

Proposed Regulatory Language

Section 632, Title 14 CCR, is amended to read:

§632. Marine Protected Areas (MPAs), Marine Managed Areas (MMAs), and Special Closures

[Subsections 632(a) through (b) are provided for context only; no changes are proposed]

(a) General Rules and Regulations:

The areas specified in this section have been declared by the commission to be marine protected areas, marine managed areas, or special closures. Public use of marine protected areas, marine managed areas, or special closures shall be compatible with the primary purposes of such areas. MPAs, MMAs, and special closures are subject to the following general rules and regulations in addition to existing Fish and Game Code statutes and regulations of the commission, except as otherwise provided for in subsection 632(b), areas and special regulations for use. Nothing in this section expressly or implicitly precludes, restricts or requires modification of current or future uses of the waters identified as marine protected areas, special closures, or the lands or waters adjacent to these designated areas by the Department of Defense, its allies or agents.

(1) Protection of Resources in MPAs and MMAs, as defined in Public Resources Code Section 36710:

(A) State Marine Reserves: In a state marine reserve, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource, except under a scientific collecting permit issued by the department pursuant to Section 650 or specific authorization from the commission for research, restoration, or monitoring purposes.

(B) State Marine Parks: In a state marine park, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial purposes. Any human use that would compromise protection of the species of interest, natural community or habitat, or geological, cultural, or recreational features, may be restricted by the commission as specified in subsection 632(b), areas and special regulations for use. The department may issue scientific collecting permits pursuant to Section 650. The commission may authorize research, monitoring, and educational activities and certain recreational harvest in a manner consistent with protecting resource values.

(C) State Marine Conservation Areas: In a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes except as specified in subsection 632(b), areas and special regulations for use. The department may issue scientific collecting permits pursuant to Section 650. The commission may authorize research, education, and recreational activities, and certain commercial and recreational harvest of marine resources, provided that these uses do not compromise protection of the species of interest, natural community, habitat, or geological features.

(D) State Marine Recreational Management Areas: In a state marine recreational management area, it is unlawful to perform any activity that would compromise the recreational values for which the area may be designated. Recreational opportunities may be protected, enhanced, or restricted, while preserving basic resource values of the area. No other use is restricted unless specified in subsection 632(b), areas and special regulations for use.

(2) Finfish. Finfish, for the purpose of this section, are defined as any species of bony fish or cartilaginous fish (sharks, skates and rays). Finfish do not include amphibians, invertebrates, plants or algae. The definition of finfish provided in Section 159 does not apply to this Section.

(3) Pelagic Finfish. Pelagic finfish, for the purpose of this section, are a subset of finfish defined as: northern anchovy (*Engraulis mordax*), barracudas (*Sphyraena* spp.), billfishes* (family Istiophoridae), dolphinfish (*Coryphaena hippurus*), Pacific herring (*Clupea pallasii*), jack mackerel (*Trachurus symmetricus*), Pacific mackerel (*Scomber japonicus*), salmon (*Oncorhynchus* spp.), Pacific sardine (*Sardinops sagax*), blue shark (*Prionace glauca*), salmon shark (*Lamna ditropis*), shortfin mako shark (*Isurus oxyrinchus*), thresher sharks (*Alopias* spp.), swordfish (*Xiphias gladius*), tunas (family Scombridae) including Pacific bonito (*Sarda chiliensis*), and yellowtail (*Seriola lalandi*). *Marlin is not allowed for commercial take.

(4) Access. Access into marine protected areas or marine managed areas for non-consumptive uses including but not limited to swimming, surfing, diving, boating, hiking and walking is allowed unless otherwise specified in subsection 632(b), areas and special regulations for use.

(5) Introduction of Species. Unless authorized by the commission or as a result of authorized fishing activities, the release of any fish or wildlife species, including domestic or domesticated species, or the introduction of any plant species, is prohibited. The department may reintroduce endemic species to marine protected areas or marine managed areas for management purposes.

(6) Feeding of Fish and Wildlife. The feeding of fish and wildlife is prohibited except permitted scientific collection pursuant to Section 650 or as a result of authorized fishing within state marine conservation areas, state marine parks, and state marine recreational management areas, or unless feeding of fish is specifically authorized in subsection 632(b) for purposes of marine life viewing.

(7) Anchoring. Vessels shall be allowed to anchor in any marine protected area or marine managed area with catch onboard unless otherwise specified in subsection 632(b), areas and special regulations for use. Fishing gear shall not be deployed in the water while anchored in a state marine reserve. Fishing gear, except legal fishing gear used to take species identified as allowed for take in subsection 632(b), shall not be deployed in the water while anchored in a state marine recreational management area, state marine park or state marine conservation area. Anchoring regulations shall be consistent with federal law and allowances made for anchoring required by emergency or severe weather.

(8) Transit or Drifting.

(A) Vessels shall be allowed to transit through MPAs and MMAs with catch onboard. Fishing gear shall not be deployed in the water while transiting through a state marine reserve. Fishing gear, except legal fishing gear used to take species identified as allowed for take in subsection 632(b), shall not be deployed in the water while transiting through a state marine recreational management area, state marine park or state marine conservation area.

(B) Spearfishermen with or without catch shall be allowed to transit through MPAs and MMAs. While transiting MPAs and MMAs that prohibit spearfishing or while in possession of species not identified as allowed for take in the MPA or MMA being transited, spearfishing gear shall be in an unloaded condition, not carried in hand, and the diver shall remain at the surface.

(9) Water Quality Monitoring. Sampling of water, sediment and marine life, for water quality monitoring or pollution research, or as required in a Monitoring and Reporting Program of a National Pollutant Discharge Elimination System (NPDES) Permit and Waste Discharge Requirements issued by the State or Regional Water Boards pursuant to the United States Clean Water Act and the California Water Code, is allowed within state marine reserves, state marine conservation areas, state marine parks, and state marine recreational management areas pursuant to a valid scientific

collecting permit issued by the department.

(10) Public Safety. Public safety activities, including installation, maintenance and/or seasonal placement and removal of safety-related artificial structures, including but not limited to lifeguard towers, are allowed within any MPA classification pursuant to any required federal, state and local permits, or as otherwise authorized by the department.

(11) Tribal Take. For purposes of this regulation, “federally recognized tribe” means any tribe on the List of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs, published annually in the Federal Register. Any member of a federally recognized tribe authorized to take living marine resources from an area with area-specific take restrictions in subsection 632(b), when engaging in take within an authorized area shall possess on his person, in his immediate possession, or where otherwise specifically required by law to be kept, any valid license, report card, tag, stamp, validation, permit, or any other entitlement that is required in the Fish and Game Code, or required by other state, federal, or local entities, in order to take living marine resources. Members shall possess a valid photo identification card issued by a federally recognized tribe that contains expiration date, tribal name, tribal member number, name, signature, date of birth, height, color of eyes, color of hair, weight, and sex; and display any of the items listed above upon demand to any peace officer. Members taking living marine resources under this provision are subject to current seasonal, bag, possession, gear and size limits in existing Fish and Game Code statutes and regulations of the commission, except as otherwise provided for in subsection 632(b). No member, while taking living marine resources pursuant to this section, may be assisted by any person who does not possess a valid tribal identification card and is not properly licensed to take living marine resources. Nothing in the regulation is intended to conflict with, or supersede, any state or federal law regarding the take of protected, threatened or endangered species.

(12) Shore Fishing. Take from shore, or shore fishing, for purposes of this section, means take of living marine resources from shore, including beaches, banks, piers, jetties, breakwaters, docks, and other man-made structures connected to the shore. Unless specifically authorized in subsection 632(b), no vessel, watercraft (motorized or non-motorized), or floating device may be used to assist in the take, transport or possession of species taken while shore fishing, except that a float tube or similar flotation device may be used when taking abalone only.

(b) Areas and Special Regulations for Use. Pursuant to the commission’s authority in Fish and Game Code Section 2860 to regulate commercial and recreational fishing and any other taking of marine species in MPAs, Fish and Game Code Sections 10500(f), 10500(g), 10502.5, 10502.6, 10502.7, 10502.8, 10655, 10655.5, 10656, 10657, 10657.5, 10658, 10660, 10661, 10664, 10666, 10667, 10711, 10801, 10900, 10901, 10902, 10903, 10904, 10905, 10906, 10907, 10908, 10909, 10910, 10911, 10912, 10913, and 10932 are superseded as they apply to designations in Subsection 632(b). All geographic coordinates listed use the North American Datum 1983 (NAD83) reference datum:

[Subsections 632(b)(1) through (b)(8) remain unchanged]

(9) South Humboldt Bay State Marine Recreational Management Area

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

40° 43.000' N. lat. 124° 15.527' W. long.;

40° 43.000' N. lat. 124° 15.000' W. long.;

40° 42.000' N. lat. 124° 15.000' W. long.; and

40° 42.000' N. lat. 124° 16.141' W. long.

~~(B) Area restrictions defined in subsection 632(a)(1)(D) apply, with the following specified exceptions:~~

~~1. The following federally recognized tribe is exempt from the area and take regulations found in subsection 632(b)(9) of these regulations and shall comply with all other existing regulations and statutes:~~

~~Wiyot Tribe.~~

~~(C)(B) Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).~~

~~(C) Take of all living, geological, or cultural marine resources is prohibited except~~

~~1. The following federally recognized tribe is exempt from the area and take regulations found in subsection 632(b)(9) of these regulations and shall comply with all other existing regulations and statutes:~~

~~Wiyot Tribe.~~

[Subsections 632(b)(10) through (b)(36) remain unchanged]

(37) Russian River State Marine Recreational Management Area.

(A) This area includes the waters below the mean high tide line eastward of the mouth of the Russian River estuary defined as a line connecting the following two points:

38° 27.160' N. lat. 123° 07.910' W. long.;

38° 27.010' N. lat. 123° 07.740' W. long.

and westward of the Highway 1 Bridge.

(B) Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).

~~(C) Take of all living, geological, or cultural marine resources is prohibited. Area restrictions defined in subsection 632(a)(1)(D) apply.~~

[Subsections 632(b)(38) through (b)(40) remain unchanged]

(41) Estero Americano State Marine Recreational Management Area.

(A) This area includes the waters below the mean high tide line within Estero Americano westward of longitude 122° 59.250' W.

(B) Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).

~~(C) Take of all living, geological, or cultural marine resources is prohibited. Area restrictions defined in subsection 632(a)(1)(D) apply.~~

(42) Estero de San Antonio State Marine Recreational Management Area.

(A) This area includes the waters below the mean high tide line within Estero de San Antonio westward of longitude 122° 57.400' W.

(B) Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).

~~(C) Take of all living, geological, or cultural marine resources is prohibited. Area restrictions defined in subsection 632(a)(1)(D) apply.~~

[Subsections 632(b)(43) through (b)(90) remain unchanged]

(91) Morro Bay State Marine Recreational Management Area.

(A) This area includes the area below mean high tide within Morro Bay east of the Morro Bay entrance breakwater and west of longitude 120° 50.340' W.

(B) Waterfowl may be taken in accordance with the general waterfowl regulations ~~Recreational hunting of waterfowl is allowed unless otherwise restricted by hunting regulations (sections~~ Sections 502, 550, 551, and 552).

(C) Take of all living, geological, or cultural marine resources is prohibited except ~~Area restrictions defined in subsection 632(a)(1)(D) apply, with the following specified exceptions~~ activities are allowed north of latitude 35°19.700' N:

1. The recreational take of finfish.
2. Aquaculture pursuant to a valid state water bottom lease and permit.
3. Storing finfish taken outside the Morro Bay State Marine Recreational Management Area in a receiver for bait purposes.
4. Dredging for the purpose of harbor and channel operations and pursuant to required and valid permits and approvals.
5. Harbor operations and maintenance and cleaning of vessel hulls and other man-made structures, including removal of living marine resources for these purposes.

[Subsections 632(b)(92) through (b)(124) remain unchanged]

NOTE: Authority cited: Sections 200, 205(c), 265, 399, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code. Reference: Sections 200, 205(c), 265, 399, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code.