

Proposed Regulatory Language

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

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

(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.
1. Notwithstanding the designation specified in this section, the boundaries of all state marine reserves exclude any pre-existing artificial structure when that structure is being actively maintained, repaired, or operated by the leaseholder(s), permittee(s), or their agent(s).
- (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. Take of marine resources incidental to the operation, maintenance, repair, removal, and replacement within the existing footprint of pre-existing artificial structures is allowed in state marine parks pursuant to any required federal, state, and local permits and leases or if otherwise authorized through any applicable federal, state, and local law. This subsection does not authorize retention or possession of any marine resource taken pursuant to this subsection.
- (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.

1. Any area within a state marine reserve that is excluded from the boundaries of the state marine reserve pursuant to subsection 632(a)(1)(A)(1) is a state marine conservation area.
2. Take of marine resources incidental to the operation, maintenance, repair, removal, and replacement within the existing footprint of pre-existing artificial structures is allowed in state marine conservation areas pursuant to any required federal, state, and local permits and leases or if otherwise authorized through any applicable federal, state, and local law. This subsection does not authorize retention or possession of any marine resource taken pursuant to this subsection.

(D) State Marine Recreational Management Area: 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. Take of marine resources incidental to the operation, maintenance, repair, removal, and replacement within the existing footprint of pre-existing artificial structures is allowed in state marine recreational management areas pursuant to any required federal, state, and local permits and leases or if otherwise authorized through any applicable federal, state, and local law. This subsection does not authorize retention or possession of any marine resource taken pursuant to this subsection.

(E) It is unlawful to injure, damage, take, retain, or possess any living, geological, or cultural marine resource in any marine managed area except as otherwise specified in subsections 632(a)(1)(A)-(D).

[No changes to subsections 632(a)(2) through (a)(9); subsections 632(a)(10) and 632(a)(11) provided for context]

- (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.

[No changes to subsection 632(a)(12)]

- (13) Pre-Existing Artificial Structure. For the purpose of this section, “pre-existing artificial structure” refers to any structure manufactured, created, installed, or constructed in state waters pursuant to any required federal, state, and local permits, leases, or other authorizations, including an incidental take buffer zone as defined in subsection 632(a)(14). Any structure constructed and installed pursuant to public safety concerns as defined in subsection 632(a)(10) will be considered a pre-existing artificial structure.
- (14) Incidental Take Buffer Zone for Pre-Existing Artificial Structures (Incidental Take Buffer Zones). For the purpose of this section, an “incidental take buffer zone” is established in the peripheral area surrounding a pre-existing artificial structure as defined in subsection 632(a)(13). The incidental take buffer zone shall include the entirety of the surrounding water column within 250 linear feet in any direction from the pre-existing artificial structure, not including areas above the mean high tide line.
- (15) Identification and Permit or Lease Requirement for Pre-existing Artificial Structure Activities. At all times, when conducting any operation, maintenance, repair, removal or replacement activity of a pre-existing artificial structure authorized by a federal, state, or local permit or lease, the leaseholder(s), permittee(s), and their agent(s) shall carry in their possession a valid government-issued form of identification, and a digital or printed copy of the permit or lease. The only acceptable forms of identification are driver's licenses or other photo identification cards issued by a U.S. state, a valid photo identification card issued by a federally recognized tribe as specified in subsection 632(a)(11), or an international passport. Valid identification and a copy of the lease or permit shall be exhibited immediately upon demand by any person authorized by the department to enforce this regulation.

[No changes to subsections 632(b)(1) through (b)(147)]

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.