
Issue 13: Fishing Activities

Comment

Regulation and Prohibition

Fishing should not be prohibited within the Sanctuary. Instead, fisheries resource regulation should remain under the jurisdiction of the state of California, the National Marine Fisheries Service, (NMFS) and the Pacific Fisheries Management Council (PFMC). This should be clarified in the FEIS/MP.

NOAA Response

Regulation and Prohibition

Existing fisheries are not being regulated as part of the Sanctuary regime and fishing is not included in the Designation Document as an activity subject to future regulation. Fisheries management will remain under the existing jurisdiction of the state of California, NMFS and PFMC. Sanctuary prohibitions that may indirectly affect fishing activities (Depositing and Discharging Activities, Alteration of or Construction on the Seabed, Historic Resource Protection, and Taking of Marine Mammals and Seabirds) have been written to explicitly exempt aquaculture, kelp harvesting, and traditional fishing activities. However, if in the future NOAA determines that these exemptions are resulting in injury to Sanctuary resources or qualities from aquaculture, kelp harvesting, or traditional fishing activities, changes to the Sanctuary regulations would be undertaken pursuant to the APA's notice-and-comment rulemaking process and the requirements of NEPA.

Existing fishery management agencies are primarily concerned with the regulation and management of fish stocks for a healthy fishery. In contrast, the National Marine Sanctuary Program has a different and broader mandate under the MPRSA to protect all Sanctuary resources on an ecosystem-wide basis. Thus, while fishery agencies may be concerned about certain fishing efforts and techniques in relation to fish stock abundance and distribution, the SRD is also concerned about the potential incidental impacts of specific fishery techniques on all Sanctuary resources including benthic habitats or marine mammals as well as the role the target species plays in the health of the ecosystem. In the case of Monterey Bay, fish resources are already extensively managed by existing authorities and NOAA does not envision a fishery management role for the Sanctuary at this time. SRD will provide research results and recommendations to existing fishery management agencies in order to enhance the protection of fishery and other resources within the Sanctuary.

Due to the different mandate of the Sanctuary and the need to address this critical component of the Monterey Bay ecosystem should problems arise in the future, NOAA would consult with the state, PFMC and NMFS, as well as the industry to

Comment**NOAA Response**

Certain fish species in Monterey Bay should be regulated due to continuing declines.

determine an appropriate course of action. As required by Section 304 (a) (5) of the MPRSA, the PFMC would be provided with the opportunity to prepare draft regulations for fishing in the Sanctuary. In addition, a NOAA intraagency Memorandum of Understanding would ensure that NMFS would have a major role in the development of Sanctuary fishery regulations. Finally, the MPRSA also requires that the inclusion of fishing, or any other activity not currently listed in the Designation Document as an activity subject to regulation not be made without the preparation of environmental impact statements, solicitation of public comments, and conduction of a public hearing.

NOAA agrees that certain fish species in the Sanctuary may eventually need to be regulated. See above response for how NOAA would proceed if problems related to fishing should arise.

Gill Net, Trammel Net, and Other Fishing Methods

Gill net fishing and the number of non-targeted species that perish in the gill net industry are a concern. Gill nets and trammel nets should be prohibited throughout the Sanctuary. Bottom dredge, trawl, and drag-net fishing methods should also be prohibited because of the damage to benthic natural resources.

Gill Net, Trammel Net, and Other Fishing Methods

NOAA believes that existing authorities, as described below, are adequately managing these activities and further regulation is unnecessary. NOAA has the ability to seek additional protection in the future (see response to first *Fishing Activity* comment above.) The gill net fishery has been regulated since 1984 by the state and Federal governments because of the mortality of marine mammals and birds. Currently, gill netting is restricted to waters deeper than 20 fathoms. In 1989, the halibut gill net fishing was closed inside 40 fathoms. Future regulations on this fishery are pending which would prevent gill net fishing from occurring within 30 fathoms. This would effectively move the current gill net inshore fishery beyond the zone of distribution of shore birds and coastal mammals.

The trawl fishery has also been extensively regulated and no trawlers are currently allowed within three miles of the coast. Unfortunately, there is almost no data regarding the effects of roller trawling on benthic organisms and habitats. NOAA may consider studying the effects of bottom trawling to determine if there are negative impacts on benthic organisms and the surrounding environment.

Comment**NOAA Response****Shark Fishing**

Commercial shark fishing should be strongly limited until enough research has been done to establish sustainable yields for specific species. Direct quotas should be established for shark species within the Sanctuary.

Shark Fishing

NOAA will work with fishermen and local management agencies as well as the CDF&G, NMFS, and the PFMC to determine if additional management measures are necessary to protect shark species. NMFS wrote and released a draft shark fishery management plan for public comment this year for the East Coast and Gulf of Mexico. If a shark management plan is developed for West Coast species, SRD will be involved in its formulation and evaluation, and will provide recommended courses of action. NOAA may consider focusing research funds on the study of shark ecology for those species that exist within the Sanctuary.

The practice of cutting off shark fins (finning) and discarding the carcasses should be banned within the Sanctuary. Recreational sport fishing for sharks should be severely limited, and selling shark catch should be prohibited.

All fishing activities in Federal waters are under the control of the PFMC and NMFS. Fishermen in state waters are managed by the CDF&G. SRD will work with these agencies to determine if any shark plans or regulations are necessary to protect these species from this activity.

Comments on the DEIS/MP

The DEIS/MP did not demonstrate that additional fishing regulations in the Sanctuary were necessary to protect fish populations.

Comments on the DEIS/MP

NOAA agrees that there is little evidence that current fisheries management initiatives are inadequate. Therefore, fishing is not being regulated as part of the Sanctuary regime and is not included in the Designation Document as an activity subject to future regulation. However, if data does become available demonstrating that additional fishing regulations are necessary, NOAA can provide the PFMC with appropriate recommendations for PFMC action, or take appropriate direct action (see response to first *Fishing Activity* comment above).

What structures or materials on the seabed in connection with fishing will be allowed?

Constructing, placing, or abandoning any structure, material, or other matter on the seabed of the Sanctuary is prohibited; except when resulting incidentally from traditional fishing operations, such as the use of traps and bottom trawls; aquaculture; or kelp harvesting (see also response to first *Fishing Activity* comment above).