

Section 5. Enforcement

Existing Enforcement Assets

As indicated in the MLPA [FGC Section 2851(a)], a lack of enforcement resources is one of the reasons California's existing MPAs create the illusion of protection while falling short of their potential to protect resources. To remedy this, the MLPA requires that the Marine Life Protection Program provide for adequate enforcement [FGC Section 2853(b)(5)] and include appropriate enforcement measures for all MPAs in the system [FGC Section 2853(c)(2)]. The MLPA includes in this the use, to the extent practicable, of advanced technology and surveillance systems.

The Department of Fish and Game's enforcement staff is charged with enforcing marine resource management laws and regulations over an area encompassing approximately 1,100 miles of coastline and out to sea for 200 miles. Enforcement duties include all commercial and sport fishing statutes and regulations, all Fish and Game Code and Title 14, California Code of Regulations restrictions, marine water pollution incidents, homeland security, and general public safety. The Department shares jurisdiction for federal regulations including the Magnuson Stevens Fishery Conservation and Management Act, the Endangered Species Act, and the Lacey Act. All of these apply within MPAs in addition to the regulations of the individual MPAs. How effectively state and federal regulations are enforced within and around the MPAs will affect the success of MPAs in conserving and protecting marine resources.

The Department of Fish and Game maintains a fleet of seven large patrol boats in the 54- to 65-foot class stationed at major ports throughout the state. These patrol boats are staffed by a cadre of 22 wardens, and five support personnel. The Department also has eight patrol boats in the 24- to 30-foot range, and another 15 patrol skiffs stationed at ports and harbors throughout the state. These boats are utilized by a group of 30 to 40 Wardens who are responsible for a combination of both inland and marine patrol. The Department has a fleet of single- and twin-engine fixed wing aircraft that work in conjunction with both marine and land based wardens to help identify and investigate violations.

Though impressive, when compared to the 220,000 square miles of state and federal waters offshore California, each on-water patrol officer is responsible for 10,000 square miles and each large patrol vessel for more than 30,000 square miles of ocean area.

The Department's enforcement program does work closely with the enforcement programs of a number of other agencies including the California Department of Parks and Recreation, NOAA Fisheries, National Marine Sanctuary Program, National Park Service, and United States Coast Guard on matters of mutual enforcement interest (See Table 3). Though these programs often provide financial or logistical support, they do not provide significant staff resources statewide, especially for offshore patrols or patrols of areas not adjacent to their own facilities.

Table 3. Natural Resource Enforcement Assets in California

Agency	Assets and Activities
<i>U.S. Coast Guard</i>	The U.S. Coast Guard has a primary role in protecting natural resources under the Oil Pollution Act of 1990, the Rivers and Harbors Act of 1899, and the Marine Plastic Pollution and Control Act. The U.S. Coast Guard works directly with the Department's Office of Spill Prevention and Response (OSPR) on oil pollution incidents. They also provide limited support for State and Federal fisheries regulation enforcement.
<i>U.S. Fish and Wildlife Service</i>	U.S. Fish and Wildlife Service agents and officers have the statutory authority to enforce the Marine Mammal Protection Act, Endangered Species Act and Lacey Act.
<i>NOAA Fisheries</i>	The Department has a Joint Enforcement Agreement with NOAA Fisheries. NOAA Fisheries provides funding to the state to enforce federal regulations in state waters, federal offshore waters and in bays, estuaries, rivers and streams.
<i>National Marine Sanctuaries</i>	Currently, there are several sanctuary officers within the central coast area, patrolling both the Monterey Bay and the Channel Islands National Marine Sanctuaries. Boats and aircraft available for law enforcement patrols. Law enforcement agreements coordinate enforcement efforts, share physical resources, cross deputize state officers and provide federal funds for state operations.
<i>National Park Service</i>	The National Park Service has enforcement personnel stationed at various federal parks along the California coast and at some of the off-shore islands.
<i>California Department of Fish and Game</i>	Seven large patrol boats and over twenty smaller craft dedicated to marine patrol efforts. One large patrol boat dedicated to the Channel Islands marine protected areas law enforcement patrols. Two other large patrol boats are within the central coast area.
<i>California Department of Parks and Recreation</i>	The Department of Parks and Recreation manages approximately one third of the California coastline and has law enforcement personnel stationed in park units throughout California, many with on water patrol capability. These officers have the authority to enforce Fish and Game statutes.
<i>Harbor Police, City Police, and Sheriffs</i>	Local harbor districts, sheriff and police Departments often employ peace officers to conduct on-water patrols within their jurisdictions.

The MLPA places an increased importance and focus on MPAs as a tool to enhance marine resources and requires that the existing array of MPAs be improved and managed to the extent possible as a network. In order to adequately enforce MPA regulations, the Department will prioritize areas of particular concern or at particular risk and emphasize patrol of these areas. Given the Department's other broad mandates to enforce both state and federal marine resource regulations current assets are not adequate to redirect to MPA specific patrols. The increased focus on MPAs suggested by the MLPA and the comprehensive network the act mandates will require not only a detailed enforcement plan, but additional enforcement assets.

MPA Enforcement Considerations

The level and type of enforcement activity in an individual MPA depends upon several factors. In particular, the goals and objectives of the individual MPA and its accompanying regulations dictate the enforcement needs. Specific MPA regulations and the need for or desired level of enforcement within an MPA also impact enforcement needs. In some cases, MPAs may be enforced without direct contact of individual vessels, such as in a no-take MPA where a vessel is not engaged in fishing. In limited-take areas, the specific regulations may require close examination of individual vessels to determine whether fishing activities comply with the regulations. However, while enforcement in no-take areas may consist of visual observation from a distance if the desired level of enforcement is high, they may also require careful examination of individual vessels.

Beyond the MPA classification, other elements of MPA design have implications for an effective enforcement plan. For example, MPAs with straight line offshore boundaries which follow lines of latitude and longitude are preferred. These areas are more easily recognized by users and enforcement is simplified. Additionally, very small MPAs are more difficult to enforce as they do not provide any buffer against unintentional boundary infractions.

The proximity of MPAs to urban areas needs to be considered on a case-by-case basis. Proximity to cities enhances the ability to enforce as more assets are readily available and deployment of staff and equipment is easier. At the same time, areas near urban development are often more heavily visited and require more enforcement effort to ensure compliance. Increased numbers of access points to an MPA (e.g., multiple shoreside access points versus only offshore access) require increased monitoring efforts and increased staffing. MPAs distant from population centers tend to have less pressure from human access but are more difficult to enforce if staffing levels are not adequate to ensure timely patrols and response times.

Similarly, MPAs adjacent to the shoreline are enforceable using smaller vessels and shoreside patrol when compared to offshore MPAs with no shoreline connection. While this facilitates enforcement and reduces costs required for large vessels and offshore patrols, it also facilitates public access to the MPA which may increase the potential for violations. In general, MPAs adjacent to the shoreline are preferable, assuming officers have the ability to launch small vessels to contact potential violators. Additionally, MPAs adjacent to onshore facilities with existing staff (e.g., state park rangers) can benefit from existing enforcement and monitoring. As noted above, however, the overall design of these areas must take into account the number and type of access points and amount and type of visitors.

The number of and distance between MPAs impacts the ability to enforce the MPA regulations. If MPAs are too far from one another, individual patrols are not able to enforce multiple areas. If MPAs are too numerous, individual patrols are not able to reach all areas. Each case would require additional enforcement personnel to cover the entire network of MPAs.

Finally, the enforcement plan must consider natural barriers to enforcement. MPAs established in areas with normally rough conditions may be difficult to patrol or access. As noted above, offshore MPAs require larger vessels and dedicated at-sea patrol. The farther offshore or

more distant from ports that can support enforcement vessels, the higher the patrol cost in both time and expenses. MPAs adjacent to shore, however, may also have natural barriers to their enforceability. This would include distance from patrol bases as noted above, along with physical accessibility. Though MPAs in very remote and difficult to access areas will naturally have fewer visitors and a decreased chance of unintentional infractions, they are also uniquely suited for unobserved intentional infractions. These natural barriers to enforcement may also lead to barriers to monitoring and a decreased value of the area for research and education.

Enforcement Plan Objectives

The primary objective of an MPA enforcement plan is to ensure compliance with regulations designed to achieve the individual MPAs objectives. Compliance is enhanced through visible and consistent patrol and through adequate outreach to ensure public knowledge of regulations and areas. As noted above, additional enforcement personnel and assets will be required to achieve this primary objective. Increased use of cooperative agreements with other agencies may be a partial solution, but additional funding for enforcement is required for any of the solutions.

The objectives of the enforcement plan can be split into four primary categories:

1. Provide an effective and comprehensive operational ability
2. Maintain and enhance cooperative efforts with other agencies
3. Ensure stakeholder awareness of regulations and rationale
4. Provide enhanced outreach and education

In order to achieve the objective of operational ability, the Department will identify areas of high priority, biological sensitivity, or high enforcement need, determine the requirements for additional personnel and equipment, hire additional enforcement personnel, and develop and acquire technologies to enhance enforcement. At the same time the Department will continue to pursue agreements with other agencies to provide additional enforcement staff and funding.

The Department already conducts significant outreach and educational activities. In order to ensure stakeholder and public awareness of MPA regulations and rationale, the Department would create specific curricula and materials dedicated to MPAs. The Department would create standards for statewide signage and information to make outreach materials consistent. Additional funding would be required for any outreach and educational activities.

The activities and funding required to implement these objectives are detailed in appendix L. In summary, the activities include:

Effective and comprehensive operational ability

- Identify areas of high priority, biological sensitivity, or enforcement need
- Determine MPA Network enforcement needs
- Hire additional enforcement officers
- Develop remote observation technology and techniques

Maintain and enhance cooperative agreements

- Develop standard operating procedures
- Develop a standardized training program
- Seek and support ongoing and enhanced memoranda of understanding

Ensure stakeholder awareness of regulations and rationale and provide enhanced outreach and education

- Establish a Department MPA outreach program
- Develop outreach materials for enforcement staff to distribute
- Establish an education advisory board
- Hold public forums to educate specific groups
- Develop standardized signage protocols