



Amended Rule for Introduced Species

Gulf of the Farallones/Cordell Bank
Sanctuary Advisory Council Meeting
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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 national marine sanctuaries on the West Coast and to the commercial and recreational uses that depend on these resources/habitats.
- Impacts often include decreasing abundance and even local extinction of native species, alteration of habitat structure, and extensive economic costs due to biofouling.
- Case in point – San Francisco Bay. There are about 250 known invasive species in the San Francisco Bay and Delta, having a dramatic effect on the ecosystem and infrastructure.



Background

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

- (i) Striped bass released during catch and release fishing activity, and
- (ii) Species cultivated by mariculture activities in Tomales Bay pursuant to a valid state lease and in effect on the effective date of the final regulation.

All the final regulations would have automatically taken effect after 45 days of continuous session of Congress beginning on November 20, 2008 however, a Governor is allowed to review, and accept or reject, terms of designation affecting state waters.



Background

A Governor has a right to object to specific terms of designations during the 45 day period.

- Governor Schwarzenegger conditionally objected to terms of designation 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 modified its IS regulations to: 1) exempt 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 review period; therefore, the new ONMS prohibitions against release of introduced species became effective only within federal waters of the sanctuaries.

Background

- Today, the Terms of Designation for GFNMS DO NOT provide any authority to the sanctuary to regulate or restrict aquaculture. This action would change that and create the ability to regulate aquaculture projects involving the introduction of introduced species.
- Today, there are no GFNMS regulations that prohibit or restrict introduction of introduced species from any means into State waters. This action would change that.

Attempt to Resolve #1

- On October 1, 2009, a second proposed rule was published in the Federal Register that addressed some of Governor Schwarzenegger's objections.
- Before finalizing the proposed rule in 2011, NOAA consulted with leadership with the California Natural Resources Agency to determine if Governor Brown maintained the same objection as Governor Schwarzenegger, and if not, what solutions might be possible.
- After extensive discussions with leadership from CDFW, CFGC, CCC and CA Natural Resources Agency, NOAA withdrew the 2009 proposed rule on March 18, 2013, and initiated a third proposed rule.

Attempt to Resolve #2 – March 2013

- The March 2013 proposed rule included the same definition on introduced species but changed the treatment of Tomales Bay to exempt any introduced species mariculture project conducted in Tomales Bay that received a permit from the state.
- GFNMS Sanctuary Advisory Council passed a Resolution generally supporting the proposed rule on May 22, 2013 at a regularly scheduled meeting.



Concerns from CDFW & Industry

- 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.



Attempt to Resolve #3 – March 2014

- On March 27, 2014, NOAA proposed to amend the March 2013 proposed rule to address some of the main concerns of the State of California.
- GFNMS regulations would be modified to allow authorization of a valid State-issued permit, license or other authorization for **commercial shellfish mariculture activities** conducted in state waters of GFNMS involving **introduced species of shellfish** that NOAA and the State have determined to be **non-invasive and would not cause significant adverse effects** to sanctuary resources or qualities.
- NOAA also proposed to treat all state waters of GFNMS and MBNMS consistently, which would provide GFNMS authority over any new lease, permit or license for existing or new introduced species shellfish projects in Tomales Bay.
- No other means of introduction could be permitted; not allowed in Fed waters

Comment Period and MOA

- NOAA is specifically seeking comment on whether such authority should be included in GFNMS (and 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, CFGC, CA National Resources Agency, CCC, OPC) 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.
- The MOA will not change any agency authority, rather how the agencies will collaborate.



Benefits of Proposed Regulation

- Overall, this clarifies an inconsistency created by Governor Schwarzenegger's objection.
- The action would make the regulations regarding introduced species consistent between the two sanctuaries, and 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 Plans in the MB & GF Management Plans.