



Monterey Bay National Marine Sanctuary

Final Rule for Introduced Species in MBNMS & GFNMS

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Why do we need this regulation?

- Introduced Species are a major economic and environmental threat to the living resources and habitats of the MBNMS and to the commercial and recreational uses that depend on these resources.
- Case and point – San Francisco Bay. There are about 250 known invasive species in the San Francisco Bay and Delta.
- Impacts often include decreasing abundance and even local extinction of native species, alteration of habitat structure, and extensive economic costs due to biofouling.



Background

On November 20, 2008, NOAA published final revised management plans and revised regulations, which included a prohibition against release of introduced species within MBNMS with the following exceptions:

- (i) Striped bass released during catch and release fishing activity

All the final regulations would have automatically taken effect after 45 days of continuous session of Congress beginning from November 20, 2008, except.....the Governor conditionally objected to portions of the introduced species regulations that would have prohibited the release of introduced species within state waters of GFNMS and MBNMS.



Background

The Governor has a right to object to specific designations and regulations during the 45 day period.

- The Governor conditionally objected to federal regulations prohibiting the placement of introduced species into state waters within GFNMS and MBNMS.
- The Governor's objection was conditional: it would not apply if NOAA were willing and able to modify its introduced species regulations to 1) except (i.e., allow) all existing and future state-permitted IS aquaculture activities in the two sanctuaries and 2) allow any state-approved release of introduced species into MBNMS as part of research.
- The state's objection was not resolved before the end of the 45-day Congressional review period; therefore, the new ONMS prohibitions against release of introduced species became effective only within federal waters of the sanctuaries.

Concerns from CDFW & Industry

- In 2013, NOAA received comments from both the California Department of Fish and Wildlife (CDFW) and aquaculture industry raising concerns that ONMS's broad definition of "introduced species" does not recognize that a number of introduced species of shellfish have been cultivated for over 100 years within sanctuary waters of Tomales Bay without adverse impacts to native resources.
- CDFW and Industry also commented that the proposed regulation did not allow NOAA to consider potential future permit requests from the industry for cultivation of such "non-invasive" introduced shellfish species.



Summary of Amended Rule for MBNMS

- On March 27, 2014, NOAA proposed to amend the March 2013 proposed rule to allow MBNMS to authorize certain introduced species of shellfish from commercial aquaculture projects in all state waters of the sanctuaries.
- MBNMS regulations will now be modified to allow authorization of a valid permit, license or other authorization issued by the State of California for **commercial shellfish aquaculture activities** conducted in state waters of MBNMS involving **introduced species of shellfish** that NOAA and the State have determined to be **non-invasive and would not cause significant adverse effects** on sanctuary resources or qualities.
- MBNMS regulations already allow the sanctuary superintendent to authorize State of California permits for certain activities that are otherwise prohibited in the sanctuary. For example, waste water discharge.

GFNMS Amended Rule and MOA

- For GFNMS, NOAA will not adopt authorization authority for similar projects in state waters at this time and will revert to the proposal from March 2013, which prohibits introduction of introduced species, exempts state permitted commercial shellfish aquaculture activities within Tomales Bay only, and provides an exception for the catch and release of striped bass.
- Lastly, ONMS and the State (CDFW, OPC, CCC) are currently finalizing a Memorandum of Agreement (MOA) to define the consultation process for reviewing proposed shellfish aquaculture activities involving cultivation of introduced species in sanctuaries.



Benefits of Proposed Regulation

- Overall, this clarifies an inconsistency created from the past Governor's objection
- Pursuant to section 304(b) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1434(b)), the revised designation and regulations shall take effect and become final after the close of a review period of forty-five days of continuous session of Congress beginning on February 19, 2015.
- NOAA will publish an announcement of the effective date of the final regulations in the Federal Register.
<http://www.gpo.gov/fdsys/pkg/FR-2015-02-19/pdf/2015-03486.pdf>
- QUESTIONS?