

# **California Marine Life Protection Act Initiative**

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## **M E M O R A N D U M**

**To: MLPA North Central Coast Regional Stakeholder Group**  
**From: MLPA I-Team**  
**Subject: Summary of MLPA Central Coast Project process policy recommendations**  
**Date: July 2, 2007**

During the Marine Life Protection Act (MLPA) central coast process, various policy issues were raised by the MLPA Central Coast Regional Stakeholder Group and the MLPA Blue Ribbon Task Force. Staff from the MLPA Initiative and the California Department of Fish and Game provided guidance regarding these issues in several memoranda and some of these issues are relevant to the MLPA North Central Coast Study Region; the associated memoranda are attached.

Two memoranda, regarding socioeconomic considerations and qualitative standards for marine protected area proposals, contain text that has not been changed since the central coast process. Though these two documents specifically address issues raised in the central coast process, the MLPA Initiative team believes that they contain information that will be useful to the north central coast process.

The remaining two memoranda, one regarding the relationship between the MLPA and fisheries management and a second regarding existing fishery regulations, were originally drafted for the central coast process; these have been updated to more directly address the MLPA North Central Coast Study Region.

Full text of the four memoranda listed below are attached. These documents should be used by stakeholders as a reference to inform discussions of similar issues in the north central coast process.

### **Attached memoranda:**

1. Socioeconomic considerations in developing alternative network components for a network of marine protected areas along the central coast – MLPA staff, January 13, 2006
2. Qualitative standards of the MLPA and qualitative guidelines of the MLPA Master Plan Framework – Michael DeLapa, January 20, 2006
3. Fisheries management in relation to the Marine Life Protection Act – John Ugoretz, revised July 1, 2007.
4. Existing fishing regulations and statutes related to development of alternative marine protected area proposals for the Marine Life Protection Act – John Ugoretz., revised July 2, 2007



## California Marine Life Protection Act Initiative

c/o California Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

**To: MLPA Blue Ribbon Task Force**  
**From: MLPA Initiative Staff**  
**Date: January 13, 2006**

**Subject: SOCIOECONOMIC CONSIDERATIONS IN DEVELOPING ALTERNATIVE  
NETWORK COMPONENTS FOR A NETWORK OF MARINE PROTECTED  
AREAS ALONG THE CENTRAL COAST**

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### Summary

The Marine Life Protection Act (MLPA) gives precedence to ecosystem integrity and habitat protection goals in designing a network of MPAs. Consideration of socioeconomic factors in the act includes the goal of attention to species of economic value, participation by interested parties and local communities, and development of a siting plan for protected areas that considers economic information to the extent possible while achieving goals of the act. Best readily available science and the knowledge of participants is required for decision making; there is no expectation of new data collection or analyses. While the MLPA is not excluded from the requirements of the California Environmental Quality Act (CEQA), additional review under CEQA is not necessary when the Fish and Game Commission adopts a master plan or a program based on that plan.

To date, the Initiative process has complied with requirements of the MLPA to consider socioeconomic factors and gone beyond those requirements to collect and analyze additional socioeconomic information. The California Department of Fish and Game has stated it will undertake an analysis of the maximum anticipated economic impact of the preferred alternative it proposes to the California Fish and Game Commission. Unlike the National Environmental Policy Act, CEQA does not require analysis of economic impacts unless they have a significant indirect environmental impact. However, the promulgation of implementing regulations by the commission would require an economic analysis.

### Socio economic considerations in the MLPA

The MLPA includes few references to socioeconomic or economic factors, shown in bold below:

2853. (b) To improve the design and management of that system, the commission, pursuant to Section 2859, shall adopt a Marine Life Protection Program, which shall have all of the following goals:
- (2) To help sustain, conserve, and protect marine life populations, **including those of economic value**, and rebuild those that are depleted.

2855. (b) (1) ... the department shall convene a master plan team to advise and assist in the preparation of the master plan...

(3) The team shall be composed of the following individuals:

(B) Five to seven members who shall be scientists, one of whom **may have expertise in the economics and culture** of California coastal communities.

(c) The department and team, in carrying out this chapter, **shall take into account relevant information from local communities**, and **shall solicit comments** and advice for the master plan from interested parties on issues including, but not necessarily limited to, each of the following:

(2) **Socioeconomic** and environmental **impacts** of various alternatives.

2857. (a) ... The department and team shall develop a preferred siting alternative that incorporates information and views provided by people who live in the area and other interested parties, **including economic information, to the extent possible** while maintaining consistency with the goals of Section 2853 and guidelines in subdivision (c) of this section.

(d) The department and team, in developing the preferred siting alternative, shall take into account the **existence and location of commercial kelp beds**.

As stated above, the Fish and Game Commission's designation of MPAs does not require an additional CEQA analysis once a master plan and program based on that plan are adopted:

Section 2859 (b). ..The commission's adoption of the plan and a program based on the plan **shall not trigger additional review under the California Environmental Quality Act** (Division 13 (commencing with Section 21000) of the Public Resources Code).

### **Information requirements for decision-making in the MLPA**

Importantly, the MLPA anticipates decision-making based on readily available, up-to-date science and provides no suggestions of deferring action for additional data collection or analyses. The relevant phrases are again in bold:

2855. (a) The commission shall adopt a master plan that guides the adoption and implementation of the Marine Life Protection Program adopted pursuant to Section 2853 and decisions regarding the siting of new MPAs and major modifications of existing MPAs. The plan shall be based on the **best readily available science**.

2856. (C) Recommendations to augment or modify the guidelines in subdivision (c) of Section 2857, if necessary to ensure that the guidelines reflect **the most up-to-date science**, including, for example, recommendations regarding the minimum size of individual marine life reserves needed to accomplish the various goals set forth in Section 2853.

## **Incorporation of socio economic factors in the MLPA Initiative**

Consistent with the MLPA, socioeconomic information has been brought into the development of proposed MPA packages through:

- a. Knowledge of members of the MLPA Central Coast Regional Stakeholder Group (CCRSG),
- b. Compilation of existing information into the MLPA Central Coast Regional Profile, and
- c. Opportunities for public participation, including posting documents on the web for comment and public comment periods at MLPA Blue Ribbon Task Force, CCRSG and Master Plan Science Advisory Team (SAT) meetings.

Additional socioeconomic information regarding areas of high value uses was collected from interviews with:

- a. A purposive sample of commercial fishermen from 17 fisheries providing GIS data layers and maps available to CCRSG members and the SAT,
- b. Selected non consumptive users (e.g., divers, kayakers) reported in the Central Coast Regional Profile and also related GIS layers, and
- c. Central coast recreational fishing effort data for commercial passenger fishing vessels (CPFV) and private skiffs, based on surveys by the Department of Fish and Game and the California Recreational Fisheries Survey, were assembled and made available to the SAT.

These data are only spatial, that is they define areas of high value, but do not assign a monetary measure to the value of uses in locations. While estimating monetary values of use is possible for some activities, especially commercial fishing, it is not possible to develop equivalent monetary measures for other valued uses, especially at the fine spatial resolutions needed for decisions regarding marine protected areas. To provide whatever information could be extracted from existing literature on the value of non consumptive uses, three reviews of existing literature were commissioned. They addressed understanding the potential economic value of (a) marine wildlife and whale watching, (b) SUBA diving and snorkeling, and (c) marine recreational fishing (Pendleton and Rooke, 2005-2006).

Additionally, public documents (e.g., general plans) from coastal cities and counties in the study area were analyzed and selected officials of those jurisdictions interviewed to identify local public policies related to marine resources. This analysis and supporting official documents was available to the CCRSG in hard copy (Sturm 2005)

The SAT evaluations of proposed packages being provided to the BRTF in 2006 will include:

- a. Analyses of the proximity of proposed MPAs to population centers to proposed MPAs, and
- b. Estimation of the maximum possible impacts on commercial and recreational fisheries from more restrictive regulations associated with proposed MPAs.

A final contribution of socioeconomic data and analysis is anticipated after the BRTF completes its role in forwarding alternative package of MPAs to the Department of Fish and Game. The department plans to contract for analysis of maximum anticipated economic impact of a preferred alternative for use in deliberations of the California Fish and Game Commission.



## California Marine Life Protection Act Initiative

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1416 Ninth Street, Suite 1311  
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**To: MLPA Blue Ribbon Task Force**  
**From: Michael DeLapa, Central Coast Project Manager**  
**Date: January 20, 2006**

**Subject: QUALITATIVE STANDARDS OF THE MLPA AND QUALITATIVE GUIDELINES  
OF THE MLPA MASTER PLAN FRAMEWORK**

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### Summary

The purpose of this memo is to assist the MLPA Blue Ribbon Task Force (BRTF) in its review of candidate MPA packages for the central coast by identifying substantive tests and key concepts in the Marine Life Protection Act (MLPA; Fish and Game Code, sections 2850-2863) and MLPA Master Plan Framework (as adopted by the California Fish and Game Commission in August 2005). Nothing in this memo shall impute decision-making authority to the BRTF, whose deliberative role is properly confined to broad policy issues. The entities with primary decision-making authority are the California Department of Fish and Game and the California Fish and Game Commission.

Sections 2853 and 2857 of the MLPA provide a variety of standards for judging candidate MPA packages while Section 2853 identifies the six goals of the act. Section 2857 addresses the design of a preferred alternative, including specific requirements for the design of an improved marine life reserve component. Appendix A of this memo provides the full text of these sections.

In addition, the MLPA (Section 2855(a)) requires that the commission adopt

"...a master plan that guides the adoption and implementation of the Marine Life Protection Program adopted pursuant to Section 2853 and decisions regarding the siting of new MPAs and major modifications of existing MPAs. The plan shall be based on the best readily available science."

The commission adopted a master plan framework in August 2006. The framework provides additional design guidance, based on best readily available science. Appendix B provides excerpts of the master plan relevant to the MLPA's requirements for MPA size, number, type of protection, location and other MPA network design features.

### Qualitative Standards of the MLPA

1. Pursuant to Section 2853 (redesign of MPA system, goals and elements of program), does the package [emphasis added]:

- Increase the coherence and effectiveness of California's MPA system at protecting the state's marine life, habitat, and ecosystems?
- Meet the six goals of the act?
  - i. To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
  - ii. To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.
  - iii. To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
  - iv. To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.
  - v. To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.
  - vi. To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.
- Include all of the following elements:
  - i. An improved marine life reserve component consistent with the guidelines in subdivision (c) of Section 2857?
  - ii. Specific identified objectives, and management and enforcement measures, for all MPAs in the system?

[Note: other requirements described in this section will be met later in the MLPA planning process]

2. Pursuant to Section 2857 (workshops and a preferred siting alternative, does the package:
- Include MPA networks with an improved marine life reserve component and is designed according to each of five guidelines?
    - i. Each MPA shall have identified goals and objectives.
    - ii. Marine life reserves in each bioregion shall encompass a representative variety of marine habitat types and communities, across a range of depths and environmental conditions.
    - iii. Similar types of marine habitats and communities shall be replicated, to the extent possible, in more than one marine life reserve in each biogeographical region.

- iv. Marine life reserves shall be designed, to the extent practicable, to ensure that activities that upset the natural ecological functions of the area are avoided.
- v. The MPA network and individual MPAs shall be of adequate size, number, type of protection, and location to ensure that each MPA meets its objectives and that the network as a whole meets the goals and guidelines of this chapter.
  - Take into account the existence and location of commercial kelp beds?

### **Qualitative Guidelines of the MLPA Master Plan Framework**

1. Pursuant to the adopted MLPA Master Plan Framework, does the package:

- Represent every 'key' marine habitat in the MPA network?
- Include MPAs from the intertidal zone to deep waters offshore to protect the diversity of species that live in different habitats and those that move among different habitats over their lifetime?
- Have an alongshore span of 5-10 km (3-6 m or 2.5-5.4 nm) of coastline, and preferably 10-20 km (6-12.5 m or 5.4-11 nm), based on adult neighborhood sizes and movement patterns, to protect adult populations?
- Are placed within 50-100 km (31-62 m or 27-54 nm) of each other to facilitate dispersal of important bottom-dwelling fish and invertebrate groups among MPAs, based on currently known scales of larval dispersal?



**Appendix A: Relevant Provisions of the California Marine Life Protection Act (MLPA)**

2853. (a) The Legislature finds and declares that there is a need to reexamine and redesign California's MPA system to increase its coherence and its effectiveness at protecting the state's marine life, habitat, and ecosystems.

(b) To improve the design and management of that system, the commission, pursuant to Section 2859, shall adopt a Marine Life Protection Program, which shall have all of the following goals:

- (1) To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
- (2) To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.
- (3) To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
- (4) To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.
- (5) To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.
- (6) To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.

(c) The program may include areas with various levels of protection, and shall include all of the following elements:

- (1) An improved marine life reserve component consistent with the guidelines in subdivision (c) of Section 2857.
- (2) Specific identified objectives, and management and enforcement measures, for all MPAs in the system.
- (3) Provisions for monitoring, research, and evaluation at selected sites to facilitate adaptive management of MPAs and ensure that the system meets the goals stated in this chapter.
- (4) Provisions for educating the public about MPAs, and for administering and enforcing MPAs in a manner that encourages public participation.
- (5) A process for the establishment, modification, or abolishment of existing MPAs or new MPAs established pursuant to this program, that involves interested parties, consistent with paragraph (7) of subdivision (b) of Section 7050, and that facilitates the designation of MPAs consistent with the master plan adopted pursuant to Section 2855.

2857. (b) The preferred alternative may include MPAs that will achieve either or both of the following objectives:

(1) Protection of habitat by prohibiting potentially damaging fishing practices or other activities that upset the natural ecological functions of the area.

(2) Enhancement of a particular species or group of species, by prohibiting or restricting fishing for that species or group within the MPA boundary.

(c) The preferred siting alternative shall include MPA networks with an improved marine life reserve component, and shall be designed according to each of the following guidelines:

(1) Each MPA shall have identified goals and objectives. Individual MPAs may serve varied primary purposes while collectively achieving the overall goals and guidelines of this chapter.

(2) Marine life reserves in each bioregion shall encompass a representative variety of marine habitat types and communities, across a range of depths and environmental conditions.

(3) Similar types of marine habitats and communities shall be replicated, to the extent possible, in more than one marine life reserve in each biogeographical region.

(4) Marine life reserves shall be designed, to the extent practicable, to ensure that activities that upset the natural ecological functions of the area are avoided.

(5) The MPA network and individual MPAs shall be of adequate size, number, type of protection, and location to ensure that each MPA meets its objectives and that the network as a whole meets the goals and guidelines of this chapter.

(d) The department and team, in developing the preferred siting alternative, shall take into account the existence and location of commercial kelp beds.

(e) The department and team may provide recommendations for phasing in the new MPAs in the preferred siting alternative.

**Appendix B: Relevant Excerpts from the MLPA Master Plan Framework as Adopted by the California Fish and Game Commission in August 2005**

Science Advisory Team Guidance on MPA Network Design (page 38)

The MLPA calls for the use of the best readily available science, and establishes a science team as one vehicle for fostering consistency with this standard. The MLPA also requires that the statewide MPA network and individual MPAs be of adequate size, number, type of protection, and location as to ensure that each MPA and the network as a whole meet the objectives of the MLPA. In addition, the MLPA requires that representative habitats in each bioregion be replicated to the extent possible in more than one marine reserve.

The availability of scientific information is expected to change and increase over time. As with the rest of this framework, the following guidelines may be modified if new science becomes available that indicates changes. Additionally, changes may be made based on adaptive management and lessons learned as MPAs are monitored throughout various regions of the state.

The science team provided the following guidance in meeting these standards. This guidance, which is expressed in ranges for some aspects such as size and spacing of MPAs, should be the starting point for regional discussions of alternative MPAs. Although this guidance is not prescriptive, any significant deviation from it should be consistent with both regional goals and objectives and the requirements of the MLPA. The guidelines are linked to specific objectives and not all guidelines will necessarily be achieved by each MPA.

Overall MPA and network guidelines:


- The diversity of species and habitats to be protected, and the diversity of human uses of marine environments, prevents a single optimum network design in all environments.
- For an objective of protecting the diversity of species that live in different habitats and those that move among different habitats over their lifetime, every 'key' marine habitat should be represented in the MPA network.
- For an objective of protecting the diversity of species that live at different depths and to accommodate the movement of individuals to and from shallow nursery or spawning grounds to adult habitats offshore, MPAs should extend from the intertidal zone to deep waters offshore.
- For an objective of protecting adult populations, based on adult neighborhood sizes and movement patterns, MPAs should have an alongshore span of 5-10 km (3-6 m or 2.5-5.4 nm) of coastline, and preferably 10-20 km (6-12.5 m or 5.4-11 nm). Larger MPAs would be required to fully protect marine birds, mammals, and migratory fish.

- For an objective of facilitating dispersal of important bottom-dwelling fish and invertebrate groups among MPAs, based on currently known scales of larval dispersal, MPAs should be placed within 50-100 km (31-62 m or 27-54 nm) of each other.

# Memorandum

**Date:** July 2, 2007

**To:** Marine Life Protection Act Blue Ribbon Task Force and North Central Coast Regional Stakeholder Group

**From:** **John Ugoretz**  
**Department of Fish and Game** 

**Subject:** **Fisheries management in relation to the Marine Life Protection Act**

Many have argued that MPAs are unnecessary because existing fishery conservation and management are capable of performing the same function, with less impact to commercial and recreational fishing interests. Others have asked why MPAs were necessary when particular fish stocks were either healthy, or rebuilding on their own.

The MLPA expressly states that MPAs and fisheries management are complementary [Fish and Game Code (FGC) subsection 2851(d)]. Similarly, the Marine Life Management Act [MLMA, Statutes 1999 Chapter 483] declares that "conservation and management programs prevent overfishing, rebuild depressed stocks, ensure conservation, facilitate long term protection and, where feasible, restore marine fishery habitats" [FGC, subsection 7055(b); see also Section 7056(b), (c)].

Although MPAs and fisheries management are complementary, they are not equivalent. The purpose of habitat protection in the MLMA is to advance the "primary fishery management goal" of sustainability (FGC, Section 7056). Moreover, that which is being managed is a specific fishery - which may be based on geographical, scientific, technical, recreational and economic characteristics (FGC, Section 94) - and so may only provide limited protection of a particular habitat. Conversely, although the MLPA considers managing fishery habitat [FGC, subsections 2851(c), (d)], it also encompasses broader, ecosystem-based objectives that are not limited to *only* managing fisheries. If only existing fishery conservation and management measures were considered in designing the MLPA networks, then arguably only some of the ecosystem goals and objectives might be met. Other goals and elements would be undervalued (e.g. improving "recreational, educational and study opportunities provided by marine ecosystems" and protecting "marine natural heritage...for their intrinsic value" [FGC, subsection 2853(b)]).

The MLPA also states that one of the purposes of the marine reserve component is to generate baseline data that allows the quantification of the efficacy of fishery management practices outside the reserve [FGC, subsections 2851(e), (f)]. This would be difficult to implement if the MPA design itself must consider those very same existing conservation and management measures.

Moreover, it is important to remember that the MLMA is the most comprehensive revision of state marine fishery management procedures in history. The subsequent enactment of the MLPA the following year strongly suggests the Legislature recognized that fishery conservation and management measures alone were inadequate to the task of broad ecosystem protection.


Finally, had the Legislature intended existing fishery conservation and management measures to be considered in designing MPAs, then it plainly would have said so, as it did in the MLMA (FGC, Section 7083). As it is, the fact that the MLPA allows the Commission to "regulate commercial and recreational fishing and any other taking of marine species in MPAs" [FGC, subsection 2860(a)] strongly suggests that fishery measures are not intended to be considered in the design of MPAs but may in fact be subject to limitations beyond those already existing under fishery management regimes. In particular, the Nearshore Fisheries Management Plan (NFMP) developed pursuant to MLMA is specifically designed to adapt management in the presence of MPAs. Similarly, other fishery management changes, if necessary, would occur after the implementation of MPAs through the MLMA process. Thus, while the design of fishery management measures should properly consider the existence of MPAs, the reverse is not true.

The conclusion that existing fishery management measures are not properly considered in designing MPAs is further bolstered by three "real world" considerations. First, the direction from the Legislature is to use "the best readily available information" and studying the interaction of existing fishery management practices would add another dimension of complexity that retards, not facilitates, the process. Second, the subject of interaction with existing fishery management processes reflects exactly the kind of "scientific uncertainty" acknowledged by the Legislature when it authorized the application of adaptive management to the MLPA process. Third, the unfortunate reality is that existing fishery management processes do not always work. Indeed, as evidenced by the collapse of the west coast groundfish fishery, they can fail entirely. Fishery conservation and management measures alone do not necessarily guarantee either fishery sustainability or ecosystem health. The MLPA is designed to seek these key features, in addition to existing fishery management.

# Memorandum

**Date:** July 2, 2007

**To:** Marine Life Protection Act Blue Ribbon Task Force and North Central Coast Regional Stakeholder Group

**From:** **John Ugoretz**  
**Department of Fish and Game** 

**Subject:** **Existing fishing regulations and statutes related to the development of alternative marine protected area proposals for the Marine Life Protection Act**

## Background

While the Marine Life Protection Act (MLPA) is not primarily a fisheries management statute, the MLPA states “MPAs and sound fishery management are complementary components of a comprehensive effort to sustain marine habitats and fisheries [Fish and Game Code (FGC), Section 2851(d)].” FGC Section 2855(c) also states that relevant information shall be taken into account concerning “areas where fishing is currently prohibited”.

Marine and estuarine recreational and commercial fishing is highly regulated in California’s state waters as well as the adjacent federal waters. Statutes and regulations, in particular the latter, are regularly revised to reflect the changing status of fished populations. Laws and regulations traditionally focused on single species or groups of species, and only recently, with the passage of the Marine Life Management Act (MLMA, Statutes 1999 Chapter 483), that focus has begun to shift towards an ecosystem-based approach.

Some fishing regulations have remained constant over many decades, such as the minimum size limit for recreationally-caught red abalone and commercially-caught Dungeness crab. Others, such as the seasonal and depth restrictions on recreational fishing for rockfish, have been revised annually or more frequently in recent years.

A distinction must be made between spatial and temporal laws and regulations. The former, if in place year round, are most equivalent to the type and degree of ecosystem protection provided by marine protected areas (MPAs) for habitats and the species living in those habitats. On the other hand, temporal laws and regulations generally prohibit harvest in particular areas at certain times of the year, while allowing harvest in those same areas at other times. While temporal laws and regulations tend to reduce overall fishing effort and thus afford some protection to individual fished species, they do not allow the establishment of natural size and age structure of unfished populations or provide year-round habitat protection and thus cannot be considered to provide ecosystem protection.

## **Jurisdictional Authority**

In the United States, individual states are responsible for managing fisheries within state waters, generally defined as within three miles from shore. In addition, State laws must be consistent with federal laws. States may also manage fisheries outside state waters if there is no federal management plan in place and for any vessel landing fish in the state or permitted by the state. Traditionally, commercial fisheries management in California was under the purview of the **State Legislature** while recreational fisheries management was conducted by the California **Fish and Game Commission**. The MLMA delegated greater management authority from the State Legislature to the commission.

**The Pacific Fishery Management Council (PFMC)** is one of eight regional advisory councils to the **National Oceanic and Atmospheric Administration Fisheries Service** (NOAA Fisheries) and is responsible for some fisheries management in California, Oregon, Washington, and Idaho. The PFMC advises NOAA Fisheries on fisheries for which a federal management plan has been adopted. Current federal management plans include groundfish, highly migratory species, salmon, and coastal pelagic species. Although the PFMC is legally only an advisory body, NOAA Fisheries adopts most recommendations submitted to it from the PFMC.

## **Applicable Laws and Regulations**

The following is a summary of the major commercial and recreational fishery spatial laws and regulations effective in 2007 which provide some form of protection to marine species and habitats in waters off the central California coast. It is appropriate and necessary to consider them when developing proposals for MPAs. However, they do not substitute for the long-term protection provided by MPAs, in particular that provided by no-take state marine reserves. While fishery regulations may appear to be equivalent to protection afforded by a limited-take state marine conservation area, this protection may change within a year or during the course of several years as the status of the stocks is re-assessed.

## **Commercial Rockfish Conservation Areas**

Coastwide commercial rockfish conservation areas (RCA) were established in January 2003 to protect and assist in the rebuilding of stocks of lingcod and seven species of rockfishes, all of which were formally declared overfished<sup>1</sup> by NOAA Fisheries<sup>2</sup>. The RCAs were established by NOAA Fisheries following recommendations of the PFMC. RCAs within the MLPA North Central Coast Study Region are specified for four gear types: federal limited entry trawl, open access trawl, federal limited entry fixed gear, and open access non-trawl. The latter two will be called “non-trawl”.

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<sup>1</sup> Overfished is defined in the federal groundfish fishery management plan to describe “a stock whose abundance is below its overfished/rebuilding threshold...The value of this threshold is 25% of the estimated unfished biomass level.”

<sup>2</sup> Lingcod was determined to be rebuilt in 2005.



The trawl and non-trawl RCAs vary annually, seasonally, and regionally. Effective protection equivalent to that of an MPA occurs where the RCA is closed year-round to particular gear types or target species. In 2007, the trawl RCA prohibited the use of trawl gear **year-round** in the 100-150 fathom depth range, extending this prohibition to 200 fathoms in winter months (Figure 1). The non-trawl RCA prohibited all bottom fishing for and retention of federally-managed groundfish species in the 30-150 fathom depth range **year-round** (Figure 1) in the north central coast study region. There is one exception for the non-trawl RCA: when fishing for "other flatfish," (butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, sand sole, and starry flounder) vessels using specified hook-and-line gear using number 2 hooks with no more than 12 hooks per line are not subject to the RCA. Within the RCA, commercial invertebrate trap fisheries such as spot prawn, Dungeness crab, and rock crab, are allowed.

### **Recreational RCA**

Within the north central coast study region, the recreational RCA prohibited all bottom fishing for federally-managed groundfish species (except "other flatfish" using number 2 hooks) in depths greater than 30 fathoms **year-round** (Figure 2), except that between December 1 and May 31, the RCA prohibited all recreational bottom fishing at any depth.

When considering both the commercial and recreational RCAs, certain areas, especially soft bottom habitats outside of the 100-150 fm depth range, are provided relatively little protection by the RCA designation, primarily due to the allowance of take of "other flatfishes". The areas with the most protection afforded by the RCA designation in 2007 are between 100 and 150 fathoms in general, and rocky habitat between 30 and 150 fathoms.

While some people equate the RCAs to MPAs, in particular to a state marine conservation area in which certain fisheries are permitted while others are restricted, there are important distinctions between the two:

1. RCAs and MPAs have different goals. RCAs are established to rebuild specific fished populations. MPAs are established to achieve various ecosystem goals of the MLPA (i.e., goals 1-6);
2. The boundaries of the RCA are subject to change within and among years based upon stock assessments of single species and annual and in-season catch rates;
3. When stocks of the seven rockfish species are rebuilt, the RCA will likely be removed - i.e. when the RCA has achieved its goal, it will no longer be needed. In contrast, an MPA requires some degree of permanence to achieve its broader ecosystem goals; and
4. RCAs and MPAs established pursuant to the MLPA are subject to different jurisdictional controls. The establishment and removal of RCAs within state and federal waters is managed through the PFMC and NOAA Fisheries, while the California Fish and Game Commission controls the establishment, modification and removal of MPAs within state waters.

## **Essential Fish Habitat (EFH) No-trawl Zone**

The PFMC amended its Pacific Coast Groundfish Fishery Management Plan, pursuant to the Magnuson-Stevens Act, to (1) describe and identify EFH for the groundfish fishery; (2) minimize to the extent practicable the adverse effects of fishing on EFH; and (3) identify other actions to encourage the conservation and enhancement of EFH. One of these measures includes the establishment of a no-trawl zone. After a lengthy series of negotiations with the fishing industry, conservation groups and other interested parties, a proposed no-trawl zone was developed which generally consists of areas not routinely trawled historically, with some exceptions.

Within the MLPA North Central Coast Study Region, the EFH no-trawl zone consists of a variety of areas outside state waters (Figure 3). Since the EFH no-trawl zones are largely in areas in which trawling did not occur historically, there was little additional protection afforded by this designation in this study region.

## **Other Trawl Regulations**

Trawling is prohibited within all state waters in the study region, except trawling for pink shrimp is allowed outside of two nautical miles from shore in some areas. In 2008, all bottom trawling may be prohibited including pink shrimp within the north central coast study region unless "...the commission finds that...the use of trawl gear minimizes bycatch, will not damage seafloor habitat, will not adversely affect ecosystem health, and will not impede reasonable restoration of kelp, coral, or other biogenic habitats." (Fish and Game Code, Section 8842, see Figure 3).

## **Gill Net Regulations**

Gill net fishing only occurs in commercial fisheries and is restricted by depth as well as latitude. Within the study region, the use of gill nets is generally prohibited. North of a line extending 245 degrees magnetic from Point Reyes no gill nets are allowed. South of that Point Reyes, gill nets are prohibited in shallower than 60 fathoms and within 3 nautical miles of the Farallon Islands and the Noonday Rock buoy. As the only waters within the study region shallower than 60 fathoms are around the Farallones, gill nets are essentially prohibited. The only exception is the use of drift gill nets with 14 inch or greater mesh used to take shark and swordfish south of Point Reyes; this type of fishing, and the species targeted by this gear type, are generally not found in the study region.

## **Recommended Approach to MPA Development**

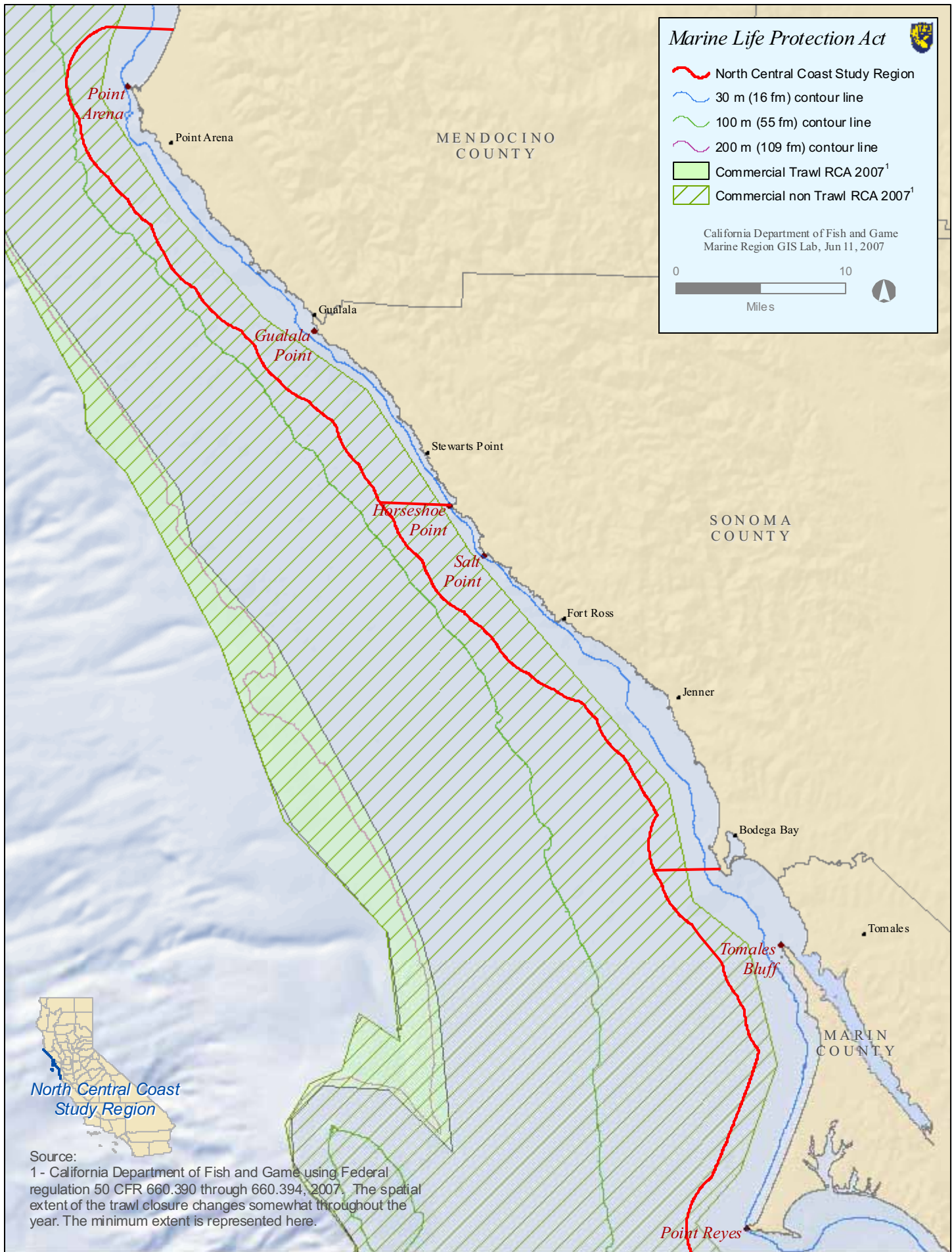
The recommended course of action in developing MPA proposals within the MLPA North Central Coast Study Region is to incorporate portions of areas such as the RCA into specific proposed MPAs as appropriate. This serves two primary purposes:

1. Achieves a long-term/permanent degree of protection to those portions of the RCA within proposed MPAs.
2. Achieves the proposed MLPA Regional Objective 1 under Regional Goal 5: "Minimize negative socio-economic impacts and optimize positive socio-

economic impacts for all users, to the extent possible, and if consistent with the Marine Life Protection Act and its goals and guidelines.”

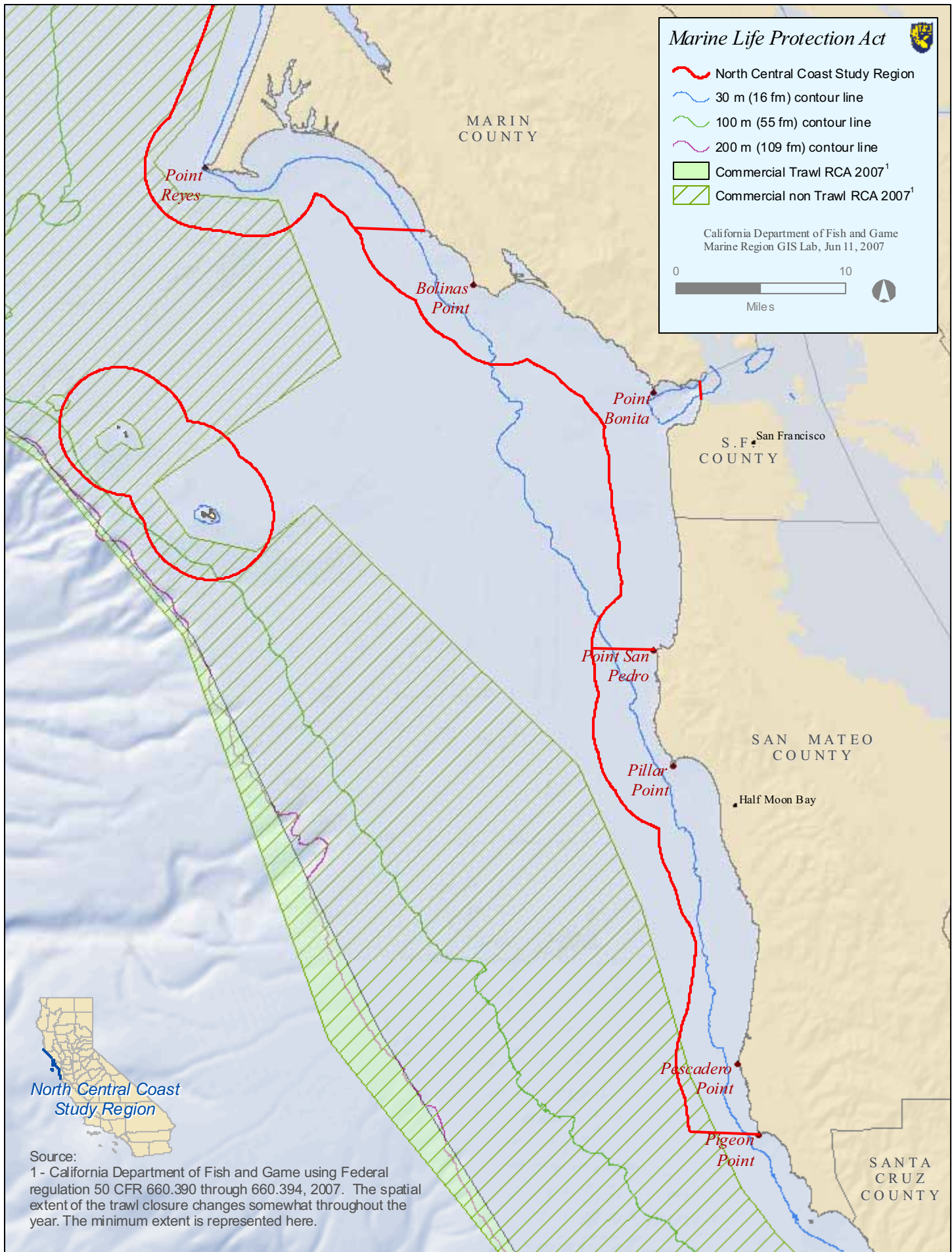
It is clear that not all areas affected by fishery regulations will be incorporated by the proposed MPAs. In fact, all state waters are affected by multiple fishery regulations, whether spatial, temporal, or other. Some of the more significant regulations, such as the RCA and the adopted EFH no-trawl zone, were developed after the enactment of the MLPA. Thus, the regulatory environment for fisheries is much different now than when the authors of the MLPA legislation were developing its concepts. However, the MLPA is not directed primarily at fishery management in its goals and objectives.

Alternative MPA proposals developed by the regional stakeholder group may address the existing major fishery management regulations summarized above to different degrees. However, there is a common thread. Since fishing for groundfish is already prohibited within the RCA, the implementation of an MPA which incorporates a portion of this fishery management tool and includes comparable regulations causes no additional negative socioeconomic impact to fishermen already excluded from fishing within the RCA.

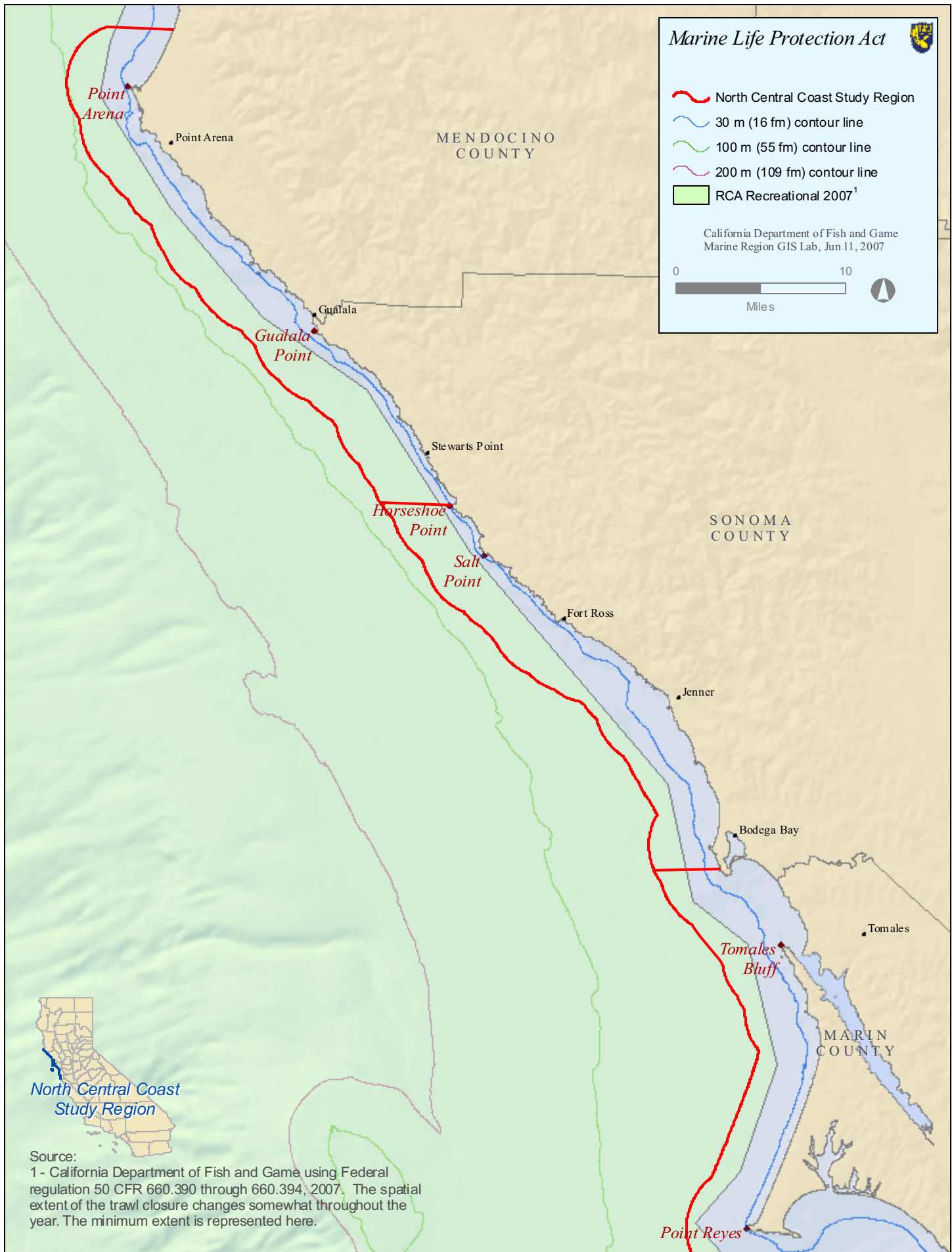


**Figure 1a** Commercial Trawl and Non-Trawl Rockfish Conservation Areas (RCA) 2007



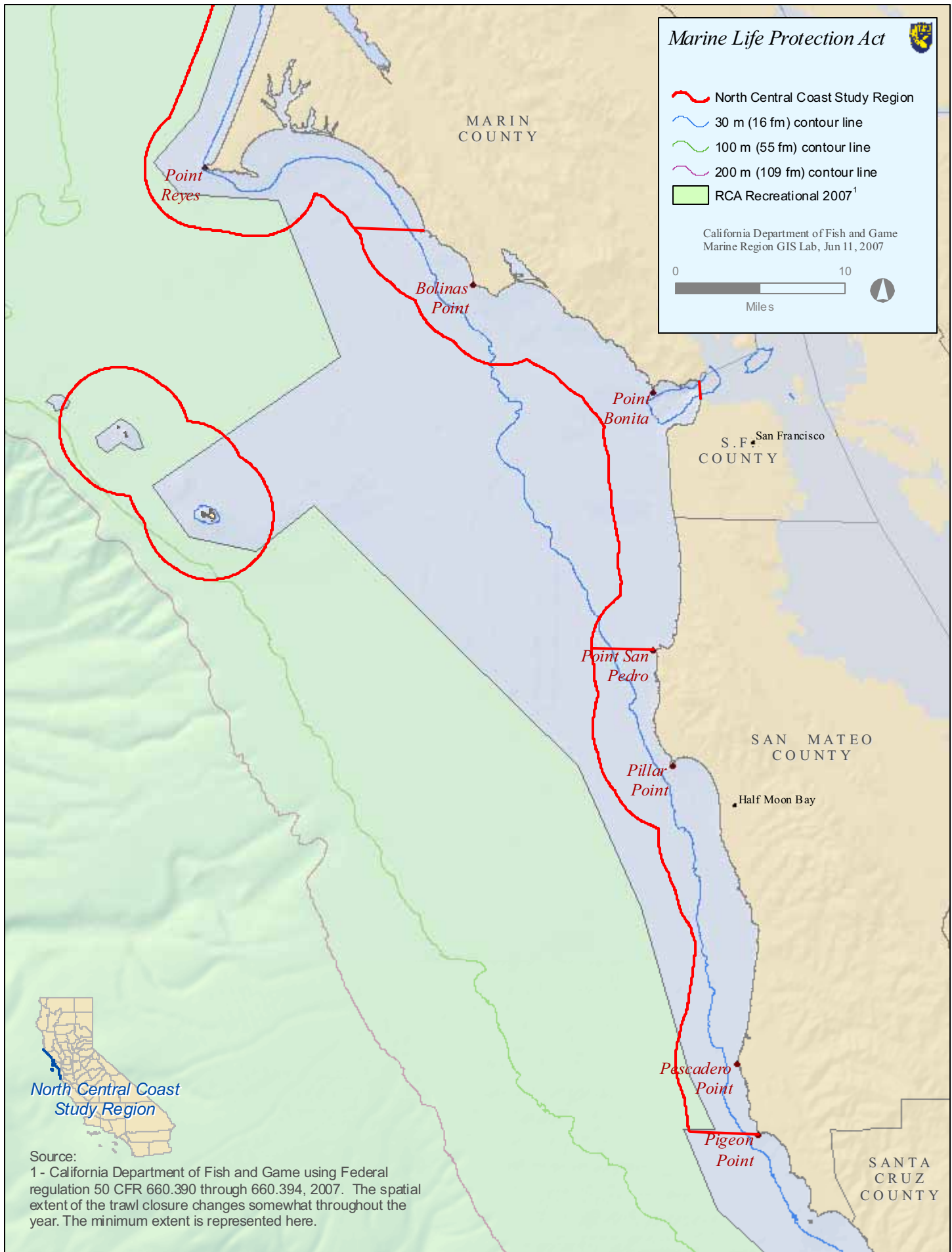


**Figure 1b** Commercial Trawl and Non-Trawl Rockfish Conservation Areas (RCA) 2007

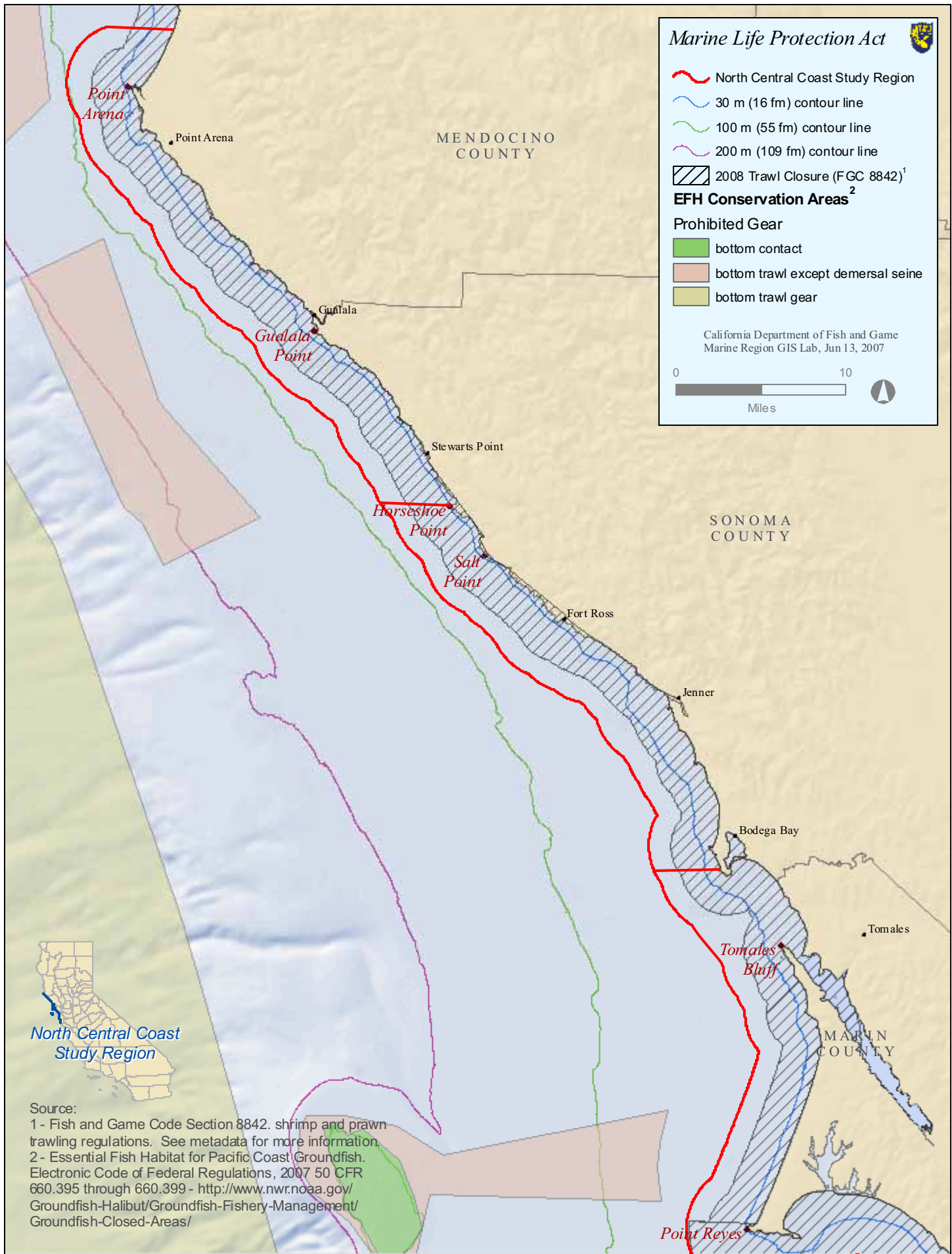


**Figure 2a** Recreational Rockfish Conservation Areas (RCA) 2007



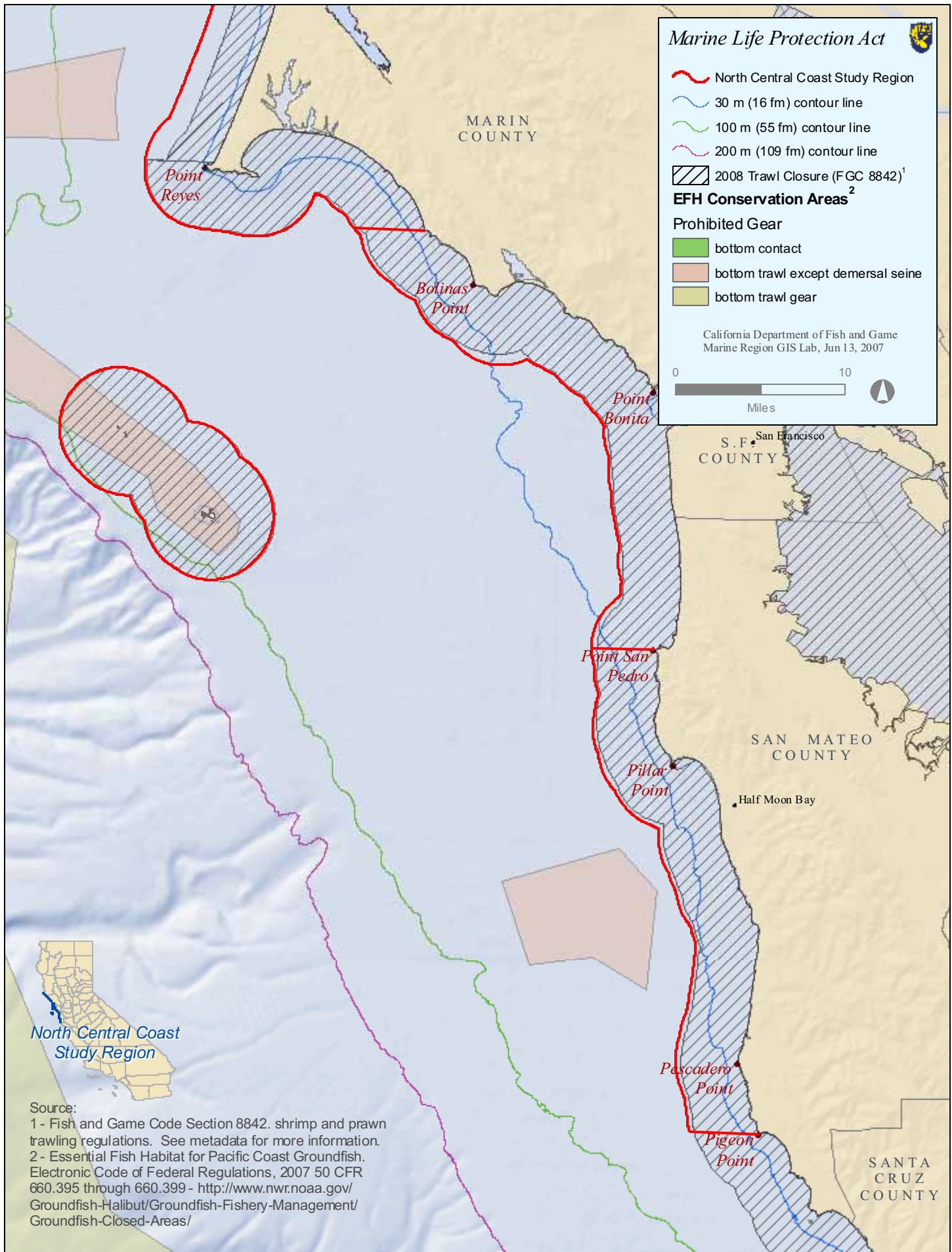


**Figure 2b** Recreational Rockfish Conservation Areas (RCA) 2007



**Figure 3a** *Trawl Closures*





**Figure 3b** *Trawl Closures*