

**California Department of Fish and Wildlife**  
**Initial Draft Criteria for Public Interest Determination**  
**by the California Fish and Game Commission for New State Water Bottom Leases**

California Fish and Game Code (FGC) Section 15400 requires the Fish and Game Commission (Commission) to determine that a lease is in the public interest prior to issuing an aquaculture state water bottom lease. At its March 24, 2022, meeting, the Commission's Marine Resources Committee (MRC) discussed an approach to developing potential criteria to consider when making a public interest determination. Based on MRC guidance, the Department of Fish and Wildlife (Department) subsequently developed an initial draft of potential criteria to consider when making this "public interest" determination, based on existing statutory, regulatory, and policy requirements to guide sustainable marine aquaculture development in California. Draft criteria will be presented for discussion with the MRC and public at the July 2022 MRC meeting.

Draft criteria outlined in this document are divided into two sections: 1) "Constraints", which are mandated requirements found in statute and/or regulations, and 2) "Considerations", which are factors that may be reasonably anticipated to consider during project development, permitting, and the California Environmental Quality Act (CEQA) process. Note that the public interest criteria are not intended to supplant or duplicate the type of analysis required for environmental review under CEQA, but rather to provide opportunity to flag significant concerns that either may prevent moving forward with the proposed project or may raise questions about alignment with the public interest, and/or help to bright line potentially significant environmental concerns that can be evaluated in depth through CEQA.

Constraints

- Lease is located in an area that is certified by the California State Lands Commission as unencumbered and available for aquaculture use (T14, CCR, Section 237(b)(3)).
- Lease area does not include areas used by the public for digging clams (FGC Section 15401).
- Lease is located outside of California's marine protected areas, marine managed areas, and special closures (T14, CCR, Section 632).
- Lease area is not located within, over, or adjacent to any area likely to adversely impact Native American cultural resources, as identified by the Native American Heritage Commission.
- Lease activities do not include culture of invasive species, as defined by U.S. Presidential Executive Order 13112 (Clinton 1999) as "an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health."
- Lease activities within Pacific Ocean waters do not include culture of any species of finfish belonging to the family Salmonidae, transgenic fish species, or any exotic species of finfish (FGC Section 15007).
- Leases activities are consistent with established best management practices within the industry.

Considerations

- Lease would not unreasonably impede public access to state waters for purpose of commercial and/or recreational fishing, navigation, commerce, or coastal recreation (FGC Section 15411):
  - Lease area is located outside of important fishing grounds, including the California halibut trawl grounds (FGC Section 8495).

- Lease area is located outside of high-use vessel routes, shipping lanes, and navigable channels.
  - Lease would not impede commercial or recreational boat navigation and safety.
- Lease area would not interfere with closed, lease only, or leased administrative kelp beds (T14, CCR, Section 165.5).
- Lease is sited in areas that would minimize risks to public health as determined through consultation with California Department of Public Health (including within recognized mooring areas)
- Lease would not unreasonably interfere with the ability of the site and surrounding areas to support ecologically significant flora and fauna and avoids areas within sensitive habitats, including seagrass, kelp, and rocky reef habitat.
- Lease is sited to avoid impacts to special-status species, including marine mammals, finfish, and birds.
- Leases do not propose culture methods or materials known to cause environmental degradation, such as dredging, in-bottom culture, use of mechanical harvesting devices, hydraulic pumps, pesticides or other chemicals, etc.
- If appropriate, lease proposal includes plans to:
  - prevent introduction and/or spread of invasive species, pathogens, disease, and pests;
  - minimize and monitor marine debris;
  - maintain regular inspections, keep infrastructure in good repair, address any damaged or lost cultivation materials within specified timeframes, and report on gear and infrastructure conditions;
  - meet the minimum production and planting requirements per acre (T14, CCR, Section 237); and
  - benefit local and state economies through various means, such as diversification of the local economy, promotion of employment opportunities, contributions to the tax base, etc.
- Lease activities do not include culture of any species where it is determined it would be detrimental to adjacent native wildlife (FGC Section 15102).