

**The National Oceanic and Atmospheric Administration proposes to amend 15 CFR part 922 though a proposed rule that was published in the Federal Register on March 27, 2014 (79 FR 17073).**

Note underlined text is proposed to be added and ~~lined through~~ text is proposed to be removed from the current regulations where indicated.

#### **IMPORTANT DISCLAIMERS**

- This document shows the proposed changes to the following sections of 15 CFR part 922: § 922.49, § 922.50, Subpart H § 922.82, and Subpart M § 922.132.
- Changes have been proposed to regulations of the Gulf of the Farallones National Marine Sanctuary through a separate proposed rule, currently under review by the public. If made final, that rule would apply within GFNMS. NOAA would ensure consistency between that rule and the proposal for regulation of introduced species.
- Should there be any discrepancy between this document and the proposed rule that was published in the Federal Register on March 27, 2014 (79 FR 17073), the proposed rule shall take precedence.

Revise the language related to introduced species as follows:

#### **§ 922.49**

##### ***Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity***

(a) A person may conduct an activity prohibited by: subpart H; subparts L through P; or subpart R, if such activity is specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary after the effective date of the regulations in subpart P, provided that:

(b) Any potential applicant for an authorization described in paragraph (a) of this section may request the Director to issue a finding as to whether the activity for which an application is intended to be made is prohibited by subpart H as appropriate, or subparts L through P, or subpart R, as appropriate.

(c) Notification of filings of applications should be sent to the Director, Office of National Marine Sanctuaries at the address specified in subpart H as appropriate, or subparts L through P, or subpart R, as appropriate. A copy of the application must accompany the notification.

#### **§ 922.50**

##### ***Appeals of administrative action***

(a)(1) Except for permit actions taken for enforcement reasons (see subpart D of 15 CFR part 904 for applicable procedures), an applicant for, or a holder of, a National Marine Sanctuary permit; an applicant for, or a holder of, a Special Use permit issued pursuant to section 310 of the Act; a person requesting certification of an existing lease, permit, license or right of subsistence use or access under § 922.47; or, for those Sanctuaries described in subpart H, subparts L through P, and subpart R, an

applicant for a lease, permit, license or other authorization issued by any Federal, State, or local authority of competent jurisdiction (hereinafter appellant) may appeal to the Assistant Administrator.

**§ 922.82**

***Prohibited or otherwise regulated activities of the Gulf of the Farallones National Marine Sanctuary***

(a) \* \* \*

(10) Introducing or otherwise releasing from within or into the Sanctuary an introduced species, except:

(i) Striped bass (*Morone saxatilis*) released during catch and release fishing activity; or

(ii) Introduced species of shellfish ~~Species~~ cultivated by commercial mariculture activities in Tomales Bay pursuant to a valid lease, permit, license or other authorization in effect on May 1, 2014 issued by the State of California ~~issued by the State of California and in effect on the effective date of the final regulation.~~

(d) The prohibition in paragraph (a)(10) of this section does not apply to the introduction of any introduced species of shellfish that does not cause significant adverse effects to sanctuary resources or qualities and is non-invasive as determined by NOAA and the State of California, and is cultivated in state waters as part of commercial shellfish mariculture activities conducted pursuant to a valid lease, permit, license or other authorization issued by the State of California provided that the applicant complies with 15 CFR 922.49, the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems necessary to protect Sanctuary resources and qualities. Amendments, renewals, and extensions of State leases or permits in existence on May 1, 2014 require an authorization that must comply with this paragraph.

**§ 922.132**

***Prohibited or otherwise regulated activities of the Monterey Bay National Marine Sanctuary***

\* \* \* \* \*

(e) The prohibitions in paragraphs (a)(2) through (8) of this section, and (a)(12) of this section regarding any introduced species of shellfish that does not cause significant adverse effects to sanctuary resources or qualities and is non-invasive as determined by NOAA and the State of California, and that is cultivated in state waters as part of commercial shellfish aquaculture activities, do not apply to any activity authorized by any lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation (January 1, 1993) and issued by any Federal, State, or local authority of competent jurisdiction, provided that the applicant complies with 15 CFR 922.49, the Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director deems necessary to protect Sanctuary resources and qualities. Amendments, renewals, and extensions of authorizations in existence on the effective date of designation constitute authorizations issued after the effective date of Sanctuary designation.