



Monterey Bay National Marine Sanctuary

Amended Rule for Introduced Species

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Definition

“Introduced Species”

(1) Any species (including, but not limited to, any of its biological matter capable of propagation) that is non-native to the ecosystems of the Sanctuary;
or

(2) Any organism into which altered genetic matter, or genetic matter from another species, has been transferred in order that the host organism acquires the genetic traits of the transferred genes.



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 terms of designations 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.

Background

- Note: The CA Coastal Commission did not agree with the Governor's requested changes to the 2008 proposed rule and stated that NOAA must maintain the prohibition on introduced species as written in the rule. Otherwise, the final regulations would not be consistent with the enforceable policies of the CA Coastal Management Program, with which ONMS must comply.
- On October 1, 2009, a second proposed rule was published in the Federal Register that addressed some of the Governor's objections.

Large Undaria pinnatifida



More Background

- After the 2009 proposed rule comment period closed, NOAA spent the next few years working with several State agencies to find solutions to the Governor's concerns that would also meet NOAA's goals.
- On March 18, 2013, NOAA withdrew the 2009 proposed rule and initiated a third proposed rule, based on the consultations.
- MBNMS Sanctuary Advisory Council passed a Resolution generally supporting the proposed rule on April 18, 2013 at a regularly scheduled meeting.

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 decades 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 2014 Amended Rule

- On March 27, 2014, NOAA proposed to amend the March 2013 proposed rule to allow GFNMS and MBNMS to authorize certain introduced species of shellfish from commercial aquaculture projects in all state waters of the sanctuaries.
- MBNMS regulations would 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 or seabed disturbance.

Comment Period and MOA

- NOAA is specifically seeking comment on whether such authority should be included in MBNMS regulations if a commercial aquaculture project is proposed in state waters of the sanctuary involving introduced shellfish species that are non-invasive. **The comment period closes on May 5th.**
- ONMS and the State (CDFW, OPC, CCC) are currently developing an MOA (modeled after The MBNMS-State WQ 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 Governor Schwarzenegger's objection.
- The action would make the regulations regarding introduced species consistent between the two sanctuaries & both GF and MB will have the authority to prohibit the introduction of introduced species into state waters.
- Each sanctuary will also be able to authorize introduced species of commercial shellfish that NOAA and the State have determined to be non-invasive and would not cause significant adverse effects on sanctuary resources or qualities.
- The action is consistent with the Introduced Species Action Plan in the MBNMS Management Plan:
 - IS-2: Develop Prevention and Response Programs for Introduced Species
- QUESTIONS?