed Project: San Andreas Shellfish Company Application for
State Water Bottom Lease in Tomales Bay, California***

October 28, 2024

The California Fish and Game Commission (Commission) has the authority to lease state water bottoms to any person for the purpose of conducting aquaculture in marine waters of the State, under terms agreed upon between the Commission and the lessee (California Fish and Game Code sections 15400 and 15405). Prior to approving any lease, the Commission must determine the lease is in the public interest (Fish and Game Code subdivision 15400(a)).

At its August 2023 meeting, the Commission approved an evaluation framework, “Criteria and Framework for Evaluating if a New State Water Bottom Lease is in the Public Interest.” The evaluation framework is comprised of inquiries to help consistently evaluate lease applications to support a determination by the Commission if a state water bottom lease for aquaculture purposes is in the public interest. The framework is structured around a series of criteria divided into two categories: “Requirements” and “Considerations.” Requirements include items that limit or constrain aquaculture lease locations or activities by statute, regulation, or other lease entitlements. Considerations include a suite of potential impacts or concerns, and potential benefits for the Commission to weigh in making a determination of public interest.

Requirements Review

Any application for a new aquaculture lease must undergo an initial review and confirmation of the lease requirements criterion before advancing to further environmental, public, and Commission review. Commission and California Department of Fish and Wildlife (CDFW) staffs jointly evaluate a proposed project relative to the requirements category to confirm a lease application meets the requirements by answering a series of seven inquiries.

Commission and CDFW staffs have completed the requirements review of the state water bottom lease application submitted by San Andreas Shellfish Company (version dated October 7, 2024) and determined that the requirements criterion has been met. This document presents the Commission and CDFW staff’s findings for the set of seven inquiries.

Requirements Criterion

The evaluation of requirements is based on a single criterion:

- *Legality under existing laws, regulation or entitlements related to aquaculture.*

Evaluation of the requirements criterion is structured around a series of seven related inquiries that are binary in nature and, therefore, can be objectively assessed by staff.

Inquiries and Findings

1. ***Lease is located in an area that is certified by the California State Lands Commission as unencumbered and available for aquaculture use¹.***

Finding: Confirmed. The California State Lands Commission notified CDFW and Commission staffs that the proposed lease area is unencumbered (via letter received September 9, 2024).

2. ***Lease area avoids areas used by the public for digging clams, as designated by CDFW².***

Finding: Confirmed. CDFW assessed the location and notified staff that the proposed lease area avoids designated clamming areas (via email received October 25, 2024).

3. ***Lease is not located within designated areas or jurisdictions that prohibit aquaculture.***

Finding: Confirmed. Commission staff reviewed spatial management data and confirmed that the area is not located within state marine protected areas, other state marine managed areas, protected areas that prohibit aquaculture, or within state or federal submerged lands that prohibit aquaculture.³

4. ***Lease is not located in an area where it will adversely impact previously identified Native American cultural resources, as identified by the Native American Heritage Commission.***

Finding: Confirmed. The Native American Heritage Commission completed a sacred lands file search for the proposed project and the results were negative (letter received September 11, 2024).

5. ***Lease does not propose finfish aquaculture in state waters.⁴***

Finding: Confirmed. The project description does not propose finfish aquaculture.

6. ***Lease area is compatible with activities occurring within administrative kelp bed designations.⁵***

Finding: Confirmed. The proposed lease is compatible with activities within administrative kelp bed designations, as determined by CDFW (via email received October 25, 2024).

¹ California Code of Regulations, Title 14, subsection [237\(b\)\(3\)](#).

² California Fish and Game Code, Section [15401](#).

³ [MarineBIOS](#) (accessed 10/01/2024) and California Code of Regulations, Title 14, Section 632.

⁴ California Fish and Game Code, subdivision [15400\(b\)](#).

⁵ California Code of Regulations, Title 14, Section [165.5](#).

7. Lease is not sited in areas with unresolvable risks to public health as defined by the California Department of Public Health in compliance with the National Shellfish Sanitation Program⁶ (products cultivated for human consumption only).

- *Finding:* Confirmed. California Department of Public Health confirmed to CDFW the proposed area is not sited in an area with unresolvable risks to public health (October 8, 2024).

Conclusion

The evaluation confirms that all requirement inquiries have been met and, thus, the lease application from San Andreas Shellfish Company is being advanced to the next steps in the Commission's leasing process.

⁶ This inquiry and finding is independent from any required certificates, licenses, permits, and registrations issued by the California Department of Public Health that must be pursued by an aquaculturist subsequent to lease approval.

From: Steve Rebeck <[REDACTED]>

Sent: Friday, November 1, 2024 2:30 PM

To: Ashcraft, Susan@FGC <[REDACTED]>; Rogers, Kimberly@fgc
<[REDACTED]>

Subject: MRC/Nov. 7 Agenda Item 9

Dear California Fish and Game Commission:

RE: November 7, 2024 Marine Resources Committee, Red Abalone Recovery Plan Nov 7,
2024, Agenda Item 9

The attached letter is for the record.

California Fish and Game Commission
715 P St. 16th Floor
Sacramento, Ca 95814

Steven L. Rebuck
PO Box 571
San Luis Obispo, Ca 93406

November 1, 2024

RE: Marine Resources Committee November 7, 2024,
Agenda Item 9, Red abalone Recovery Plan
Submitted for the Record

Dear Marine Resources Committee:

Firstly. Concerning the name of this Agenda Item, Red Abalone Recovery Plan. The term "Recovery" is an Endangered Species Act term. Considering red abalone, *Haliotis rufescens*, is not an endangered species, this term is inappropriate. I suggest "Conservation Plan" is a more correct term.

Second, there exists currently 101 years of California Department of Fish and Game, et al, published literature which identifies quite well the causes of red abalone decline in California:

- 1) Edwards, Charles L., 1913, The abalone industry in California, Fish and Game Commission, Fish Bulletin 1, p. 5-15.
- 2) Fisher, Edna M., 1939, Habits of the southern sea otter jour. mamm. Vol. 20, no. 1, p. 21-36
- 3) Cox, Keith, California Abalones, Family Haliotidae, Fish Bulletin 118, CDFG. 133 pp
- 4) 3) Ebert, Earl, 1968a., A food habits study of the southern sea otter, *Enhydra lutris nereis*, CDFG, vol.54. No 1. P. 33-42.
- 5) Ebert, Earl, 1968b, California sea otter census and habitat survey, Underwater Nat., vol 5 no. 3 p. 20-32.

- 6) California's Living Marine Resources, CDFG, Abalone, p.31-32
- 7) Wild, Paul, J.A. Ames, 1974, A report on the sea otter, *Enhydra lutris l.*, DFG/MRD, Technical Report no. 20. 94 pp.
- 8) Burge, Richard, S. Schultz, M. Odemar, 1974, Results of recent abalone research in California with recommendations for resource management, Draft: Unpublished, CDFG. 18 pp.
- 9) Burge, Richard, S. Schultz, M. Odemar, 1975, Draft report on recent abalone research in California with recommendations for management, Operation Research Branch/Marine Resources Division. 30pp. Schultz, Steven A., undated Draft, The red abalone resource and fishery of northern California, The Resources Agency/Dept. of Fish and Game. 65 pp.
- 10) Miller, Daniel, j., 1980, The sea otter in California, CALCOFI, 11, p 70-72.
- 11) Gotshall, Daniel W., L.L. Laurent, S.L Owen, J. Grant, P. Law, 1984, A quantitative ecological study of selected nearshore marine plants and animals at Diablo Canyon Power Plant Site: A preoperational baseline, CDFG/Marine Resources Technical Report, no. 48, 726 pp.
- 12) Wendell, Frederick 1994, Relationship between sea otter range expansion and red abalone abundance and size distribution in central California, CDFG, Vol 80, no 2, p 45-64.
- 13) Fanshawe, Samantha, G.R. VanBlaricom, A. Shelly, 2003, Restored top carnivores as detriments to the performance of marine protected areas intended for fishery sustainability: a case study wth abalone and sea otters, Conservation Biology, vol. 17, no. 1, p. 273-283.

These data represent conclusive evidence of why abalone populations in California have declined.

End.