2020 EDITION

California Fish and Game Code

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CALIFORNIA FISH AND GAME CODE

2020 EDITION

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FOREWORD

We are pleased to offer the 2020 edition of **California Fish and Game Code**, in partnership with the California Department of Fish and Wildlife**.** This compilation of selected sections is current with statutory amendments required by legislative enactments up to and including all 870 chapters of the 2019 Regular Session of the 2019-2020 California Legislature. We have also included a listing of "Sections Affected by Legislation in 2019" for a quick, at-a-glance check of recent changes to the laws contained in this book.

April 2020

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FISH AND GAME CODE

DIVISION 0.5. GENERAL PROVISIONS AND DEFINITIONS

CHAPTER 1. GENERAL DEFINITIONS

§ 1. Title of code

This code shall be known as the Fish and Game Code.

HISTORY:
Enacted 1957.

§ 2. Provisions governing construction

Unless the provisions or the context otherwise requires, the definitions in this chapter govern the construction of this code and all regulations adopted under this code.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 994 § 1; Stats 1998 ch 1052 § 3 (AB 1241).

§ 3. Provisions construed as continuations; Existing privileges and rights unimpaired

The provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations thereof, and not as new enactments. This code shall not impair any privilege granted or right acquired under any of the laws of this State prior to the date it takes effect.

HISTORY:
Enacted 1957.

§ 4. Effect of headings

Division, part, chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this code.

HISTORY:
Enacted 1957.

§ 5. References to statutes; Amendments

Whenever reference is made to any portion of this code or of any other law of this State, the reference applies to all amendments and additions heretofore or hereafter made.

HISTORY:
Enacted 1957.

§ 6. Delegation of powers and duties

Whenever a power is granted to, or duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law, by the officer, unless this code expressly provides otherwise.

HISTORY:
Enacted 1957.

§ 7. Statement or report to be in English

Whenever a statement or report is required to be made, it shall be made in the English language. Nothing in this section shall prohibit the department from providing an unofficial translation of a statement or report in a language other than English.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 1 (AB 1527), effective January 1, 2016.

§ 8. Tenses
The present tense includes the past and future tenses, and the future, the present.

HISTORY:
Enacted 1957.

§ 9. Gender
The masculine gender includes the feminine and the neuter.

HISTORY:
Enacted 1957.

§ 9.2. "Spouse" to include registered domestic partner
"Spouse" includes "registered domestic partner," as required by Section 297.5 of the Family Code.

HISTORY:
Added Stats 2016 ch 50 § 41 (SB 1005), effective January 1, 2017.

§ 10. Number
The singular number includes the plural, and the plural, the singular.

HISTORY:
Enacted 1957.

§ 11. Period of time; Computation
Whenever in this code the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified. The first date specified designates the first day of the period, and the second day specified designates the last day of the period. No period of time specified in this code exceeds one year unless otherwise expressly provided.

HISTORY:
Enacted 1957.

§ 12. "Fish Commission Fund"; "Game Preservation Fund"
Wherever the term "Fish Commission Fund" or "Game Preservation Fund" appears in any law, it means "Fish and Game Preservation Fund."

HISTORY:
Enacted 1957.

§ 13. Notice by mail
Unless otherwise specified by statute, any notice or other written communication required to be sent to any person by this code or regulations adopted pursuant thereto, is sufficient notice if sent by first-class mail to the last address furnished to the department by that person.

HISTORY:
Added Stats 1979 ch 618 § 1. Amended Stats 1994 ch 935 § 1 (SB 492).

§ 13.5. "Adaptive management"
"Adaptive management," unless otherwise specified in this code, unless otherwise specified in this code, means management that improves the management of biological

resources over time by using new information gathered through monitoring, evaluation, and other credible sources as they become available, and adjusts management strategies and practices to assist in meeting conservation and management goals. Under adaptive management, program actions are viewed as tools for learning to inform future actions.

HISTORY:
Added Stats 2012 ch 559 § 3 (AB 2402), effective January 1, 2013.

§ 14. "Anadromous fish"
"Anadromous fish" means fish which spawn in fresh water and spend a portion of their lives in the ocean.

HISTORY:
Added Stats 1982 ch 1486 § 1.5.

§ 15. "Angling"
"Angling" means the taking of, or attempting to take, fish by hook and line with the line held in the hand, or by hook and line with the line attached to a pole or rod which is closely attended or held in the hand in such a manner that the fish voluntarily takes the bait or lure in its mouth.

HISTORY:
Enacted 1957. Amended Stats 1989 ch 318 § 1.

§ 16. "Affix"
"Affix" means physically attached to or imprinting an electronic validation to a license document.

HISTORY:
Added Stats 2001 ch 112 § 1 (AB 435).

§ 17. "Aquaculture"
"Aquaculture" means that form of agriculture devoted to the propagation, cultivation, maintenance, and harvesting of aquatic plants and animals in marine, brackish, and fresh water. "Aquaculture" does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes, however, these species continue to be regulated under Chapter 2 (commencing with Section 2116) of Division 3.

HISTORY:
Added Stats 1982 ch 1486 § 2. Amended Stats 1983 ch 131 § 1, effective June 27, 1983.

§ 18. "Bag limit"
"Bag limit" means the maximum limit, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may lawfully be taken by any one person during a specified period of time.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 1 (AB 1729), effective January 1, 2008.

§ 19. "Possession limit"
"Possession limit" means the maximum, in number or amount, of birds, mammals, fish, reptiles, or amphibians that may be lawfully possessed by one person.

HISTORY:
Added Stats 2007 ch 285 § 2 (AB 1729), effective January 1, 2008.

§ 22. "Bird"

"Bird" means a wild bird or part of a wild bird.

HISTORY:
Enacted 1957. Amended Stats 1977 ch 1208 § 1; Stats 2015 ch 154 § 2 (AB 1527), effective January 1, 2016.

§ 24. "Buy"

"Buy" includes an offer to buy, purchase, barter, exchange, or trade.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 1403 § 1.

§ 27. "Chumming"

"Chumming" means the placing in the water of fish, or other material upon which fish feed, for the purpose of attracting fish to a particular area in order that they may be taken.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 3 (AB 1527), effective January 1, 2016.

§ 29. "Closed season"

"Closed season" means that period of time during which the taking of birds, mammals, fish, amphibians, or reptiles is prohibited.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 4 (AB 1527), effective January 1, 2016.

§ 30. "Commission" and "commissioner"

"Commission" means the Fish and Game Commission, and "commissioner" means a member of the Fish and Game Commission.

HISTORY:
Enacted 1957.

§ 32. "County"

"County" includes city and county.

HISTORY:
Enacted 1957.

§ 33. "Credible science"

"Credible science" means the best available scientific information that is not overly prescriptive due to the dynamic nature of science, and includes the evaluation principles of relevance, inclusiveness, objectivity, transparency, timeliness, verification, validation, and peer review of information as appropriate. Credible science also recognizes the need for adaptive management, as defined in Section 13.5, as scientific knowledge evolves.

HISTORY:
Added Stats 2012 ch 559 § 4 (AB 2402), effective January 1, 2013.

§ 35. "Day" and "week"

"Day" means calendar day, and "week" means calendar week.

HISTORY:
Enacted 1957.

§ 37. "Department"

"Department" means the Department of Fish and Wildlife.

HISTORY:
Enacted 1957. Amended Stats 2012 ch 559 § 5 (AB 2402), effective January 1, 2013.

§ 39. "Director"
"Director" means the Director of Fish and Wildlife.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1323 § 1; Stats 2012 ch 559 § 6 (AB 2402), effective January 1, 2013.

§ 41. "District"
"District" means fish and game district.

HISTORY:
Enacted 1957.

§ 43. "Ecosystem-based management"
"Ecosystem-based management" means an environmental management approach relying on credible science, as defined in Section 33, that recognizes the full array of interactions within an ecosystem, including humans, rather than considering single issues, species, or ecosystem services in isolation.

HISTORY:
Added Stats 2012 ch 559 § 7 (AB 2402), effective January 1, 2013.

§ 45. "Fish"
"Fish" means a wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn, or ovum of any of those animals.

HISTORY:
Enacted 1957. Amended Stats 1969 ch 689 § 1; Stats 2015 ch 154 § 5 (AB 1527), effective January 1, 2016.

§ 46. "Guide boat"
"Guide boat" means a boat or vessel under 25 feet in length, which is used by a guide, who is licensed under Chapter 5 (commencing with Section 2535) of Division 3, in inland waters for any of the following purposes:

(1) For the business of packing or guiding.

(2) For compensation, to assist another person in taking or attempting to take any fish or amphibian.

(3) For compensation, to assist another person in locating any bird or mammal.

HISTORY:
Added Stats 1987 ch 200 § 1, effective July 23, 1987.

§ 48. "Hook" or "fishhook"; Types
"Hook" or "fishhook" means an implement to catch or hold fish or amphibia. "Single hook" means any hook with one point and with or without a barb; "double hook" means any hook with two points and with or without barbs; "treble or triple hook" means any hook with three points and with or without barbs. "Snag" or "gaff" hooks are hooks with or without handles used to take fish in such manner that the fish does not take the hook voluntarily in its mouth.

HISTORY:
Enacted 1957.

§ 51. "Kelp"
"Kelp" means kelp or other marine aquatic plants and the seeds thereof.

HISTORY:
Enacted 1957.

§ 54. "Mammal"
"Mammal" means a wild or feral mammal or part of a wild or feral animal, but not a wild, feral, or undomesticated burro.

HISTORY:
Enacted 1957. Amended Stats 1977 ch 1208 § 2; Stats 2015 ch 154 § 6 (AB 1527), effective January 1, 2016.

§ 54.5. "Marine finfish aquaculture"
"Marine finfish aquaculture" means the propagation, cultivation, or maintenance of finfish species in the waters of the Pacific Ocean that are regulated by this state.

HISTORY:
Added Stats 2006 ch 36 § 2 (SB 201), effective January 1, 2007.

§ 55. "Mile"
"Mile" means either a statute mile (5,280 feet) or a nautical mile (6,077 feet) depending on the application. Statute miles shall be the unit of measurement for all land masses, rivers, streams, creeks, and inland bodies of water. Nautical miles shall be the unit of measurement for all marine waters.

HISTORY:
Added Stats 1992 ch 1370 § 1 (AB 3193), effective October 27, 1992.

§ 56. "Net"
"Net" means any gear made of any kind of twine, thread, string, rope, wire, wood, or other materials used for the gilling, entangling, trapping, or impounding of fish.

HISTORY:
Enacted 1957.

§ 57. "Nonresident"
"Nonresident" means a person who is not a resident as defined in Section 70.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 270 § 1; Stats 2015 ch 154 § 7 (AB 1527), effective January 1, 2016.

§ 60. "Oath"
"Oath" includes affirmation.

HISTORY:
Enacted 1957.

§ 61. "Ocean ranching"
"Ocean ranching" means aquaculture where juvenile anadromous fish are reared and released into state waters to grow and return to an aquaculture facility to be harvested commercially.

HISTORY:
Added Stats 1982 ch 1486 § 3.

§ 62. "Open season"
"Open season" means that period of time during which the taking of birds, mammals, fish, reptiles, or amphibians is allowed as prescribed in this code and regulations adopted

by the commission. If used to define the period of time during which take is allowed "season" means "open season."

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 3 (AB 1729), effective January 1, 2008.

§ 64. "Order," "rule," and "regulation"
"Order," "rule," and "regulation" are used interchangeably and each includes the others.

HISTORY:
Enacted 1957.

§ 67. "Person"
"Person" means any natural person or any partnership, corporation, limited liability company, trust, or other type of association.

HISTORY:
Enacted 1957. Amended Stats 1987 ch 633 § 1; Stats 1988 ch 1059 § 2; Stats 1994 ch 1010 § 121 (SB 2053).

§ 68. "Purchase"
"Purchase" means "buy" as defined in Section 24.

HISTORY:
Added Stats 1985 ch 1403 § 2.

§ 70. "Resident"
"Resident" means any person who has resided continuously in the State of California for six months or more immediately prior to the date of his application for a license or permit, any person on active military duty with the Armed Forces of the United States or auxiliary branch thereof, or any person enrolled in the Job Corps established pursuant to Section 2883 of Title 29 of the United States Code.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 391 § 2; Stats 1959 ch 270 § 2; Stats 2001 ch 112 § 2 (AB 435).

§ 73. "Section"; "Subdivision"
"Section" means a section of this code unless some other statute is specifically mentioned. "Subdivision" means a subdivision of the section in which that term occurs unless some other section is expressly mentioned.

HISTORY:
Enacted 1957.

§ 75. "Sell"
"Sell" includes offer or possess for sale, barter, exchange, or trade.

HISTORY:
Enacted 1957.

§ 79. "Shall" and "may"
"Shall" is mandatory and "may" is permissive.

HISTORY:
Enacted 1957.

§ 80. Applicability to whole animal and part of animal
Unless the provision or context otherwise requires, a provision of this code that applies to a whole animal also applies to a part of the animal.

HISTORY:
Added Stats 2015 ch 154 § 8 (AB 1527), effective January 1, 2016.

§ 81. Signature or subscription by mark

"Signature" or "subscription" includes mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses also sign their own names.

HISTORY:
Enacted 1957.

§ 82. "Slurp gun"

"Slurp gun" means a self-contained, hand-held device used to capture fish by rapidly drawing water containing fish into a closed chamber.

HISTORY:
Added Stats 1992 ch 742 § 1 (AB 2261).

§ 83. "State"

"State" means the State of California, unless applied to the different parts of the United States. In the latter case, it includes the District of Columbia and the territories.

HISTORY:
Enacted 1957.

§ 86. "Take"

"Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

HISTORY:
Enacted 1957.

§ 88. "Transport"

"Transport" includes offer or receive for transportation.

HISTORY:
Enacted 1957.

§ 89. "Recycled water" or "reclaimed water"

For the purposes of this code, "recycled water" or "reclaimed water" has the same meaning as recycled water as defined in subdivision (n) of Section 13050 of the Water Code.

HISTORY:
Added Stats 1995 ch 28 § 1 (AB 1247).

§ 89.1. "Waters of the state"

"Waters of the state," "waters of this state," and "state waters" have the same meaning as "waters of the state" as defined in subdivision (e) of Section 13050 of the Water Code.

HISTORY:
Added Stats 2007 ch 285 § 4 (AB 1729), effective January 1, 2008.

§ 89.5. "Wildlife"

"Wildlife" means and includes all wild animals, birds, plants, fish, amphibians, reptiles, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability.

HISTORY:
Added Stats 2015 ch 154 § 9 (AB 1527), effective January 1, 2016.

CHAPTER 2. MARINE LIFE DEFINITIONS

§ 90. Governing definitions

The definitions in this chapter govern the construction of Section 1022, Chapter 7 (commencing with Section 1700) of Division 2, and Division 6 (commencing with Section 5500), and all regulations adopted pursuant to those provisions.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241). Amended Stats 2018 ch 477 § 3 (AB 1573), effective January 1, 2019.

§ 90.1. "Adaptive management"

"Adaptive management," in regard to a marine fishery, means a scientific policy that seeks to improve management of biological resources, particularly in areas of scientific uncertainty, by viewing program actions as tools for learning. Actions shall be designed so that even if they fail, they will provide useful information for future actions. Monitoring and evaluation shall be emphasized so that the interaction of different elements within the system can be better understood.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 90.5. "Bycatch"

"Bycatch" means fish or other marine life that are taken in a fishery but which are not the target of the fishery. "Bycatch" includes discards.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 90.7. "Depressed"

"Depressed," with regard to a marine fishery, means the condition of a fishery for which the best available scientific information, and other relevant information that the commission or department possesses or receives, indicates a declining population trend has occurred over a period of time appropriate to that fishery. With regard to fisheries for which management is based on maximum sustainable yield, or in which a natural mortality rate is available, "depressed" means the condition of a fishery that exhibits declining fish population abundance levels below those consistent with maximum sustainable yield.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 91. "Discards"

"Discards" means fish that are taken in a fishery but are not retained because they are of an undesirable species, size, sex, or quality, or because they are required by law not to be retained.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 93. "Essential fishery information"

"Essential fishery information," with regard to a marine fishery, means information about fish life history and habitat requirements; the status and trends of fish populations, fishing effort, and catch levels; fishery effects on fish age structure and on other

marine living resources and users, and any other information related to the biology of a fish species or to taking in the fishery that is necessary to permit fisheries to be managed according to the requirements of this code.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 94. "Fishery"

"Fishery" means both of the following:

(a) One or more populations of marine fish or marine plants that may be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics.

(b) Fishing for, harvesting, or catching the populations described in (a).

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241). Amended Stats 2002 ch 559 § 1 (AB 892).

§ 96. "Marine living resources"

"Marine living resources" includes all wild mammals, birds, reptiles, fish, and plants that normally occur in or are associated with salt water, and the marine habitats upon which these animals and plants depend for their continued viability.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 96.5. "Maximum sustainable yield"

"Maximum sustainable yield" in a marine fishery means the highest average yield over time that does not result in a continuing reduction in stock abundance, taking into account fluctuations in abundance and environmental variability.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 97. "Optimum yield"

"Optimum yield," with regard to a marine fishery, means the amount of fish taken in a fishery that does all of the following:

(a) Provides the greatest overall benefit to the people of California, particularly with respect to food production and recreational opportunities, and takes into account the protection of marine ecosystems.

(b) Is the maximum sustainable yield of the fishery, as reduced by relevant economic, social, or ecological factors.

(c) In the case of an overfished fishery, provides for rebuilding to a level consistent with producing maximum sustainable yield in the fishery.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 97.5. "Overfished"

"Overfished," with regard to a marine fishery, means both of the following:

(a) A depressed fishery.

(b) A reduction of take in the fishery is the principal means for rebuilding the population.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 98. "Overfishing"

"Overfishing" means a rate or level of taking that the best available scientific information, and other relevant information that the commission or department possesses or receives, indicates is not sustainable or that jeopardizes the capacity of a marine fishery to produce the maximum sustainable yield on a continuing basis.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 98.2. "Participants"

"Participants" in regard to a fishery means the sportfishing, commercial fishing, and fish receiving and processing sectors of the fishery.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 98.5. "Population" or "stock"

"Population" or "stock" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

§ 99. "Restricted access"

"Restricted access," with regard to a marine fishery, means a fishery in which the number of persons who may participate, or the number of vessels that may be used in taking a specified species of fish, or the catch allocated to each fishery participant, is limited by statute or regulation.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241). Amended Stats 1999 ch 483 § 1 (AB 76).

§ 99.5. "Sustainable," "sustainable use," and "sustainability"

"Sustainable," "sustainable use," and "sustainability," with regard to a marine fishery, mean both of the following:

(a) Continuous replacement of resources, taking into account fluctuations in abundance and environmental variability.

(b) Securing the fullest possible range of present and long-term economic, social, and ecological benefits, maintaining biological diversity, and, in the case of fishery management based on maximum sustainable yield, taking in a fishery that does not exceed optimum yield.

HISTORY:
Added Stats 1998 ch 1052 § 4 (AB 1241).

DIVISION 1. FISH AND GAME COMMISSION

CHAPTER 1. ORGANIZATION

§ 101. Fish and Game Commission

There is in the Resources Agency the Fish and Game Commission created by Section 20 of Article IV of the Constitution.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 2037 § 8, operative October 1, 1961; Stats 1969 ch 55 § 1.

§ 101.5. Legislative findings and declarations; Legislative intent

(a) The Legislature finds and declares that the scope and responsibilities of the commission have significantly expanded over the years as the size and diversity of California's population have increased, and as the scientific knowledge of the habitat conservation and ecosystem-based management needs of wildlife has expanded. The members of the commission are expected to make complex public policy and biological decisions on behalf of the people of California. The commission is created by the California Constitution, which does not include any criteria or qualifications for selection and appointment of commissioners.

(b) It is therefore the intent of the Legislature to encourage the Governor and the Senate Committee on Rules to consider the following minimum qualifications in selecting, appointing, and confirming commissioners to serve on the commission:

(1) The degree to which the appointee will enhance the diversity of background and geographic representation of the commission.

(2) The appointee's demonstrated interest and background in, and familiarity with, wildlife and natural resources management programs at the state or federal level.

(3) The appointee's previous experience in public policy decisionmaking, including government processes involving public participation.

(4) The appointee's commitment to prepare for and attend meetings and subcommittee meetings of the commission and to comply with all applicable state conflict-of-interest laws.

(5) The extent of the appointee's exposure to and experience with the basic science underpinning the management of living natural resources.

(6) The appointee's diversity of knowledge of natural resource issues and related scientific disciplines, including, but not limited to, outdoor recreation.

HISTORY:
Added Stats 2012 ch 592 § 1 (AB 2609), effective January 1, 2013.

§ 102. President; Vice president; Vacancy; Election

(a) The commissioners shall annually elect one of their number as president and one as vice president, by a concurrent vote of at least three commissioners.

(b) The president or vice president may be removed from the position of president or vice president by a vote, at any time, of at least three commissioners.

(c) In the event of a vacancy in either the position of president or vice president, the commission shall fill that vacancy at the next regularly scheduled meeting of the commission. The elected successor president or vice president shall serve for the unexpired term of the predecessor until the annual election pursuant to subdivision (a).

(d) The commission may not adopt or enforce a policy or a regulation that provides for the president and vice president to be chosen by seniority nor may the commission adopt or enforce any other policy or regulation that would make a commissioner ineligible to be elected as president or vice president of the commission.

HISTORY:
Enacted 1957. Amended Stats 2012 ch 592 § 2 (AB 2609), effective January 1, 2013; Stats 2017 ch 521 § 2 (SB 809), effective January 1, 2018.

§ 103. Commissioners; Compensation and expenses; Payment

(a) Each of the commissioners shall receive one hundred dollars ($100) for each day of actual service performed in carrying out his or her official duties pursuant to law, but the amount of this compensation shall not exceed for any one commissioner the sum of five hundred dollars ($500) for any one calendar month. In addition to this compensation, the commissioners shall receive their actual and necessary expenses incurred in the performance of their duties.

(b) The compensation and expenses provided in this section shall be paid out of the Fish and Game Preservation Fund.

HISTORY:
Enacted 1957. Amended Stats 1981 ch 754 § 1; Stats 1984 ch 431 § 1; Stats 1999 ch 483 § 2 (AB 76); Stats 2007 ch 419 § 2 (AB 1683), effective October 10, 2007.

§ 104. Staff; Executive director

The commission may employ a staff, including an executive director, to assist the commission in conducting its operations, but neither the commission nor its staff shall have or be given any powers in relation to the administration of the department.

HISTORY:
Enacted 1957. Amended Stats 2006 ch 667 § 1 (SB 1535), effective January 1, 2007.

§ 105. Marine resources committee

The commission shall form a marine resources committee from its membership consisting of at least one commissioner. The committee shall report to the commission from time to time on its activities and shall make recommendations on all marine resource matters considered by the commission. The committee or its designee shall, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant marine living resource management documents are being developed.

HISTORY:
Added Stats 1998 ch 1052 § 5 (AB 1241). Amended Stats 1999 ch 483 § 3 (AB 76).

§ 106. Wildlife resources committee

The commission shall form a wildlife resources committee from its membership consisting of at least one commissioner. The committee shall report to the commission from time to time on its activities and shall make recommendations on all nonmarine resource matters considered by the commission. The committee or its designee shall, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant wildlife resource management documents are being developed.

HISTORY:
Added Stats 2013 ch 233 § 2 (AB 497), effective January 1, 2014.

§ 106.5. Tribal committee

The commission shall form a tribal committee from its membership consisting of at least one commissioner. The committee shall report to the commission from time to time on its activities and shall make recommendations on all tribal matters considered by the commission. The committee or its designee shall, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant tribal management documents are being developed.

HISTORY:
Added Stats 2017 ch 457 § 1 (SB 161), effective January 1, 2018.

§ 107. Code of conduct

The commission shall adopt a code of conduct that requires, at a minimum, that a commissioner adhere to the following principles:

(a) A commissioner shall faithfully discharge the duties, responsibilities, and quasi-judicial actions of the commission.

(b) A commissioner shall conduct his or her affairs in the public's best interest, following principles of fundamental fairness and due process of law.

(c) A commissioner shall conduct his or her affairs in an open, objective, and impartial manner, free of undue influence and the abuse of power and authority.

(d) A commissioner understands that California's wildlife and natural resources programs require public awareness, understanding, and support of, and participation and confidence in, the commission and its practices and procedures.

(e) A commissioner shall preserve the public's welfare and the integrity of the commission, and act to maintain the public's trust in the commission and the implementation of its regulations and policies.

(f) A commissioner shall not conduct himself or herself in a manner that reflects discredit upon state laws or policies, regulations, and principles of the commission.

(g) A commissioner shall not make, participate in making, or in any other way attempt to use his or her official position to influence a commission decision in which the member has a financial interest.

HISTORY:
Added Stats 2012 ch 592 § 4 (AB 2609), effective January 1, 2013.

§ 108. Adoption of rules

By July 1, 2013, the commission shall adopt rules to govern the business practices and processes of the commission.

HISTORY:
Added Stats 2012 ch 592 § 5 (AB 2609), effective January 1, 2013.

§ 110. Meetings

(a) The commission shall hold no fewer than eight regular meetings per calendar year, if the commission has adequate funding for related travel, including funding for department travel. The commission may also hold special meetings or hearings to receive additional input from the department and the public.

(b) The commission shall announce the dates and locations of meetings for the year by January 1 of that year, or 60 days prior to the first meeting, whichever comes first. Meeting locations shall be accessible to the public and located throughout the state. To the extent feasible, meetings shall be held in state facilities. In setting the dates and locations for regular meetings, the commission shall also consider the following factors:

(1) Recommendations of the department.

(2) Opening and closing dates of fishing and hunting seasons.

(3) The schedules of other state and federal regulatory agencies whose regulations affect the management of fish and wildlife of this state.

(c) The commission shall cause the notice of the schedule for regular meetings, and notice of any change in the date and location of a meeting, to be disseminated to the public in a manner that will result in broad dissemination and that complies with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

HISTORY:
Added Stats 2006 ch 667 § 4 (SB 1535), effective January 1, 2007, as F & G C § 206. Amended Stats 2010 ch 419 § 1 (AB 1254), effective January 1, 2011; Stats 2013 ch 233 § 4 (AB 497), effective January 1, 2014. Renumbered by Stats 2016 ch 546 § 7 (SB 1473), effective January 1, 2017.

CHAPTER 2. REGULATION OF TAKE AND POSSESSION GENERALLY

ARTICLE 1. AUTHORITY

§ 200. Powers delegated to commission

(a) There is hereby delegated to the commission the power to regulate the taking or possession of birds, mammals, fish, amphibians, and reptiles.

(b) No power is delegated to the commission by this section to regulate either of the following:

(1) The taking, possessing, processing, or use of fish, amphibians, kelp, or other aquatic plants for commercial purposes.

(2) The taking or possession of a spike buck or spotted fawn. "Spotted fawn" means a deer one year of age or less that has spotted pelage. "Spike buck" means a male deer with unbranched antlers on both sides that are more than three inches in length.

(c) This section and any regulations adopted pursuant to this section have no effect on any provision of this code or any regulation adopted pursuant to this code that relates to a matter described in paragraph (1) of subdivision (b).

HISTORY:
Enacted 1957. Amended Stats 2016 ch 546 § 3 (SB 1473), effective January 1, 2017.

§ 201. Regulation of natural resources or commercial activity

Nothing in this article confers upon the commission any power to regulate any natural resources or commercial or other activity connected therewith, except as specifically provided.

HISTORY:
Enacted 1957.

§ 202. Exercise of powers [Repealed]

HISTORY:
Enacted 1957. Amended Stats 1982 ch 1336 § 1; Stats 1995 ch 938 § 9.4 (SB 523), operative January 1, 1996; Stats 2002 ch 389 § 1 (AB 1857). Repealed Stats 2016 ch 546 § 4 (SB 1473), effective January 1, 2017. The repealed section related to exercise of powers. See F & G C § 265.

§ 203. Regulations as to birds and mammals; Scope and application

Any regulation of the commission pursuant to this article relating to resident game birds, game mammals and fur-bearing mammals may apply to all or any areas, districts, or portions thereof, at the discretion of the commission, and may do any or all of the following as to any or all species or subspecies:

(a) Establish, extend, shorten, or abolish open seasons and closed seasons.

(b) Establish, change, or abolish bag limits and possession limits.

(c) Establish and change areas or territorial limits for their taking.

(d) Prescribe the manner and the means of taking.

(e) Establish, change, or abolish restrictions based upon sex, maturity, or other physical distinctions.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 22.

§ 203.1. Factors in adopting regulations

When adopting regulations pursuant to Section 203, the commission shall consider populations, habitat, food supplies, the welfare of individual animals, and other pertinent facts and testimony.

HISTORY:
Added Stats 1979 ch 1076 § 1.

§ 204. Limitation of powers [Repealed]

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1971 § 4; Stats 1977 ch 839 § 1; Stats 1984 ch 526 § 2. Repealed Stats 2016 ch 546 § 5 (SB 1473), effective January 1, 2017. The repealed section related to limitation of powers. See F & G C § 200.

§ 205. Regulations as to fish, amphibia, and reptiles; Scope and application

Any regulation of the commission pursuant to this article which relates to fish, amphibia, and reptiles, may apply to all or any areas, districts, or portions thereof, at the discretion of the commission, and may do any or all of the following as to any or all species or subspecies:

(a) Establish, extend, shorten, or abolish open seasons and closed seasons.
(b) Establish, change, or abolish bag limits, possession limits, and size limits.
(c) Establish and change areas or territorial limits for their taking.
(d) Prescribe the manner and the means of taking.

HISTORY:
Enacted 1957.

§ 205.1. Conforming of state sport fishing regulations with federal regulations [Repealed]

HISTORY:
Added Stats 2013 ch 233 § 3 (AB 497), effective January 1, 2014. Amended Stats 2015 ch 683 § 2 (SB 798), effective January 1, 2016. Repealed Stats 2016 ch 546 § 6 (SB 1473), effective January 1, 2017. The repealed section related to conforming of state sport fishing regulations with federal regulations. See F & G C § 7110.

§ 206. Meetings [Renumbered]

HISTORY:
Added Stats 2006 ch 667 § 4 (SB 1535), effective January 1, 2007. Amended Stats 2010 ch 419 § 1 (AB 1254), effective January 1, 2011; Stats 2013 ch 233 § 4 (AB 497), effective January 1, 2014. Amended and renumbered F & G C § 110 by Stats 2016 ch 546 § 7 (SB 1473), effective January 1, 2017.

§ 207. Adoption of regulations; Meetings for such purpose [Repealed]

HISTORY:
Added Stats 2006 ch 667 § 6 (SB 1535), effective January 1, 2007. Amended Stats 2013 ch 233 § 5 (AB 497), effective January 1, 2014. Repealed Stats 2016 ch 546 § 8 (SB 1473), effective January 1, 2017. The repealed section related to adoption of regulations, meetings for such purpose. See F & G C § 255.

§ 210. Copies of added, amended or repealed regulations; Publication and distribution of regulations [Repealed]

HISTORY:
Added Stats 1987 ch 717 § 10. Amended Stats 1991 ch 1037 § 1 (AB 2187); Stats 1993 ch 804 § 4 (AB 1432); Stats 1998 ch 931 § 153 (SB 2139), effective September 28, 1998; Stats 2002 ch 784 § 116 (SB 1316); Stats 2015 ch 154 § 10 (AB 1527), effective January 1, 2016. Repealed Stats 2016 ch 546 § 9 (SB 1473), effective January 1, 2017. The repealed section related to copies of added, amended, or repealed regulations and publication and distribution of regulations. See F & G C §§ 255, 260.

§ 211. Printing of regulations; Advertisements [Repealed]

HISTORY:
Added Stats 1993 ch 804 § 5 (AB 1432). Amended Stats 2010 ch 178 § 27 (SB 1115), effective January 1, 2011, operative January 1, 2012. Repealed Stats 2016 ch 546 § 10 (SB 1473), effective January 1, 2017. The repealed section related to printing regulations, advertisements. See F & G C § 260.

§ 215. Filing of regulations; Effective date [Repealed]

HISTORY:
Enacted 1957. Amended Stats 1985 ch 202 § 2. Repealed Stats 2016 ch 546 § 11 (SB 1473), effective January 1, 2017. The repealed section related to filing regulations. See F & G C § 270.

§ 217.5. Identification of sport fishing areas accessible to disabled persons [Repealed]

HISTORY:
Added Stats 1984 ch 1148 § 1. Repealed Stats 2016 ch 546 § 12 (SB 1473), effective January 1, 2017. The repealed section related to identification of sport fishing areas accessible to disabled persons. See F & G C § 7115.

§ 217.6. Publication of health advisory information [Repealed]

HISTORY:
Added Stats 1986 ch 761 § 1. Repealed Stats 2016 ch 546 § 13 (SB 1473), effective January 1, 2017. The repealed section related to publication of health advisory information. See F & G C § 7115.

§ 218. Review of regulations [Repealed]

HISTORY:
Enacted 1957. Repealed Stats 2016 ch 546 § 14 (SB 1473), effective January 1, 2017. The repealed section related to review of regulations.

§ 219. Regulations as superseding code sections

Any regulation adopted pursuant to this article may supersede any section of this code designated by number in the regulation, but shall do so only to the extent specifically provided in the regulation. A regulation which is adopted pursuant to this section shall be valid only to the extent that it makes additions, deletions, or changes to this code under one of the following circumstances:

(a) The regulation is necessary for the protection of fish, wildlife, and other natural resources under the jurisdiction of the commission.

(b) The commission determines that an emergency exists or will exist unless the action is taken. An emergency exists if there is an immediate threat to the public health, safety, and welfare, or to the population or habitat of any species.

A regulation which is adopted pursuant to this section shall be supported by written findings adopted by the commission at the time of the adoption of the regulation setting forth the basis for the regulation.

A regulation adopted pursuant to this section shall remain in effect for not more than 12 months from its effective date.

HISTORY:
Enacted 1957. Amended Stats 1991 ch 709 § 1 (AB 1361).

§ 220. Duration of regulations; Addition, amendment, or repeal of regulations [Repealed]

HISTORY:
Enacted 1957. Amended Stats 1987 ch 717 § 18. Repealed Stats 2016 ch 546 § 15 (SB 1473), effective January 1, 2017. The repealed section related to duration, addition, amendment, and repeal of regulations. See F & G C § 275.

ARTICLE 1.5. EMERGENCY REGULATIONS [REPEALED]

HISTORY: Article 1.5, consisting of § 240, added Stats 1984 ch 526 § 1. Repealed Stats 2016 ch 546 § 16 (SB 1473), effective January 1, 2017.

§ 240. Required findings; Hearings [Repealed]

HISTORY:
Added Stats 1984 ch 526 § 1. Amended Stats 2015 ch 154 § 11 (AB 1527), effective January 1, 2016. Repealed Stats 2016 ch 546 § 16 (SB 1473), effective January 1, 2017. The repealed section related to required findings and hearing for adoption of emergency regulation or order of repeal. See F & G C § 399.

ARTICLE 2. PROCEDURE

§ 250. Applicability of article

(a) Except as provided in subdivision (b), this article applies to a commission regulation that governs the take or possession of any bird, mammal, fish, amphibian, or reptile.

(b) This article does not apply to a regulation governed by subdivision (b) of Section 200 or Section 201.

(c) Except as expressly provided, this article does not supersede any other applicable law that governs the adoption, amendment, or repeal of a regulation.

HISTORY:
Added Stats 2016 ch 546 § 18 (SB 1473), effective January 1, 2017.

§ 255. Adoption, amendment, or repeal of regulation; Meetings

(a) When adopting, amending, or repealing a regulation governed by this article, the commission shall conduct the following steps at separate public meetings:

(1) Consider public comment on the proposed action. The department shall participate in this process by reviewing and responding to all public comment.

(2) Consider public comment on the proposed action. The department shall participate in this process by reviewing and responding to all public comment.

(3) Make a final decision on the proposed action.

(b) The meetings required by this section may be regular or special meetings.

(c) The meetings required by this section shall be duly noticed to the public in accordance with subdivision (c) of Section 110 and the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(d) Within 45 days after the commission makes a final decision to adopt, amend, or repeal a regulation governed by this article, the department shall publish and distribute the regulation to each county clerk, district attorney, and judge of the superior court in the state.

HISTORY:
Added Stats 2016 ch 546 § 18 (SB 1473), effective January 1, 2017.

§ 260. Notice of regulation; Contracts to print regulations

(a) The commission and the department may do anything that is deemed necessary and proper to publicize and distribute a regulation governed by this article so that persons likely to be affected will be informed of them. The failure of the commission to provide any notice of a regulation governed by this article, beyond what is required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, does not impair the validity of the regulations.

(b) Notwithstanding any other law, the commission and the department may contract with private entities to print regulations governed by this article, and other public information. The printing contract shall include criteria to ensure that the public information provided in the publication is easy to reference, read, and understand.

(c) Printing contracts authorized by this section for which no state funds are expended are not subject to Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, except for Article 2 (commencing with Section 10295) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code

(d) Material printed pursuant to subdivision (b) that contains advertisements shall meet all specifications prescribed by the department. The printed material shall not contain advertisements for tobacco products, alcohol, firearms, and devices prohibited pursuant to Section 32625 of the Penal Code, Article 2 (commencing with Section 30600) of Chapter 2 of Division 10 of Title 4 of Part 6 of the Penal Code, or any provision listed

in Section 16590 of the Penal Code, or firearms not authorized by the commission as a legal method of sport hunting, political statements, solicitations for membership in organizations, or any other statement, solicitation, or product advertisement that is in conflict with the purposes for which the material is produced, as determined by the commission.

(e) Neither the department nor the commission shall contract with private entities to print the materials described in subdivision (b) if the letting of those contracts will result in the elimination of civil service positions.

(f) The department or the license agent may give a copy of the current applicable published regulations governed by this article to each person issued a license, at the time the license is issued.

HISTORY:
Added Stats 2016 ch 546 § 18 (SB 1473), effective January 1, 2017.

§ 265. Time periods for adoption, amendment, or repeal of regulation

A regulation governed by this article is not subject to the time periods for the adoption, amendment, or repeal of a regulation prescribed in Sections 11343.4, 11346.4, 11346.8, and 11347.1 of the Government Code.

HISTORY:
Added Stats 2016 ch 546 § 18 (SB 1473), effective January 1, 2017.

§ 270. Effective date of regulation

The adoption, amendment, or repeal of a regulation governed by this article shall become effective at the time specified in the regulation, but not sooner than the date of the filing.

HISTORY:
Added Stats 2016 ch 546 § 18 (SB 1473), effective January 1, 2017.

§ 275. Effective period of regulation

A regulation governed by this article shall remain in effect for the period specified in the regulation or until superseded by subsequent regulation of the commission or by statute.

HISTORY:
Added Stats 2016 ch 546 § 18 (SB 1473), effective January 1, 2017.

CHAPTER 3. OTHER REGULATORY POWERS

ARTICLE 1. GENERALLY

§ 300. Filing of regulations [Repealed]

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 12 (AB 1527), effective January 1, 2016. Repealed Stats 2016 ch 546 § 19 (SB 1473), effective January 1, 2017. The repealed section related to filing of regulations.

§ 301. Birds or mammals accidentally killed

The commission may adopt regulations that it deems necessary for the disposition of birds or mammals that are killed accidentally.

HISTORY:
Enacted 1957. Amended Stats 1977 ch 1208 § 3; Stats 2015 ch 154 § 13 (AB 1527), effective January 1, 2016.

§ 302. Regulations establishing hunting seasons for black bears

When adopting regulations pursuant to any authority otherwise vested in the commission by this code, the commission shall annually determine whether to continue, repeal, or amend regulations establishing hunting seasons for black bears. The determination shall include a review of factors which impact the health and viability of the black bear population.

HISTORY:
Added Stats 1990 ch 687 § 2, (AB 3200).

§ 303. Compliance with provisions concerning special seasons

Prior to adopting a regulation authorizing a special hunting season for black bears for the purpose of curtailing property damage in any specified area, the commission shall comply with Article 2 (commencing with Section 325) of Chapter 3 of Division 1.

HISTORY:
Added Stats 1990 ch 687 § 3, (AB 3200).

§ 306. Closing of area to public due to fire hazard; Establishing season for hunting and fishing

Whenever, because of extreme fire hazard, any area is closed to entry by the public by any order or proclamation issued or concurred in by the Governor the commission may establish a season for hunting or fishing within the area. The season shall commence upon or after the expiration or termination of such closure and shall correspond in length of time as nearly as may be possible to the time during which such area was closed to hunting or fishing.

HISTORY:
Enacted 1957.

§ 307. Reduction of bag and possession limit of game in danger of depletion; Filing and publication of regulations

(a) Whenever after due investigation the commission finds that game fish, resident or migratory birds, game or fur-bearing mammals, amphibians, or reptiles have decreased in numbers in an area, district, or portion of an area or district to the extent that a scarcity exists, the commission may reduce the daily bag limit and the possession limit on those game fish, birds, mammals, amphibians, or reptiles that are in danger of depletion, for a period of time that the commission may specify, or until new legislation addressing the scarcity becomes effective.

(b) A regulation adopted pursuant to this section shall be filed with the Secretary of State, and that filing shall be deemed a legal notice thereof.

(c) The regulation shall be published twice in at least one newspaper of general circulation in every county affected by the order. The publications shall be separated by a period of not less than one week and not more than two weeks. The regulation shall be posted in such public places in each county as the director may direct.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 23; Stats 2015 ch 154 § 14 (AB 1527), effective January 1, 2016.

§ 308. District 22; Taking game subject to prescribed regulations

Notwithstanding any other provisions of this code, in District 22 the taking of birds, mammals, fish, amphibia, or reptiles shall be subject to regulations prescribed, from time to time, by the commission, except that it is unlawful to take birds or mammals within one-eighth mile of any gallinaceous guzzler, if the area surrounding it is posted in the manner prescribed by the commission. In the Colorado River, in District 22, the

Commission may prescribe such regulations in agreement with the proper authorities of the State of Arizona.

HISTORY:
Enacted 1957.

§ 308.5. Preservation of mountain sheep and other birds and mammals in arid regions of state; Prohibited activities

For the preservation, protection and restoration of mountain sheep and other birds and mammals in arid regions of the state, the commission, in cooperation with the agency authorized to manage the land, may prohibit any activity, including but not limited to camping, in the vicinity of waterholes, springs, seeps, and other watering places which are on public lands. The department may enter into agreements with other state and federal agencies controlling public lands for the purpose of posting such areas.

HISTORY:
Added Stats 1970 ch 869 § 1.

§ 309. Depositions; Attendance of witnesses and production of papers; Conduct of proceedings

(a) The commission or any person appointed by it to conduct a hearing may, in any investigation or hearing, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for deposition in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure, and may compel the attendance of witnesses and the production of documents and papers. The commission shall adopt regulations that afford procedural and substantive due process to any person whose license or permit is subject to revocation or suspension. Except upon conviction of a violation of this code or a regulation adopted pursuant to this code relating to the licensed or permitted activity and notwithstanding any other provision of this code, the commission shall not revoke or suspend any license or permit until the regulations required by this section have been adopted and approved by the Office of Administrative Law pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any deliberation conducted by the commission, or conducted by any person appointed by the commission to conduct hearings, is deemed to be a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or similar provision, within the meaning of paragraph (3) of subdivision (c) of Section 11126 of the Government Code.

HISTORY:
Enacted 1957. Amended Stats 1986 ch 1244 § 1; Stats 1998 ch 931 § 154 (SB 2139), effective September 28, 1998; Stats 1999 ch 483 § 5 (AB 76); Stats 2004 ch 182 § 36 (AB 3081), operative July 1, 2005.

§ 310. Salmon spawning areas; Designation

The commission may designate salmon spawning areas. It is unlawful to take salmon in any such spawning area, or within 250 feet of any salmon spawning station.

HISTORY:
Enacted 1957.

§ 312. Permit to take game incidental to survival training course

(a) The commission may issue a permit authorizing any member of the armed forces of the United States or any student or faculty member of an elementary or secondary school in the public school system actually assigned to, and participating in, an organized survival training course to take fish, amphibians, reptiles, birds, or mammals,

except rare or endangered species, notwithstanding any other law or regulation, pursuant to the terms and conditions of that permit. A permit involving training by the armed forces of the United States shall be issued to the commanding officer of the unit having jurisdiction over the conduct of the survival training course. A permit involving training by an elementary or secondary school in the public school system shall be issued to the governing board or superintendent of the district having jurisdiction over that school and the conduct of the survival training course. A permit shall be applicable only to the area established for that survival training as designated by the commission in the permit and for the species and numbers designated in the permit.

(b) The commission may revise a condition of a permit if it finds revision is necessary to properly protect the fish, amphibians, reptiles, birds, or mammals in the area.

(c) The term of a permit issued pursuant to subdivision (a) shall be for not more than a calendar year.

(d) A report shall be submitted on the expiration of the permit period specified pursuant to subdivision (c), or as otherwise required by the commission, of all fish, amphibians, reptiles, birds, or mammals taken during the period covered by the report in each permit area. A new permit shall not be issued until the report has been submitted and an existing permit may be canceled if a report is not submitted when required by the commission.

(e) A person engaged in survival training taking a fish, amphibian, reptile, bird, or mammal pursuant to a permit issued under this section shall not use a firearm, bow and arrow, steel trap, explosive, chemical, poison, drug, net, or fish tackle, except that hooks, handlines, and improvised poles and lines may be used to take fish.

HISTORY:
Added Stats 1961 ch 1276 § 1. Amended Stats 1971 ch 610 § 1; Stats 2015 ch 154 § 15 (AB 1527), effective January 1, 2016.

§ 313. Manner of prohibiting taking or possession of tuna; Application of federal law

The commission may prohibit the taking or possessing of tuna in the same manner as taking or possessing tuna is prohibited by federal law or by rules and regulations adopted pursuant to the Tuna Conventions Act of 1950, as amended by Public Law 87–814 of the 87th Congress, notwithstanding any other provision of this code.

HISTORY:
Added Stats 1963 ch 1598 § 1.

§ 314. Closing areas to taking of game

The commission at any time may close to the taking of any species or subspecies of bird or mammal any area newly stocked by the department with resident or migratory game birds or game or furbearing mammals, or any area where, in the judgment of the commission, added protection for birds or mammals is needed to properly conserve the birds or mammals, for such time as the commission may designate, or until such time as new legislation thereon enacted by the Legislature may become effective.

HISTORY:
Added Stats 1963 ch 1699 § 1.

§ 315. Closing of stream, lake, or other inland waters to taking of fish; Exception

The commission may at any time close any stream, lake, or other inland waters, or portions thereof, to the taking of any species or subspecies of fish to protect and properly conserve the fish, except for the taking of fish otherwise permitted by this code under a commercial fishing license, for such time as the commission may designate, or until such time as new legislation thereon enacted by the Legislature may become effective.

HISTORY:
Added Stats 1963 ch 1439 § 1 as § 314. Renumbered Stats 1965 ch 137 § 5.

§ 315.3. Opening of inland waters to taking of fish

The commission may, at any time when facts are presented to the commission which were not presented to the commission at the time of its December meeting held pursuant to Section 209, open any stream, lake, or other inland waters, or portions thereof, to the taking of any species or subspecies of fish for the proper utilization of the fish, for such time as the commission may designate or until such time as new legislation thereon enacted by the Legislature may become effective.

HISTORY:
Added Stats 1981 ch 220 § 1, effective July 20, 1981.

§ 316. Prohibited taking or possessing of Pacific halibut in accordance with federal law or rules adopted by international commission

The commission may prohibit the taking or possessing of Pacific halibut (Hippoglossus) in the same manner as the taking or possessing of Pacific halibut is prohibited by federal law or by rules or regulations adopted by the International Pacific Halibut Commission, notwithstanding any other provision of this code.

HISTORY:
Added Stats 1967 ch 996 § 1.

§ 316.5. Authority to conform rules on possession or taking of salmon to federal law or rules

The commission may prohibit the taking or possessing of salmon in the same manner as the taking or possessing of salmon is prohibited by federal law or by rules or regulations adopted by the United States Secretary of Commerce, notwithstanding any other provision of this code.

HISTORY:
Added Stats 1996 ch 870 § 1 (AB 3245).

§ 317. Permit to organization conducting special hunt for servicemen or veterans

Any organization conducting a special hunt for servicemen or veterans residing in or assigned to a United States veterans or armed services medical facility may apply to the commission for, and the commission may issue, under such terms and conditions as it may impose, a permit to take birds and mammals notwithstanding the provisions of Sections 2006 and 3002.

HISTORY:
Added Stats 1969 ch 695 § 1.

ARTICLE 2. SPECIAL SEASONS

§ 325. Special hunting season for surplus game

Whenever after due investigation the commission finds that game mammals, other than deer, and fur-bearing mammals and resident game birds have increased in numbers in any areas, districts, or portions thereof other than a refuge or preserve established by statute, to such an extent that a surplus exists, or to such an extent that the mammals or birds are damaging public or private property, or are overgrazing their range, the commission may provide by regulation, for a special hunting season for the

mammals and birds, additional to, or concurrent with any other open season specified by law; or provide for increased bag limits; or remove sex restrictions specified by law.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1971 § 6, ch 1972 § 24; Stats 1959 ch 100 § 2; Stats 1977 ch 839 § 2.

§ 326. Time and place of hearing on proposed regulation regarding special hunting season

Before adopting a regulation pursuant to Section 325, the commission at an open meeting shall publicly announce the contents of the proposed regulation, and fix a time and place for a hearing on the proposed regulation in each county that would be affected by the regulation. The time for each hearing shall be at least 21 days after the announcement, and the place shall be the county seat of the affected county.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1971 § 7; Stats 2015 ch 154 § 16 (AB 1527), effective January 1, 2016.

§ 327. Notice of hearing; Publication

Notice of the hearing shall be published at least once, and at least 10 days prior to the hearing, in a newspaper of general circulation in each of the counties in which the hearing is to be held, or if no such newspaper is published in that county or counties then in such a newspaper in an adjoining county. The hearing shall be conducted by either (a) the commission, (b) a member of the commission designated by it, or (c) the director if requested so to do by the commission.

At least 10 days prior to the holding of any such hearing the commission shall notify each member of the board of supervisors, at his home address, of each county affected of the details of its proposed order affecting such county and the time and date of the hearing.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1971 § 8; Stats 1969 ch 813 § 1.

§ 328. Procedure of hearing

Such employees of the department as may be necessary or are requested by any interested group of persons, shall be present at the hearing. After the hearing the commission may abandon the proposal or make a final regulation, with any modifications it deems appropriate, or without modification.

HISTORY:
Enacted 1957.

§ 329. Contents of regulation

The regulation may fix a license fee for special hunting and designate the number of special licenses to be issued, the area in which such hunting will be permitted, the number and sex of animals or birds that may be killed by each holder of a special license, and the conditions and regulations to govern such hunting.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1971 § 9; Stats 1977 ch 839 § 4.

§ 330. Cooperative hunting areas; Establishment

Cooperative hunting areas, as described in Section 1575, may be established in connection with any area opened to hunting under the provisions of this article.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 17 (AB 1527), effective January 1, 2016.

ARTICLE 2.1. ANTELOPE AND ELK

§ 331. Pronghorn antelope tags; Fee [Inoperative July 1, 2025; Repealed effective January 1, 2026]

(a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the sex and total number of pronghorn antelope (Antilocapra americana) that may be taken under regulations that the commission may adopt from time to time. Only a person possessing a valid hunting license may obtain a tag for the taking of pronghorn antelope.

(b) The department may issue a pronghorn antelope tag upon payment of a fee. The fee for a pronghorn antelope tag for a resident of the state, except for a pronghorn antelope tag issued to a resident junior hunter, shall be fifty-five dollars ($55), as adjusted under Section 713. The fee for a pronghorn antelope tag for a resident junior hunter shall be twenty dollars ($20), as adjusted under Section 713. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than a fee of three hundred fifty dollars ($350), as adjusted under Section 713. The fees shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of persons in the department as set forth in Section 3953.

(c) The commission shall direct the department to annually authorize not less than one pronghorn antelope tag or more than 1 percent of the total number of tags available for the purpose of raising funds for programs and projects to benefit pronghorn antelope. These tags may be sold at auction to residents or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (b). All revenues from sales pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(d) The commission shall direct the department to annually authorize one pronghorn antelope tag of the total number of tags available for issuance to nonresidents of the state.

(e) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

HISTORY:

Enacted 1957. Amended Stats 1959 ch 270 § 3, operative July 1, 1960; Stats 1968 ch 811 § 1; Stats 1977 ch 353 § 1; Stats 1985 ch 1463 § 1; Stats 1986 ch 1368 § 1; Stats 1990 ch 1620 § 1 (AB 2848); Stats 1991 ch 710 § 1 (AB 1389); Stats 1992 ch 1370 § 2 (AB 3193), effective October 27, 1992; Stats 1996 ch 870 § 2 (AB 3245); Stats 2006 ch 637 § 1 (SB 1032), effective January 1, 2007; Stats 2007 ch 285 § 5 (AB 1729), effective January 1, 2008; Stats 2010 ch 408 § 1 (SB 1058), effective January 1, 2011; Stats 2018 ch 295 § 1 (AB 2151), effective January 1, 2019, operative July 1, 2019, inoperative July 1, 2025, repealed January 1, 2026.

§ 331. Pronghorn antelope tags; Fee [Operative July 1, 2025]

(a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the sex and total number of pronghorn antelope (Antilocapra americana) that may be taken under regulations that the commission may adopt from time to time. Only a person possessing a valid hunting license, who has not received a pronghorn antelope tag under these provisions during a period of time specified by the commission, may obtain a tag for the taking of pronghorn antelope.

(b) The department may issue a pronghorn antelope tag upon payment of a fee. The fee for a pronghorn antelope tag shall be fifty-five dollars ($55) for a resident of the state, as adjusted under Section 713. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than a fee of three hundred fifty dollars ($350), as adjusted under Section 713. The fees shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of persons in the department as set forth in Section 3953.

(c) The commission shall direct the department to annually authorize not less than one pronghorn antelope tag or more than 1 percent of the total number of tags available for the purpose of raising funds for programs and projects to benefit pronghorn antelope. These tags may be sold at auction to residents or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (b). All revenues from sales pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(d) The commission shall direct the department to annually authorize one pronghorn antelope tag of the total number of tags available for issuance to nonresidents of the state.

(e) This section shall become operative on July 1, 2025.

HISTORY:

Added Stats 2018 ch 295 § 2 (AB 2151), effective January 1, 2019, operative July 1, 2025.

§ 332. Elk tag; Fee [Inoperative July 1, 2025; Repealed effective January 1, 2026]

(a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the number of elk that may be taken under rules and regulations that the commission may adopt from time to time. The commission may authorize the taking of tule elk if the average of the department's statewide tule elk population estimates exceeds 2,000 animals, or the Legislature determines, pursuant to the reports required by Section 3951, that suitable areas cannot be found in the state to accommodate that population in a healthy condition.

(b) Only a person possessing a valid hunting license may obtain a tag for the taking of elk.

(c) The department may issue an elk tag upon payment of a fee. The fee for an elk tag for a resident of the state, except for an elk tag issued to a resident junior hunter, shall be one hundred sixty-five dollars ($165), as adjusted under Section 713. The fee for an elk tag for a resident junior hunter shall be twenty dollars ($20), as adjusted under Section 713. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than one thousand fifty dollars ($1,050), as adjusted under Section 713. The fees shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of the department as set forth in Section 3953.

(d) The commission shall annually direct the department to authorize not more than three elk tags for the purpose of raising funds for programs and projects to benefit elk. These tags may be sold at auction to residents or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (c). All revenues from sales pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) The commission shall direct the department to annually authorize one elk tag of the total number of tags available for issuance to nonresidents of the state.

(f) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

HISTORY:

Enacted 1957. Amended Stats 1957 ch 1599 § 2; Stats 1959 ch 270 § 4, operative July 1, 1960; Stats 1968 ch 823 § 1; Stats 1971 ch 1250 § 1; Stats 1977 ch 353 § 2; Stats 1985 ch 1463 § 2; Stats 1986 ch 1368 § 2; Stats 1987 ch 1229 § 1; Stats 1990 ch 1620 § 2 (AB 2848); Stats 1992 ch 1370 § 3 (AB 3193), effective October 27, 1992; Stats 2006 ch 637 § 2 (SB 1032), effective January 1, 2007; Stats 2007 ch 285 § 6 (AB 1729), effective January 1, 2008; Stats 2010 ch 408 § 2 (SB 1058), effective January 1, 2011; Stats 2018 ch 295 § 3 (AB 2151), effective January 1, 2019, operative July 1, 2019, inoperative July 1, 2025, repealed January 1, 2026.

§ 332. Elk tag; Fee [Operative July 1, 2025]

(a) The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the number of elk that may be taken under rules and regulations that the commission may adopt from time to time. The commission may authorize the taking of tule elk if the average of the department's statewide tule elk population estimates exceeds 2,000 animals, or the Legislature determines, pursuant to the reports required by Section 3951, that suitable areas cannot be found in the state to accommodate that population in a healthy condition.

(b) Only a person possessing a valid hunting license may obtain a tag for the taking of elk.

(c) The department may issue an elk tag upon payment of a fee. The fee for an elk tag shall be one hundred sixty-five dollars ($165) for a resident of the state, as adjusted under Section 713. On or before July 1, 2007, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than one thousand fifty dollars ($1,050), as adjusted under Section 713. The fees shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended, in addition to moneys budgeted for salaries of the department as set forth in Section 3953.

(d) The commission shall annually direct the department to authorize not more than three elk tags for the purpose of raising funds for programs and projects to benefit elk. These tags may be sold at auction to residents or nonresidents of the state or by another method and are not subject to the fee limitation prescribed in subdivision (c). All revenues from sales pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) The commission shall direct the department to annually authorize one elk tag of the total number of tags available for issuance to nonresidents of the state.

(f) This section shall become operative on July 1, 2025.

HISTORY:
Added Stats 2018 ch 295 § 4 (AB 2151), effective January 1, 2019, operative July 1, 2025.

ARTICLE 3. MIGRATORY BIRDS

§ 355. Promulgation of regulations

The commission may, annually, adopt regulations pertaining to migratory birds to conform with or to further restrict the rules and regulations prescribed pursuant to the Migratory Bird Treaty Act.

Regulations adopted under this section are not subject to Sections 11343.4, 11346.1, 11346.4, and 11346.8 of the Government Code.

Every regulation of the commission adopted pursuant to this article shall be filed with the Secretary of State, and shall become effective upon filing unless otherwise specified in the regulations.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 745 § 1; Stats 1982 ch 1336 § 2; Stats 1995 ch 938 § 9.6 (SB 523), operative January 1, 1996; Stats 1996 ch 870 § 4 (AB 3245).

§ 356. Taking of migratory game birds; Content of regulations

Migratory game birds may be taken in conformity with the federal laws and regulations and the regulations of the commission as provided in Section 355.

In the event no regulations are prescribed by the proper federal agency, the commission may determine and fix the area or areas, the seasons and hours, the species, the bag and possession limits, and the total number that may be taken during any open season for the taking of migratory game birds, under such rules and regulations as the

commission may prescribe. Such rules and regulations as the commission may prescribe shall have the same effect as if enacted by the Legislature.

HISTORY:
Enacted 1957.

§ 357. President of commission as member of Migratory Bird Conservation Commission

The president of the commission may be a member ex officio of the Migratory Bird Conservation Commission created by the act of Congress known as the "Migratory Bird Conservation Act."

HISTORY:
Enacted 1957.

ARTICLE 4. CALIFORNIA–ARIZONA COMPACT

§ 375. Authorization of compact between Arizona and California as to reciprocal fishing and hunting licenses

The commission may negotiate the terms of a compact between the States of Arizona and California with any appropriate officials of the State of Arizona in relation to reciprocal privileges and licenses for hunting and fishing by residents of one of the states within the territorial jurisdiction of the other. The negotiations shall include, but shall not be limited to, provisions relating to sport fishing and the hunting of migratory waterfowl in, on, or along the Colorado River.

It is the primary purposes of this section to provide a method whereby the hunting and fishing opportunities afforded by the Colorado River may be mutually enjoyed by the residents of the States of Arizona and California despite the difficulties and inconveniences that result from the fact that the boundary line between the States of Arizona and California is the middle of the channel of the Colorado River.

HISTORY:
Enacted 1957.

ARTICLE 5. RECIPROCAL AGREEMENTS WITH ADJOINING STATES

§ 390. Authorization of reciprocal agreements between state and adjoining states as to use of sporting fishing licenses

The commission, subject to the approval of the Attorney General, may enter into reciprocal agreements with corresponding state or county official agencies of adjoining states pertaining to the establishment of a basis whereby valid sport fishing licenses issued by the parties to the reciprocal agreements may be used by their licensees within the jurisdiction of either, in accordance with the terms of such agreements.

HISTORY:
Enacted 1957.

§ 391. Exchange or release of information to appropriate agencies

The department may exchange or release to any appropriate federal, state, or local agency or agencies in other states, for purposes of law enforcement, any information collected or maintained by the department under any provision of this code or any regulation adopted pursuant to this code.

HISTORY:
Added Stats 1987 ch 297 § 1. Amended Stats 2000 ch 388 § 1 (AB 2941).

§ 392. Authorization of reciprocal operational agreements with representatives of any Oregon, Nevada, or Arizona state law enforcement agency as to promote effective law enforcement service to public

(a) The director, or a designated representative, may enter into reciprocal operational agreements with authorized representatives of any Oregon, Nevada, or Arizona state law enforcement agency, including, but not limited to, the Oregon State Police, the Nevada Department of Wildlife, and the Arizona Game and Fish Department, to promote expeditious and effective law enforcement service to the public, and assistance between the members of the department and those agencies, in areas adjacent to the borders of this state and each of the adjoining states pursuant to Section 393.

(b) The reciprocal operational agreement shall be in writing and may cover the reciprocal exchange of law enforcement services, resources, facilities, and any other necessary and proper matters between the department and the respective agency.

(c) Any agreement shall specify all of the following:

(1) The involved departments, divisions, or units of the agencies.

(2) The duration and purpose of the agreement.

(3) Responsibility for damages.

(4) The method of financing any joint or cooperative undertaking.

(5) The methods to be employed to terminate an agreement.

(d) The director may establish operational procedures in implementation of any reciprocal operational agreement that are necessary to achieve the purposes of the agreement.

HISTORY:
Added Stats 2009 ch 294 § 1 (AB 1442), effective January 1, 2010.

§ 393. Law enforcement officers of an Oregon, Nevada, or Arizona state law enforcement agency as peace officers of this state; Conditions

(a) A regularly employed law enforcement officer of an Oregon, Nevada, or Arizona state law enforcement agency, including, but not limited to, the Oregon State Police, the Nevada Department of Wildlife, or the Arizona Game and Fish Department, is a peace officer in this state, if all of the following conditions are met:

(1) The officer is providing, or attempting to provide, law enforcement services within this state, within a distance of up to 50 statute miles of the contiguous border of this state and the state employing the officer, or within waters offshore of this state in the Exclusive Economic Zone.

(2) The officer is providing, or attempting to provide, law enforcement services pursuant to either of the following:

(A) In response to a request for services initiated by a member of the department.

(B) In response to a reasonable belief that emergency law enforcement services are necessary for the preservation of life, and a request for services by a member of the department is impractical to obtain under the circumstances. In those situations, the officer shall obtain authorization as soon as practical.

(3) The officer is providing, or attempting to provide, law enforcement services for the purpose of assisting a member of the department in response to misdemeanor or felony criminal activity, pursuant to the authority of a peace officer as provided in subdivision (e) of Section 830.2 of the Penal Code, or, in the event of an emergency incident or other similar public safety problem, whether or not a member of the department is present at the scene of the event.

(4) An agreement pursuant to Section 392 is in effect between the department and the agency of the adjoining state employing the officer, the officer acts in accordance with that agreement, and the agreement specifies that the officer and employing

agency of the adjoining state shall be subject to the same civil immunities and liabilities as a peace officer and his or her employing agency in this state.

(5) The officer receives no separate compensation from this state for providing law enforcement services within this state.

(6) The adjoining state employing the officer confers similar rights and authority upon a member of the department who renders assistance within that state.

(b) Notwithstanding any other provision of law, a person who is acting as a peace officer in this state in the manner described in this section shall be deemed to have met the requirements of Section 1031 of the Government Code and the selection and training standards of the Commission on Peace Officer Standards and Training, if the officer has completed the basic training required for peace officers in his or her state.

(c) A peace officer of an adjoining state shall not provide services within a California jurisdiction during a period in which officers of the department are involved in a labor dispute that results in a formal work slowdown or stoppage.

HISTORY:
Added Stats 2009 ch 294 § 2 (AB 1442), effective January 1, 2010. Amended Stats 2015 ch 154 § 18 (AB 1527), effective January 1, 2016.

ARTICLE 6. FALCONRY

§ 395. Regulations for possession or training of birds used in practice of falconry; License requirement

(a) The commission may adopt regulations for the possession or training, and the capture, importation, exportation, or intrastate transfer, of any bird in the orders *Falconiformes* and *Strigiformes* (birds-of-prey) used in the practice of falconry and may authorize the issuance and provide for the revocation of licenses and permits to persons for the practice of falconry.

(b) It is unlawful to capture, possess, or train any bird in the orders *Falconiformes* and *Strigiformes* (birds-of-prey) in the practice of falconry without procuring a falconry license.

HISTORY:
Added Stats 1957 ch 1972 § 25. Amended Stats 1977 ch 409 § 1; Stats 1985 ch 1334 § 1.

§ 396. Term of license; Fee

(a) The falconry license shall be valid for a license year beginning on July 1 and ending on the last day of June of the next succeeding calendar year. If issued after July 1 of any year, a falconry license is valid for the remainder of that license year.

(b) For the license years beginning on or after March 1, 1987, the fee for a falconry license is a base fee of thirty dollars ($30) as adjusted under Section 713.

HISTORY:
Added Stats 1985 ch 1334 § 3. Amended Stats 2007 ch 285 § 7 (AB 1729), effective January 1, 2008.

§ 398. Fee increases due to inflation

The base year for determining the inflationary index applied to the fee established by Section 396 shall be the 1984–85 fiscal year, and the base year for determining the inflationary index to be applied to the fee established by Section 397 shall be the 1985–86 fiscal year.

HISTORY:
Added Stats 1985 ch 1334 § 5.

CHAPTER 3.5. EMERGENCY REGULATIONS

§ 399. Required findings

Notwithstanding any other provision of this code, the commission, when adopting, amending, or repealing a regulation pursuant to authority vested in it by this code, may, after at least one hearing, adopt, amend, or repeal that regulation pursuant to Section 11346.1 of the Government Code, if it makes either of the following findings:

(a) That the adoption, amendment, or repeal is necessary for the immediate conservation, preservation, or protection of birds, mammals, fish, amphibians, or reptiles, including, but not limited to, their nests or eggs.

(b) That the adoption, amendment, or repeal is necessary for the immediate preservation of the public peace, health and safety, or general welfare.

HISTORY:
Added Stats 2016 ch 546 § 20 (SB 1473), effective January 1, 2017.

CHAPTER 4. ACCEPTANCE OF FEDERAL ACTS

§ 400. Assent to Congressional act relating to wildlife-restoration projects; Authority and duties of department; Disposition of hunting license funds

The State of California hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes," approved September 2, 1937 (Public Law 415, 75th Congress). The department, with the approval of the commission, shall perform any acts needed to conduct or establish cooperative wildlife-restoration projects, as defined in that act of Congress, in compliance with that act and rules and regulations adopted under that act, and funds accruing to the State of California from license fees paid by hunters shall not be diverted for a purpose other than the administration of the department and the protection, propagation, preservation, and investigation of fish and wildlife.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 19 (AB 1527), effective January 1, 2016.

§ 401. Assent to Congressional act relating to fish restoration projects; Authority and duties of Department of Fish and Game; Disposition of fishing license fee

The State of California hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in fish restoration and management projects, and for other purposes," approved August 9, 1950 (Public Law 681, 81st Congress). The department, with the approval of the commission, may perform any acts needed to conduct or establish cooperative fish restoration projects, as defined in that act of Congress, in compliance with that act and rules and regulations adopted under that act, and funds accruing to the State of California from license fees paid by fishermen shall not be diverted for a purpose other than the administration of the department and the protection, propagation, preservation, and investigation of fish and wildlife.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 20 (AB 1527), effective January 1, 2016.

CHAPTER 5. MANAGEMENT OF DEER

§ 450. Conservation

It is hereby declared to be the policy of the Legislature to encourage the conservation, restoration, maintenance, and utilization of California's wild deer populations. Such

conservation shall be in accordance with the principles of conservation of wildlife resources set forth in Section 1801 and in accordance with the objectives and elements stated in "A Plan for California Deer, 1976."

HISTORY:
Added Stats 1977 ch 839 § 6.

§ 451. "General deer hunting season"

As used in this chapter "general deer hunting season" means the annual season for the area in question as is set by the commission under its general regulatory powers, or set by statute, for the taking of male deer.

HISTORY:
Added Stats 1977 ch 839 § 6.

§ 452. Designation of deer herd management unit and manager; Boundaries

The department shall designate deer herd management units and designate the manager for the units. Such units may encompass a single deer herd or a group of deer herds having similar management and habitat requirements and characteristics. Boundaries of such units, unless appropriate, need not follow county boundary lines.

HISTORY:
Added Stats 1977 ch 839 § 6.

§ 453. Development of management plans; Objectives

The department shall develop plans for such deer herd management units. The objectives of such plans shall be the restoration and maintenance of healthy deer herds in the wild state and to provide for high quality and diversified use of deer in California.

HISTORY:
Added Stats 1977 ch 839 § 6.

§ 454. Contents of management plans

Such management plans shall contain the following program elements:

(a) Document existing information on deer herd management units and programs to obtain information that may be needed.

(b) Develop programs to maintain and increase the quality of deer habitat statewide. Such programs will emphasize cooperative action between the department and the appropriate land management entities, both public and private. Emphasis shall be directed towards identifying critical deer habitat areas and the maintenance and management of such areas.

(c) Develop programs to reduce natural mortalities where such reduction may be critical to meeting deer herd plan objectives.

(d) Develop programs to decrease the illegal taking of deer through modern law enforcement methods supported by public and private cooperative efforts.

(e) Develop diversified recreational use programs, including both hunting and nonhunting uses, consistent with the basic individual deer herd management unit capabilities.

HISTORY:
Added Stats 1977 ch 839 § 6.

§ 455. Annual review

Deer herd management unit plans shall be reviewed annually and shall be the basis for department recommendations to the commission pursuant to this chapter.

HISTORY:
Added Stats 1977 ch 839 § 6.

§ 456. Biennial report on progress toward restoration and maintenance of deer herds

The department shall biennially report to the Legislature and to the Fish and Game Commission on the progress that is being made toward the restoration and maintenance of California's deer herds. The first report shall be submitted on or before October 1, 1989. The report shall include program activities regarding deer habitat, particularly addressing problems dealing with identification and preservation of critical deer habitat areas; the amount of revenue derived from the sale of deer tags during the two previous fiscal years; a list of expenditures during the two previous fiscal years and proposed expenditures during the current fiscal year; and a report of general benefits accrued to the deer resources as a result of the program.

HISTORY:
Added Stats 1977 ch 839 § 6. Amended Stats 1988 ch 1455 § 1; Stats 2012 ch 728 § 39 (SB 71), effective January 1, 2013.

§ 457. Recommendations to commission regarding antlerless deer hunts

The department shall determine prior to December 15 of each year its proposed recommendations to the commission, including its recommendations as to whether any antlerless deer hunts should be ordered. The recommendations of the department shall include the number, if any, of antlerless deer that should be taken in units, whether the permits should be either-sex permits, the proposed dates for each such taking, and the number of permits proposed for each unit.

HISTORY:
Added Stats 1977 ch 839 § 6. Amended Stats 1978 ch 520 § 7; Stats 1987 ch 355 § 1.

§ 458. Notification of county supervisors of recommendations; Election not to exercise rights conferred by section

The department not later than December 15 shall notify, by certified mail, the board of supervisors of each county affected of the details of its recommendations under Section 457.

The board of supervisors of any affected county may elect to hold a public hearing on the proposed recommendations of the department. Any such hearing shall be held prior to February 1. The director or his or her representative shall attend the hearing.

The board of supervisors of any county to which this section is applicable may, by resolution, elect not to exercise the rights conferred by this section.

This section applies only to the counties of, and to those districts or parts of districts in, Siskiyou, Modoc, Trinity, Shasta, Lassen, Plumas, Sierra, Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Imperial, Inyo, Lake, Madera, Mariposa, Mendocino, Merced, Mono, Monterey, Napa, Nevada, Orange, Placer, Riverside, San Luis Obispo, Santa Barbara, Santa Clara, Tehama, Tuolumne, Yolo, and Yuba Counties.

HISTORY:
Added Stats 1977 ch 839 § 6. Amended Stats 1978 ch 520 § 8; Stats 1987 ch 355 § 2.

§ 459. Action on proposed recommendations by supervisors

The board of supervisors of any county specified in Section 458 which has held a public hearing pursuant to Section 458 may, not later than February 1, by resolution, object to the proposed recommendations of the department or may, by resolution, determine that the proposed recommendation should be modified, setting forth the necessary modifications.

A resolution objecting to, or setting forth modifications of, the proposed recommendations shall be based upon the testimony and information presented at the hearing or presented to the board of supervisors at its meeting to consider the resolution.

The department shall not recommend to the commission, and the commission shall not authorize, the taking of antlerless deer in a county specified in Section 458 if it has received from the board of supervisors of that county a resolution objecting to that taking. If a board of supervisors of a county has submitted a resolution determining that the department's proposed recommendations on the taking of antlerless deer should be modified for that county, the department shall either so modify its recommendations and the commission shall so modify its orders or the department shall not recommend, and the commission shall not authorize, the taking of antlerless deer in that county.

HISTORY:
Added Stats 1977 ch 839 § 6. Amended Stats 1978 ch 520 § 9; Stats 1987 ch 355 § 3.

§ 460. Recommendations; Placing deer herd units under general deer hunting season; Hunter-restricted quota units

Prior to each meeting of the commission at which the commission considers the regulation of deer and takes action pursuant to paragraph (1) of subdivision (a) of Section 255, the department shall recommend to the commission those deer herd units to be placed under a general deer hunting season. At the same time, the department shall recommend to the commission, subject to the provisions of Sections 458 and 459, whether any antlerless deer should be taken and in what deer herd units antlerless deer are to be taken. If in the judgment of the department there are deer herd units in which hunting pressure would adversely affect the deer herd, impair the hunting experience, or endanger the public safety, the department shall also recommend to the commission those deer herd units where hunter numbers should be restricted and which should be removed from the general deer hunting season designation. The department shall inform the commission of the condition of each deer herd unit. Upon receipt of the recommendations and information required in this section, the commission shall make that material known to the public and its determinations regarding proposed regulations. The recommendations of the department shall, in accordance with the provisions of Sections 458 and 459, include the number, if any, of antlerless deer that should be taken in deer herd units, whether the permits should be either-sex permits, the proposed dates for the taking, and the number of permits proposed for each deer herd unit. At the same time, the department shall recommend the establishment of any hunter-restricted quota units, if needed, and the number of the quota and manner in which the quota permits should be issued.

HISTORY:
Added Stats 1977 ch 839 § 6. Amended Stats 1978 ch 520 § 10; Stats 1987 ch 355 § 4; Stats 2016 ch 546 § 21 (SB 1473), effective January 1, 2017.

CHAPTER 6. DAMAGES FROM POACHING AND ILLEGAL SALES

§ 500. Adoption of guidelines for civil penalties

(a) The commission shall, by regulation, adopt guidelines to assist the director and the department in ascertaining the amount of civil penalties to be imposed pursuant to Section 2582 or 2583. The guidelines may include monetary amounts or ranges of monetary amounts that the commission finds are adequate to deter illegal actions and partially compensate the people of California for losses to the fish and wildlife resources from illegal transactions described in Section 2582 or 2583 for profit or personal gain.

(b) If the violation involves birds, mammals, amphibians, reptiles, or fish with a value in the aggregate of less than four hundred dollars ($400) and involves only the

transportation, taking, or receipt of fish or wildlife taken or possessed in violation of this code, the guidelines shall provide that the civil penalty shall not exceed the maximum criminal fine provided by law for the violation in this code or ten thousand dollars ($10,000), whichever is less. For purposes of this section, "value" means the retail market value if a market value exists, the potential monetary gain to the accused or, for commercial species, the established retail market value.

(c) The guidelines shall include consideration of the nature, circumstances, extent, and gravity of the prohibited acts committed, and the degree of culpability of the violator, including lesser penalties for acts which have little significant effect upon the resources and greater penalties for acts which may cause serious injury to the resources.

(d) Nothing in this chapter or in Chapter 6.5 (commencing with Section 2580) of Division 3 shall be used to establish a monetary value for fish or wildlife resources in connection with any development, project, or land or water use plan or activity as permitted by any federal, state, or local governmental activity. This chapter does not apply to any action brought to recover civil damages under Section 2014.

HISTORY:
Added Stats 1988 ch 1059 § 3.

DIVISION 2. DEPARTMENT OF FISH AND WILDLIFE

CHAPTER 1. ORGANIZATION AND GENERAL FUNCTIONS

ARTICLE 1. GENERALLY

§ 700. Department of Fish and Wildlife; Director; Succession

(a) There is in the Natural Resources Agency a Department of Fish and Wildlife administered through the director.

(b) The Department of Fish and Wildlife shall succeed to, and is vested with, all the duties, powers, purposes, responsibilities, property, and jurisdiction previously vested in the Department of Fish and Game.

(c) Whenever the term "Department of Fish and Game" appears in a law, the term means the "Department of Fish and Wildlife."

(d) No existing supplies, forms, insignias, signs, logos, uniforms, or emblems shall be destroyed or changed as a result of changing the name of the Department of Fish and Game to the Department of Fish and Wildlife, and those materials shall continue to be used until exhausted or unserviceable.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 2037 § 9, operative October 1, 1961; Stats 1984 ch 1323 § 2; Stats 2012 ch 559 § 8 (AB 2402), effective January 1, 2013.

§ 701. Appointment and salary of director

The director shall be appointed by the Governor, and receive the annual salary provided for by Chapter 6 (commencing at Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

HISTORY:
Enacted 1957.

§ 701.3. Deputy director

There shall be one deputy director of the department who shall be a civil executive officer and shall be appointed by the Governor and serve at the pleasure of the Governor. The compensation of the deputy director shall be fixed by the director pursuant to law.

The deputy director shall have such duties as shall be assigned, from time to time, by the director, and shall be responsible to the director for the performance thereof.

HISTORY:
Added Stats 1980 ch 931 § 1.

§ 701.5. Areawide waste management planning process; Director

The director or one or more of his designees may accept the office of director or alternate director of an entity established by a joint powers agreement providing for the establishment and conduct of an areawide waste management planning process in accordance with the provisions of Section 208 of the Federal Water Pollution Control Act. Such office of director or alternate director of a joint powers entity is deemed compatible with the office of director and the office or employment of such persons as the director may so designate to serve such an entity established by a joint powers agreement.

HISTORY:
Added Stats 1975 ch 868 § 1, effective September 19, 1975.

§ 702. Administration and enforcement of code provisions

This code shall be administered and enforced through regulations adopted only by the department, except as otherwise specifically provided by this code or where this code requires the commission to adopt regulations.

HISTORY:
Enacted 1957. Amended Stats 1996 ch 870 § 4.5 (AB 3245).

§ 702.1. Feasibility of electronic system to manage citations; Report

(a) The department, on or before January 1, 2016, shall prepare and submit to the relevant policy and fiscal committees of the Legislature a feasibility study report on an electronic system to manage citations issued by fish and game wardens, exchange information on citations with the courts, and transfer data on court dispositions to the Automated License Data System.

(b)(1) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting a report pursuant to subdivision (a) shall become inoperative on January 1, 2017.

(2) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

HISTORY:
Added Stats 2012 ch 559 § 9 (AB 2402), effective January 1, 2013.

§ 703. General policies; Response to requests

(a) General policies for the conduct of the department shall be formulated by the commission. The director shall be guided by those policies and shall be responsible to the commission for the administration of the department in accordance with those policies.

(b) The department shall respond to requests from the Department of Forestry and Fire Protection, acting as the lead agency for the review of timber harvesting plans, within the time period required under Section 4582.6 of the Public Resources Code, unless additional time is granted by the Department of Forestry and Fire Protection. The department shall include specific comments or recommendations, or both, on any significant environmental issues raised by the proposed timber harvesting plan in its area of jurisdiction, including any proposed mitigation measures. The department shall also identify its statutory authority for any requests or recommendations for mitigation that it may determine to be necessary. If the department has no comment to make on the proposed timber harvesting plan, it is not required to submit a response.

HISTORY:
Enacted 1957. Amended Stats 1995 ch 612 § 1 (SB 1283).

§ 703.3. Resource management decision-making

It is the policy of the state that the department and commission use ecosystem-based management informed by credible science in all resource management decisions to the extent feasible. It is further the policy of the state that scientific professionals at the department and commission, and all resource management decisions of the department and commission, be governed by a scientific quality assurance and integrity policy, and follow well-established standard protocols of the scientific profession, including, but not limited to, the use of peer review, publication, and science review panels where appropriate. Resource management decisions of the department and commission should also incorporate adaptive management to the extent possible.

HISTORY:
Added Stats 2012 ch 559 § 10 (AB 2402), effective January 1, 2013.

§ 703.5. Interagency cooperation and coordination

It is the policy of the state as follows:

(a) That the department and the commission seek to create, foster, and actively participate in effective partnerships and collaborations with other agencies and stakeholders to achieve shared goals and to better integrate fish and wildlife resource conservation and management with the natural resource management responsibilities of other agencies.

(b) That the department and commission participate in interagency coordination processes that facilitate consistency and efficiency in review of projects requiring multiple permits, including, but not necessarily limited to, joint state, federal, and local permit review teams that enable early consultation with project applicants, and provide improved sharing of data, information, tools, and science to achieve better alignment of planning, policies, and regulations across agencies.

HISTORY:
Added Stats 2012 ch 559 § 11 (AB 2402), effective January 1, 2013.

§ 704. Appointing power of director

(a) Notwithstanding any other provision of law, the director is the appointing power of all employees within the department, and all employees in the department are responsible to the director for the proper carrying out of the duties and responsibilities of their respective positions.

(b) The changes made to subdivision (a) during the 2001-02 Regular Session of the Legislature are declaratory of existing law.

HISTORY:
Enacted 1957. Amended Stats 2001 ch 398 § 1.5 (AB 1671).

§ 705. Definition; Establishment of internal division

(a) For purposes of this section, "eligible renewable energy resources" has the same meaning as in the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(b) The department shall establish an internal division with the primary purpose of performing comprehensive planning and environmental compliance services with priority given to projects involving the building of eligible renewable energy resources.

(c) The internal division shall ensure the timely completion of plans pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3).

HISTORY:
Added Stats 2011-2012 1st Ex Sess ch 1 § 2 (SBX1 2), effective December 10, 2011.

§ 706. Applicability of specified Government Code provisions

The provisions of Chapter 2 (commencing at Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code shall govern and apply to the conduct of the department in every respect. Whenever in that chapter the term "head of the department" or similar designation occurs, for the purposes of this section it shall mean the director.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 22 (AB 1527), effective January 1, 2016.

§ 707. Defense of suit against officer or deputy; Duty of department attorney

It is the duty of the attorney for the department to act as counsel in defense of any officer or deputy of the department in any suit for damages brought against the officer or deputy on account of injuries to persons or property alleged to have been received as a result of the negligence or misconduct of the officer or deputy occurring while the officer or deputy was performing his official duties.

HISTORY:
Enacted 1957.

§ 709. Nonprofit organization to retain reasonable vendor fee

A nonprofit organization designated by the department to assist in the sale of deer, elk, antelope, or bighorn sheep fundraising tags that are sold on behalf of the department for the purpose of raising funds for specified programs and projects, pursuant to subdivision (c) of Section 331, subdivision (d) of Section 332, subdivision (a) of Section 4334, or subdivision (d) of Section 4902, is authorized to retain 5 percent of the amount of the sale price of the tag as a reasonable vendor fee.

HISTORY:
Added Stats 2014 ch 467 § 2 (AB 2105), effective January 1, 2015.

§ 710. Legislative declaration and finding of inadequate funding

The Legislature finds and declares that the department has in the past not been adequately funded to meet its mandates. The principal causes have been the fixed nature of the department's revenues in contrast with the rising costs resulting from inflation, the increased burden on the department to carry out its public trust responsibilities, and additional responsibilities placed on the department by the Legislature. This lack of funding has prevented proper planning and manpower allocation. The lack of funding has required the department to restrict warden enforcement and to defer essential management of lands acquired for wildlife conservation. The lack of funding for fish and wildlife conservation activities other than sport and commercial fishing and hunting activities has resulted in inadequate wildlife and habitat conservation and wildlife protection programs.

HISTORY:
Added Stats 1978 ch 855 § 2. Amended Stats 2006 ch 667 § 9 (SB 1535), effective January 1, 2007.

§ 710.5. Legislative findings and declarations regarding funding and user fees

(a) The Legislature finds and declares that the department continues to be inadequately funded to meet its mandates. While revenues have been declining, the department's responsibilities have increased in order to protect public trust resources in the face of increasing population and resource management demands. The department's revenues have been limited due to a failure to maximize user fees and inadequate

non-fee-related funding. The limited department revenues have resulted in the inability of the department to effectively provide all of the programs and activities required under this code and to manage the wildlife resources held in trust by the department for the people of the state.

(b) The Legislature further finds and declares that the department has been largely supported by fees paid by those who utilize the resources held in trust by the department. It is the intent of the Legislature that, to the extent feasible, the department should continue to be funded by user fees. All fees collected by the department, including, but not limited to, recreational hunting and fishing licenses, landing fees, commercial licenses, permits and entitlements, and other fees for use of the resources regulated or managed by the department, are user fees. To the extent that these fees are appropriated through the Budget Act for the purposes for which they are collected to provide services to the people of the State of California, these user fees are not subject to Article XIIIB of the California Constitution.

(c) The Legislature further finds and declares that user fees are not sufficient to fund all of the department's mandates. To fulfill its mandates, the department must secure a significant increase in reliable funding, in addition to user fees.

HISTORY:
Added Stats 1990 ch 1706 § 2 (AB 3158). Amended Stats 2006 ch 667 § 10 (SB 1535), effective January 1, 2007; Stats 2017 ch 26 § 2 (SB 92), effective June 27, 2017.

§ 710.7. Legislative findings and declarations; Legislative intent

(a) The Legislature finds and declares all of the following:

(1) The department continues to face serious funding instability due to revenue declines from traditional user fees and taxes and the addition of new and expanded program responsibilities.

(2) Historically, the recreational and commercial fishing industry has funded much of the department's marine fisheries activities.

(3) As the state's population grows and development changes historic land uses, fish and wildlife continue to be depleted, necessitating a significant portion of the department's activities to be directed toward protecting fish and wildlife for the benefit of the people of the state.

(b) It is the intent of the Legislature to extend the current user-based funding system by allocating a portion of the marine resource protection costs to those who use and benefit from recreational and commercial use of the marine resources.

(c) It is the Legislature's intent that, notwithstanding Section 711, the department shall cooperate with the Legislature, recreational users, conservation organizations, the commercial fishing industry, and other interested parties to identify and propose new alternative sources of revenue to fund the department's necessary marine conservation, restoration, and resources management, and protection responsibilities.

(d) It is further the intent of the Legislature to identify new funding sources and to secure those sources to adequately fund the department's activities directed at protecting and managing wildlife for the people of the state.

HISTORY:
Added Stats 1992 ch 701 § 1 (SB 1565), effective September 14, 1992. Amended Stats 2006 ch 667 § 11 (SB 1535), effective January 1, 2007.

§ 711. Legislative intent; Report; "Substantial increase"

(a) It is the intent of the Legislature to ensure adequate funding from appropriate sources for the department. To this end, the Legislature finds and declares that:

(1) The costs of nongame fish and wildlife programs shall be provided annually in the Budget Act by appropriating money from the General Fund, through nongame user fees, and sources other than the Fish and Game Preservation Fund to the department for these purposes.

(2) The costs of commercial fishing programs shall be provided out of revenues from commercial fishing landing fees, license fees, and other revenues, from reimbursements and federal funds received for commercial fishing programs, and other funds appropriated by the Legislature for this purpose.

(3) The costs of hunting and sportfishing programs shall be provided out of hunting and sportfishing revenues and reimbursements and federal funds received for hunting and sportfishing programs, and other funds appropriated by the Legislature for this purpose. These revenues, reimbursements, and federal funds shall not be used to support commercial fishing programs, free hunting and fishing license programs, or nongame fish and wildlife programs.

(4) The costs of managing lands managed by the department and the costs of wildlife management programs shall be supplemented out of revenues in the Native Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(5) Hunting, sportfishing, and sport ocean fishing license fees shall be adjusted annually to an amount equal to that computed pursuant to Section 713. However, a substantial increase in the aggregate of hunting and sportfishing programs shall be reflected by appropriate amendments to the sections of this code that establish the base sport license fee levels. The inflationary index provided in Section 713 shall not be used to accommodate a substantial increase in the aggregate of hunting and sportfishing programs.

(6) The costs of a conservation and mitigation banking program, including, but not limited to, costs incurred by the department during its adoption of guidelines for, and the review, approval, establishment, monitoring, and oversight of, banks, shall be reimbursed from revenues of conservation and mitigation bank application fees imposed pursuant to Sections 1798.5, 1798.6, and 1799.

(b) The director and the Secretary of the Natural Resources Agency, with the department's annual budget submittal to the Legislature, shall submit a report on the fund condition, including the expenditures and revenue, for all accounts and subaccounts within the Fish and Game Preservation Fund. The department shall also update its cost allocation plan to reflect the costs of program activities.

(c) For purposes of this article, "substantial increase" means an increase in excess of 5 percent of the Fish and Game Preservation Fund portion of the department's current year support budget, excluding cost-of-living increases provided for salaries, staff benefits, and operating expenses.

HISTORY:

Added Stats 1978 ch 855 § 3. Amended Stats 1985 ch 1463 § 4; Stats 1986 ch 1368 § 3; Stats 1988 ch 1539 § 1; Stats 1993 ch 1027 § 1 (AB 1151); Stats 2006 ch 667 § 12 (SB 1535), effective January 1, 2007; Stats 2012 ch 565 § 2 (SB 1148), effective January 1, 2013; Stats 2017 ch 26 § 3 (SB 92), effective June 27, 2017.

§ 711.1. Projects funded by Federal Aid in Wildlife Restoration Act

(a) The expenditure of all federal grant moneys made available to the state pursuant to the Federal Aid in Wildlife Restoration Act (16 U.S.C. Sec. 669 et seq.) shall be consistent with that act.

(b) In applying for federal grant moneys available pursuant to the Federal Aid in Wildlife Restoration Act, the department shall give priority to projects that fulfill one or more of the following purposes:

(1) Management of the department's wildlife areas or other lands open to the public for hunting and other public priority uses listed in paragraph (1) of subdivision (d) of Section 1745.

(2) Conservation of, or scientific research concerning, wildlife or wildlife habitat.

(3) Support of the department's hunting-related programs, including hunter education, public access, and target shooting.

(c) The department shall post a brief description of projects or programs funded by moneys received pursuant to the Federal Aid in Wildlife Restoration Act on its Internet

Web site. The description shall include information about the budget of each project or program.

(d) The department shall consult with any of the advisory committees established pursuant to Sections 3684, 3702.1, and 3953 regarding all projects funded by the Federal Aid in Wildlife Restoration Act that are relevant to the committee or committees.

HISTORY:
Added Stats 2014 ch 259 § 1 (SB 1434), effective January 1, 2015.

§ 711.2. "Project"; "Person"

(a) For purposes of this code, unless the context otherwise requires, "project" has the same meaning as defined in Section 21065 of the Public Resources Code.

(b) For purposes of this article, "person" includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, company, district, city, county, city and county, town, the state, and any of the agencies of those entities.

HISTORY:
Added Stats 1990 ch 1706 § 3 (AB 3158). Amended Stats 1994 ch 1010 § 122 (SB 2053); Stats 2006 ch 667 § 13 (SB 1535), effective January 1, 2007; Stats 2007 ch 285 § 9 (AB 1729), effective January 1, 2008; Stats 2015 ch 154 § 23 (AB 1527), effective January 1, 2016.

§ 711.4. Filing fees

(a) The department shall impose and collect a filing fee in the amount prescribed in subdivision (d) to defray the costs of managing and protecting fish and wildlife trust resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, developing monitoring requirements for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), consulting pursuant to Section 21104.2 of the Public Resources Code, and other activities protecting those trust resources identified in the review pursuant to the California Environmental Quality Act.

(b) The filing fees shall be proportional to the cost incurred by the department and shall be annually reviewed and adjustments recommended to the Legislature in an amount necessary to pay the full costs of department programs as specified. The department shall annually adjust the fees pursuant to Section 713.

(c)(1) All project applicants and public agencies subject to the California Environmental Quality Act shall pay a filing fee for each proposed project, as specified in subdivision (d).

(2) Notwithstanding paragraph (1), a filing fee shall not be paid pursuant to this section if any of the following conditions exist:

(A) The project has no effect on fish and wildlife.

(B) The project is being undertaken by the department.

(C) The project costs are payable by the department from any of the following sources that are held by the department:

(i) The Public Resources Account in the Cigarette and Tobacco Products Surtax Fund.

(ii) The California Wildlife, Coastal, and Park Land Conservation Fund of 1988.

(iii) The Habitat Conservation Fund.

(iv) The Fisheries Restoration Account in the Fish and Game Preservation Fund.

(v) The Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game Preservation Fund.

(vi) Striped bass stamp funds collected pursuant to Section 7360.

(vii) The California Ocean Resource Enhancement Account.

(D) The project is implemented by the department through a contract with either a nonprofit entity or a local government agency.

(3) Filing fees shall be paid at the time and in the amount specified in subdivision (d). Notwithstanding Sections 21080.5 and 21081 of the Public Resources Code, a project shall not be operative, vested, or final, and local government permits for the project shall not be valid, until the filing fees required pursuant to this section are paid.

(d) The fees shall be in the following amounts:

(1) For a project that is statutorily or categorically exempt from the California Environmental Quality Act, including those certified regulatory programs that incorporate statutory and categorical exemptions, a filing fee shall not be paid.

(2) For a project for which a negative declaration is prepared pursuant to subdivision (c) of Section 21080 of the Public Resources Code, the filing fee is one thousand eight hundred dollars ($1,800). A local agency collecting the filing fee shall remit the fee to the county clerk at the time of filing a notice of determination pursuant to Section 21152 of the Public Resources Code. A state agency collecting the filing fee shall remit the fee to the Office of Planning and Research at the time of filing a notice of determination pursuant to Section 21108 of the Public Resources Code.

(3) For a project with an environmental impact report prepared pursuant to the California Environmental Quality Act, the filing fee is two thousand five hundred dollars ($2,500). A local agency collecting the filing fee shall remit the fee to the county clerk at the time of filing a notice of determination pursuant to Section 21152 of the Public Resources Code. A state agency collecting the filing fee shall remit the fee to the Office of Planning and Research at the time of filing a notice of determination pursuant to Section 21108 of the Public Resources Code.

(4) For a project that is subject to a certified regulatory program pursuant to Section 21080.5 of the Public Resources Code, the filing fee is eight hundred fifty dollars ($850). The filing fee shall be paid to the department before the filing of the notice of determination pursuant to Section 21080.5 of the Public Resources Code.

(e) The county clerk may charge a documentary handling fee of fifty dollars ($50) per filing in addition to the filing fee specified in subdivision (d).

(1) The county clerk of each county and the Office of Planning and Research shall maintain a record, both electronic and in paper, of all environmental documents received. The record shall include, for each environmental document received, the name of each applicant or lead agency, the document filing number, the project name as approved by the lead agency, and the filing date. The record shall be made available for examination or audit by authorized personnel of the department during normal business hours.

(2) The filing fee imposed and collected pursuant to subdivision (d) shall be remitted monthly to the department within 30 days after the end of each month. The remittance shall be accompanied with the information required pursuant to paragraph (1). The amount of fees due shall be reported on forms prescribed and provided by the department.

(3) The department shall assess a penalty of 10 percent of the amount of fees due for a failure to remit the amount payable when due. The department may pursue collection of delinquent fees through the Controller's office pursuant to Section 12419.5 of the Government Code.

(f) Notwithstanding Section 12000, failure to pay the fee under subdivision (d) is not a misdemeanor. All unpaid fees are a statutory assessment subject to collection under procedures as provided in the Revenue and Taxation Code.

(g) Only one filing fee shall be paid for each project unless the project is tiered or phased, or separate environmental documents are required.

(h) This section does not preclude or modify the duty of the department to recommend, require, permit, or engage in mitigation activities pursuant to the California Environmental Quality Act.

(i) The permit process of the California Coastal Commission, as certified by the Secretary of the Resources Agency, is exempt from the payment of the filing fees

prescribed by paragraph (4) of subdivision (d) insofar as the permits are issued under any of the following regulations:

(1) Subchapter 4 (commencing with Section 13136) of Chapter 5 of Division 5.5 of Title 14 of the California Code of Regulations.

(2) Subchapter 1 (commencing with Section 13200), Subchapter 3 (commencing with Section 13213), Subchapter 3.5 (commencing with Section 13214), Subchapter 4 (commencing with Section 13215), Subchapter 4.5 (commencing with Section 13238), Subchapter 5 (commencing with Section 13240), Subchapter 6 (commencing with Section 13250), and Subchapter 8 (commencing with Section 13255.0) of Chapter 6 of Division 5.5 of Title 14 of the California Code of Regulations.

HISTORY:
Added Stats 1990 ch 1706 § 4 (AB 3158). Amended Stats 1992 ch 761 § 1 (AB 3010); Stats 1994 ch 433 § 1 (AB 3529), effective September 7, 1994; Stats 2006 ch 667 § 14 (SB 1535), effective January 1, 2007; Stats 2007 ch 253 § 1 (SB 1046), effective September 26, 2007; Stats 2013 ch 368 § 1 (SB 197), effective January 1, 2014.

§ 711.7. Wildlife trust resources

(a) The fish and wildlife resources are held in trust for the people of the state by and through the department.

(1) Insofar as state wildlife trust resources exist and depend upon federal proprietary lands or federal land and water adjacent to or affecting state trust resources, all persons engaging in projects or activities under federal license, contract, or permit, to the extent permitted by federal law, shall be governed by this article and shall pay project filing fees unless the payment of state filing and permit fees is explicitly preempted by the authority of the federal agency permitting the use or modification of state trust resources.

(2) Insofar as state wildlife trust resources exist and depend upon federal proprietary lands or federal lands and waters adjacent to or affecting state trust resources, all federal agencies acting in their proprietary capacity, to the extent permitted by federal law, shall be governed by this article and Sections 10005 and 21089 of the Public Resources Code, unless the payment of state filing and permit fees is explicitly preempted by the authority of a particular federal agency.

(b) If a court of competent jurisdiction finds that any provision of this section or the application thereof to any federal agency, person, or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

HISTORY:
Added Stats 1990 ch 1706 § 5 (AB 3158).

§ 712. Specified items to be included in Governor's Budget

It is the intent of the Legislature that the Department of Finance shall include in the Governor's Budget sufficient moneys from the General Fund and sources other than the Fish and Game Preservation Fund to pay the costs of the department's nongame programs, including those necessary for the protection and enhancement of California's nongame fish and wildlife and their habitat, the free hunting and fishing license programs, and special repairs and capital outlay.

It is the intent of the Legislature that the Department of Finance shall not include in the Governor's Budget any appropriation from the Fish and Game Preservation Fund for any program or project which is not expressly found to be an activity relating to the protection or propagation of fish and game, except to the extent that moneys have been deposited in that fund from collections under a law which is not related to the protection or propagation of fish and game.

Any study relating to funding of programs administered or conducted by the department shall include express findings of whether the program is related to the protection or propagation of fish and game and shall describe the relationship.

HISTORY:
Added Stats 1978 ch 855 § 4. Amended Stats 1985 ch 1463 § 5; Stats 1990 ch 1706 § 6 (AB 3158).

§ 712.1. Department mission; Core programs; Review and development; Expenditures

(a)(1) The department's mission is to manage California's diverse fish, wildlife, and plant resources, and the habitats upon which they depend, for their ecological values and for their use and enjoyment of the public.

(2) The department's core programs are the following:

(A) Management of departmental lands and facilities.

(B) Biodiversity conservation.

(C) Hunting, fishing, and public use.

(D) Enforcement.

(E) Spill prevention and response.

(F) Communication, education, and outreach.

(3) The department, as a part of a service-based budget review, shall identify strategic goals that reflect the core programs identified in paragraph (2) and support the department's mission and statutory requirements.

(b)(1) The department shall contract with an independent entity to conduct a comprehensive service-based budget review and to consult on the development of a service-based budget tracking system. The selected contractor shall have experience conducting similar reviews and consulting on similar systems for a comparably sized state agency or department.

(2) The service-based budget review shall study and report on all of the following topics:

(A) For each strategic goal identified pursuant to paragraph (3) of subdivision (a), a definition of the service standards and essential activities required for the department to meet its mission and statutory requirements.

(B) Detailed cost estimates and staffing requirements for meeting the service standards and requirements identified pursuant to subparagraph (A), including applicable administrative costs.

(C) An analysis of how current service levels, activities, expenditures, and staffing levels compare with the service standards and costs identified pursuant to subparagraphs (A) and (B), respectively. The analysis shall explicitly identify instances and associated costs where the department is not currently meeting its mission or statutory requirements, as well as where it may be conducting activities outside its mission and statutory requirements.

(D) An analysis of the department's existing revenue structure and program activities supported by those fund sources. The analysis shall identify any instances where the nature of the activity suggests a different funding source, such as user fees or the General Fund, or a different revenue structure that could be allowable or more appropriate to support the activity, or both allowable and more appropriate to support the activity.

(E) The service-based budget review conducted pursuant to this section shall build upon the California Fish and Wildlife Strategic Vision: Recommendations for Enhancing the State's Fish and Wildlife Management Agencies, issued in April 2012, and the Supporting Healthy Fish and Wildlife Populations in California and Getting People Outdoors: An Expenditure Concept to Invest in Our Natural Heritage for All Californians, issued on November 2, 2017.

(3)(A) The service-based budget tracking system shall incorporate data collected for the review pursuant to paragraph (2), including the costs and staffing levels associated with both existing service levels and the service level standards developed pursuant to subparagraph (A) of paragraph (2).

(B) The service-based budget tracking system shall allow the department to continuously analyze service levels across its programs and the degree to which service standards are being met.

(C) The service-based budget tracking system shall be developed as a tool to inform ongoing and future fiscal decisionmaking processes.

(D) The service-based budget tracking system shall be the property of the state even if it is developed using nonstate funding provided pursuant to subdivision (d).

(4) To meet the goals of this subdivision, the department shall collect information necessary to inform service-based budgeting.

(c) In conducting the service-based budget review and developing the service-based budget tracking system pursuant to subdivision (b), the department shall meet all of the following deadlines:

(1) By December 15, 2018, the department shall do all of the following:

(A) Enter into a contract with the independent entity to complete the service-based budget review.

(B) Form an internal leadership team within the department to oversee and manage the service-based budget review.

(C) Form an external advisory committee to advise the department and independent entity on conducting the service-based budget review.

(D) Submit a report to the relevant budget and policy committees of the Legislature and the Legislative Analyst's Office summarizing the status of these activities.

(2) By April 15, 2020, the department shall report in its legislative oversight hearings regarding the status of the service-based budget review.

(3) By January 15, 2021, the department shall submit the final service-based budget review report to the relevant budget and policy committees of the Legislature and the Legislative Analyst's Office.

(4) By April 15, 2021, the department shall report in its legislative oversight hearings how the findings of the service-based budget review have been incorporated into the department's operations and budget and any changes the department proposed to its operations or budget resulting from the service-based budget review.

(d)(1) The department may enter into one or more agreements to accept funds from any person, nonprofit organization, or other public or private entity for purposes of this section.

(2) Funding provided pursuant to this subdivision may be used by the department for department staff, development of information technology systems, or other costs associated with the service-based budget review and the service-based budget tracking system.

(3) The Department of Finance may authorize expenditure of the funds provided pursuant to this subdivision no sooner than 30 days after providing notification of the expenditure to the chairperson of the Joint Legislative Budget Committee.

HISTORY:
Added Stats 2018 ch 51 § 1 (SB 854), effective June 27, 2018.

§ 712.5. [Section repealed 2013.]

HISTORY:
Added Stats 2004 ch 917 § 2 (SB 1215). Repealed Stats 2013 ch 356 § 1 (SB 96), effective September 26, 2013. The repealed section related to the transfer of appropriated moneys for programs to protect, restore, enhance, or maintain waterfowl habitat and to support environmental protection programs.

§ 713. Changes in Implicit Price Deflator used to determine annual rate of increase or decrease in fees; Recalculation of current fees

(a) The changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, shall be used as the index to determine an annual rate of increase or decrease in the fees for licenses, stamps, permits, tags, or other entitlements issued by the department.

(b)(1) The department shall determine the change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, for the quarter ending March 31 of the current year compared to the quarter ending March 31 of the previous year. The relative amount of the change shall be multiplied by the current fee for each license, stamp, permit, tag, or other entitlement issued by the department.

(2) The product shall be rounded to the nearest twenty-five cents ($0.25), and the resulting amount shall be added to the fee for the current year. The resulting amount shall be the fee for the license year beginning on or after January 1 of the next succeeding calendar year for the license, stamp, permit, tag, or other entitlement that is adjusted under this section.

(c) Notwithstanding any other provision of law, the department may recalculate the current fees charged for each license, stamp, permit, tag, or other entitlement issued by the department, to determine that all appropriate indexing has been included in the current fees. This section shall apply to all licenses, stamps, permits, tags, or other entitlements, that have not been increased each year since the base year of the 1985-86 fiscal year.

(d) The commission, with respect to any license, stamp, permit, tag, or other entitlement issued by the commission shall comply with subdivisions (a) to (c), inclusive.

(e) The calculations provided for in this section shall be reported to the Legislature with the Governor's Budget Bill.

(f) The Legislature finds that all revenues generated by fees for licenses, stamps, permits, tags, and other entitlements, computed under this section and used for the purposes for which they were imposed, are not subject to Article XIII B of the California Constitution.

(g) The department and the commission, at least every five years, shall analyze all fees for licenses, stamps, permits, tags, and other entitlements issued by it to ensure the appropriate fee amount is charged. Where appropriate, the department shall recommend to the Legislature or the commission that fees established by the commission or the Legislature be adjusted to ensure that those fees are appropriate.

HISTORY:

Added Stats 1978 ch 855 § 5. Amended Stats 1983 ch 1117 § 1; Stats 1984 ch 1411 § 1; Stats 1985 ch 1463 § 6; Stats 1986 ch 1368 § 4; Stats 1990 ch 1706 § 7 (AB 3158); Stats 1991 ch 732 § 1 (AB 1941), effective October 7, 1991; Stats 2003 ch 240 § 3 (AB 1747), effective August 13, 2003; Stats 2012 ch 565 § 3 (SB 1148), effective January 1, 2013.

§ 714. Issuance of lifetime sportsman's license [Repealed]

HISTORY:

Added Stats 1988 ch 1060 § 1, operative until January 1, 1994. Amended Stats 1990 ch 664 § 1, (AB 3791); Stats 1993 ch 1099 § 1 (AB 1353); Stats 1997 ch 424 § 1 (SB 263); Stats 2001 ch 112 § 3 (AB 435); Stats 2003 ch 741 § 4 (SB 1049); Stats 2012 ch 565 § 4 (SB 1148), effective January 1, 2013; Stats 2015 ch 683 § 3 (SB 798), effective January 1, 2016. The repealed section related to the issuance of lifetime sportsman's licenses; Repealed Stats 2017 ch 26 § 4 (SB 92), effective June 27, 2017.

§ 715. Science Institute; Purpose and objectives; Independent peer review of department reports; Scientific integrity policy

(a) The director, in consultation with the Natural Resources Agency, shall establish a formal program, which may be called the Science Institute, to assist the department and commission in obtaining independent scientific review, and recommendations to help inform the scientific work of the department and the commission. The program shall include one or more ad hoc independent scientific committees consisting of independent scientists who are scientific experts in their fields with expertise in biological sciences and with a range of multidisciplinary expertise pertinent to the work of the department and the commission, and which may be convened pursuant to this section. The purpose of the program shall be to assist the department and the commission in obtaining and

establishing an independent and objective view of the scientific issues underlying important policy decisions.

(b) The objectives of the program shall include, but not necessarily be limited to, the following:

(1) Providing independent scientific guidance of the scientific research, monitoring, and assessment programs that support the department's and the commission's work with fish and wildlife species and their habitats.

(2) Providing the best available independent scientific information and advice to guide and inform department and commission decisions.

(3) Promoting and facilitating independent scientific peer review.

(4) Promoting science-based adaptive management.

(5) Ensuring scientific integrity and transparency in decisionmaking.

(c) The department may consult with members of the ad hoc scientific committees to assist the department in identifying other independent scientific experts with specialized expertise as needed for independent peer review of department reports, including, but not limited to, status review reports prepared for purposes of informing decisions on petitions for listing of species under the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3).

(d) The department shall consult with independent scientific advisors to develop and revise as necessary a scientific integrity policy to guide the work of the department and the commission. The scientific integrity policy may include, but is not necessarily limited to, an ethical code of conduct for department scientists, standards for independent peer review, and other best practices for ensuring scientific integrity and public confidence in department and commission work products and decisions.

(e) For marine fisheries and other marine resources, the department may utilize the California Ocean Science Trust for the purposes of this section.

HISTORY:
Added Stats 2012 ch 559 § 12 (AB 2402), effective January 1, 2013.

CHAPTER 1.5. WILDLIFE VIOLATOR COMPACT

ARTICLE 1. GENERAL PROVISIONS

§ 716. Compact enacted

The Wildlife Violator Compact is hereby enacted into law and entered into with all other participating states.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

§ 716.1. State policy

It is the policy of this state in entering into the compact to do all of the following:

(a) Promote compliance with the statutes, ordinances, and administrative rules and regulations relating to the management of wildlife resources in this state.

(b) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a participating state and treat that suspension as if it had occurred in the licensee's home state if the violation that resulted in the suspension could have been the basis for suspension in the home state.

(c) Allow a violator, except as provided in subdivision (b) of Section 716.4, to accept a wildlife citation and, without delay or detention, proceed on his or her way whether or not the violator is a resident of the state in which the citation was issued, if the violator's home state is a party to this compact.

(d) Report to the appropriate participating states, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(e) Allow the home state to recognize and treat convictions recorded against its residents, if those convictions occurred in a participating state, as though they had occurred in the home state.

(f) Extend cooperation to its fullest extent among the participating states for enforcing compliance with the terms of a wildlife citation issued in one participating state to a resident of another participating state.

(g) Maximize effective use of law enforcement personnel and information.

(h) Assist court systems in the efficient disposition of wildlife violations.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

§ 716.2. Purpose of chapter

The purposes of this chapter include both of the following:

(a) To provide a means by which participating states may join in a reciprocal program to effectuate the policies enumerated in Section 716.1 in a uniform and orderly manner.

(b) To provide for the fair and impartial treatment of wildlife violators operating within participating states in recognition of the violator's right to due process and the sovereign status of the participating states.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

ARTICLE 2. DEFINITIONS

§ 716.3. Definitions

For purposes of this chapter, the following terms have the following meanings:

(a) "Board" means the board of compact administrators established pursuant to Section 716.8.

(b) "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued to a person by a wildlife officer or other peace officer for a wildlife violation pertaining to sport fishing, hunting, or trapping, which contains an order requiring the person to respond.

(c) "Collateral" means any cash or other security deposited to secure an appearance for trial in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(d) "Compact manual" is a manual used and adopted by the participating states that prescribes the procedures to be followed in administering the wildlife violator compact in participating states.

(e) "Compliance," with respect to a citation, means the act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, penalties, costs, and surcharges, if any.

(f) "Conviction" means a conviction, including, but not limited to, any court conviction for an offense related to sport fishing, hunting, or trapping, that is prohibited by statute, ordinance, or administrative rule or regulation, that involves the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with having committed any such offense, the payment of a penalty assessment, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(g) "Court" means a court of law, including magistrate's court and the justice of the peace court.

(h) "Home state" means the state of primary residence of a person.

(i) "Issuing state" means the participating state that issues a wildlife citation to the violator.

(j) "License" means any license, permit, entitlement to use, or other public document that conveys to the person to whom it is issued the privilege of sport fishing, hunting, or trapping, that is regulated by statute, ordinance, or administrative rule or regulation of a participating state.

(k) "Licensing authority," with reference to this state, means the department, which is the state agency authorized by law to issue or approve licenses or permits to sport fish, hunt, or trap.

(*l*) "Participating state" means any state that enacts legislation to become a member of the wildlife compact.

(m) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of the citation.

(n) "State" means any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Provinces of Canada, and other countries.

(o) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license for sport fishing, hunting, or trapping.

(p) "Terms of the citation" means those conditions and options expressly stated upon a citation.

(q) "Wildlife" means all species of animals including, but not limited to, mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, ordinance, or administrative rule or regulation in a participating state. The species included in the definition of "wildlife" vary from state to state and the determination of whether a species is "wildlife" for the purposes of this compact shall be based on the law of the participating state.

(r) "Wildlife law" means any statute, regulation, ordinance, or administrative rule or regulation developed and enacted for the management of wildlife resources and the uses thereof.

(s) "Wildlife officer" means any individual authorized in this state to issue a citation for a wildlife violation.

(t) "Wildlife violation" means the violation of a statute, ordinance, or administrative rule or regulation developed and enacted for the management of wildlife resources and the uses thereof pertaining to sport fishing, hunting, and trapping and for which a prosecution is initiated.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671). Amended Stats 2015 ch 154 § 24 (AB 1527), effective January 1, 2016.

ARTICLE 3. ISSUING STATE VIOLATION PROCEDURES

§ 716.4. Issuing citations

(a) Notwithstanding any other provision of law, when issuing a citation for a wildlife violation for purposes of this chapter, a wildlife officer of the issuing state may issue a citation to any person whose primary residence is in a participating state in the same manner as though the person were a resident of the issuing state, and shall not require that person to post collateral to secure appearance, except as provided in subdivision (b), if the officer receives the personal recognizance of the person that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable unless prohibited by ordinance of a city or county, the policy of the issuing agency, a procedure or regulation, or by the compact

manual, and only if the violator provides adequate proof of identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate wildlife officer shall report the conviction or failure to comply to the licensing authority of the participating state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state, and shall contain information as prescribed in the compact manual.

(d) Upon receipt of the report of conviction or noncompliance pursuant to subdivision (c), the licensing authority of the issuing state shall transmit to the licensing authority of the home state of the violator the information in the form and content prescribed in the compact manual.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

ARTICLE 4. HOME STATE PROCEDURES

§ 716.5. Actions of home state licensing authority; Reports to issuing states

(a) Upon receipt of a report from the licensing authority of the issuing state reporting the failure of a violator to comply with the terms of a citation, the licensing authority shall notify the violator and shall initiate a suspension action. The licensing authority shall suspend the violator's license privileges, in accordance with the requirements of due process, until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished to the licensing authority.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state may enter that conviction in its records and may treat the conviction as though it occurred in the home state for the purposes of the suspension of license privileges, if the violation that resulted in the conviction would constitute a wildlife violation in the home state.

(c) The licensing authority of the home state shall maintain a record of actions taken and shall make reports to issuing states as provided in the compact manual.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

ARTICLE 5. RECIPROCAL RECOGNITION OF SUSPENSION

§ 716.6. Recognition of suspension by member states

(a) As a participating member of the wildlife violator compact, the licensing authority of this state may recognize the suspension of license privileges of any person by any participating state if both of the following occur:

(1) The violation that resulted in the conviction would constitute a wildlife violation in this state.

(2) The conviction that resulted in the suspension could have been the basis for suspension under the statutes, ordinances, or administrative rules or regulations of this state.

(b) The licensing authority shall communicate suspension information to other participating states in the form and content prescribed by the compact manual.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

ARTICLE 6. APPLICABILITY OF OTHER LAWS

§ 716.7. Applicability to participating states

Except as expressly required by this chapter, this chapter shall not be construed to

affect the right of any participating state to apply any of its statutes, ordinances, or administrative rules or regulations relating to license privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangement between a participating state and a nonparticipating state, concerning wildlife law enforcement.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

ARTICLE 7. COMPACT ADMINISTRATOR PROCEDURES

§ 716.8. Board of compact administrators established; Membership; Funds; Duties

(a)(1) A board of compact administrators is hereby established to serve as a governing body for the resolution of all matters relating to the operation of this compact. The board shall be composed of one member from each of the participating states to be known as the compact administrator.

(2) A compact administrator of any participating state may provide for the discharge of his or her duties and the performance of his or her functions as a board member by an alternate, designated by that member. An alternate is not entitled to serve unless written notification of his or her identity is provided to the board.

(3) The compact administrator for this state shall be appointed by the director and shall serve, and be subject to removal, in accordance with the laws of this state.

(b) Each member of the board is entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the membership of the board vote in favor thereof. Action by the board may only be taken at a meeting at which a majority of the membership of the board is present.

(c) The board shall elect annually from its membership a chairperson and vice chairperson.

(d) The board shall adopt bylaws, not inconsistent with this compact, and may amend and rescind the bylaws.

(e) The board may accept for any of its purposes and functions under this compact any donation and grant of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose thereof.

(f) The board may contract with, or accept services or personnel from, any governmental or intergovernmental agency, individual, firm, or corporation, including any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering this compact. All procedures and forms adopted pursuant to board action shall be contained in a compact manual.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

ARTICLE 8. ENTRY INTO COMPACT AND WITHDRAWAL

§ 716.9. Conditions for entry into compact; Withdrawal

(a) This chapter shall become effective at such time as it is adopted in substantially similar form by this state and one or more other states, subject to the following conditions:

(1) The entry into the compact shall be made by resolution executed and ratified by authorized officials of the applying state and submitted to the chairperson of the board of contract administrators.

(2) The resolution shall substantially be in the form and content as provided in the compact manual, and shall include all of the following:

(A) A citation of the authority authorizing the state to become a party to this compact.

(B) An agreement to comply with the terms and provisions of this compact.

(C) An agreement that the state entering into the compact agrees to participate with all participating states in the compact.

(b) The effective date of entry into the compact shall be specified by the applying state but shall not be less than 60 days after notice has been given by either the chairperson or secretary of the board to each participating state that the resolution from the applying state has been received.

(c) A participating state may withdraw from participation in this compact by giving written notice to the compact administrator of each participating state. The withdrawal shall not become effective until 90 days from the date on which the written notice of withdrawal is sent to each participating state. The withdrawal of any state shall not affect the validity of this compact as to the remaining participating states.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

ARTICLE 9. AMENDMENTS TO THE COMPACT

§ 717. Amending the compact

(a) This compact may be amended periodically. Amendments shall be presented in resolution form to the chairperson of the board, and shall be initiated by one or more participating states.

(b) The adoption of an amendment requires endorsement by all participating states and becomes effective 30 days after the date of the last endorsement.

(c) The failure of any participating state to respond to the appropriate authority within 60 days after receipt of a proposed amendment constitutes endorsement thereof.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

ARTICLE 10. CONSTRUCTION AND SEVERABILITY

§ 717.1. Construction of compact

This compact shall be liberally construed to effectuate its purposes.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

§ 717.2. Severability of provisions

The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid or contrary to the constitution of any participating state or of the United States, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

HISTORY:
Added Stats 2001 ch 398 § 3 (AB 1671).

CHAPTER 2. DEPUTIES, AND OTHER EMPLOYEES; COUNTY WARDENS

ARTICLE 1. STATE

§ 850. Employment of deputies, clerks, assistants and other employees

The director shall, from time to time, employ or appoint, with or without pay, such deputies, clerks, assistants, and other employees as the department may need to discharge in proper manner the duties imposed upon it by law.

HISTORY:
Enacted 1957.

§ 851. Status and powers of deputies

A deputy appointed to enforce the provisions of this code is a peace officer. He has all the powers and authority conferred by law upon peace officers listed in Section 830.3 of the Penal Code to make arrests for violations of this code, and may serve all processes and notices throughout the state.

HISTORY:
Enacted 1957. Amended Stats 1968 ch 1222 § 33; Stats 1986 ch 817 § 1.

§ 853. Deputies for enforcement of sport fishing licenses

(a) The director may deputize any employee of the department to check persons for licenses required under Section 7145 and to enforce any violation of that section.

(b) Before a person is deputized pursuant to this section for the first time, the person shall have satisfactorily completed a training course meeting the minimum standards of, and comparable to, the training for "level III reserve" as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) A person, who is deputized for the limited purpose stated in subdivision (a) shall not enforce any other provision of this code. Being deputized under this section does not make a person a peace officer subject to Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

HISTORY:
Added Stats 1989 ch 749 § 1. Amended Stats 2003 ch 796 § 1 (SB 692); Stats 2015 ch 154 § 25 (AB 1527), effective January 1, 2016.

§ 854. Age requirements; Examination

Notwithstanding Section 18932 of the Government Code, the minimum age limit for appointment to the position of fish and game warden of the department shall be 18 years. An examination for the position of warden shall require a demonstration of the physical ability to effectively carry out the duties and responsibilities of the position in a manner that would not inordinately endanger the health or safety of a warden or any other person.

HISTORY:
Enacted 1957. Amended Stats 1968 ch 83 § 1; Stats 1971 ch 1748 § 33; Stats 1981 ch 453 § 1; Stats 2006 ch §177 (SB 1852), effective January 1, 2007; Stats 2015 ch 154 § 26 (AB 1527), effective January 1, 2016.

§ 855. Procurement of evidence; Purchases and expenditures by officers; Reimbursement

Regularly employed law enforcement officers of the department may, when authorized by the director, expend such sums as authorized for the purchase of fish, birds, or mammals as evidence, or for expenditures related to the procurement of such evidence,

or for expenditures made to investigate other violations of this code without divulging the identity of the employee.

The sums so expended shall be repaid to the law enforcement officer making the expenditure upon claims approved by the director. The claims, when approved, shall be paid out of the funds appropriated or made available by law for the support of the department.

HISTORY:
Enacted 1957.

§ 856. Power of designated employees as peace officers

(a) All employees of the department designated by the director as deputized law enforcement officers are peace officers as provided by Section 830.2 of the Penal Code. The authority of that peace officer extends to any place in the state as to a public offense committed or which offense there is probable cause to believe has been committed within the state.

(b) Every peace officer described in this section, before the date that he or she is first deputized by the department, shall have satisfactorily completed the basic course as set forth in the regulations of the Commission on Peace Officer Standards and Training.

(c) Every peace officer described in this section shall be required to complete regular training courses as required by the Commission on Peace Officer Standards and Training.

HISTORY:
Added Stats 1959 ch 871 § 1. Amended Stats 1974 ch 639 § 1; Stats 1986 ch 817 § 2; Stats 1992 ch 1370 § 4 (AB 3193), effective October 27, 1992; Stats 2007 ch 285 § 10 (AB 1729), effective January 1, 2008.

§ 856.5. Patrol vehicle mounted video and audio systems; Use; Standards; Recording retention policy; Access to recording

(a) The department may install patrol vehicle mounted video and audio systems, commonly known as dashboard cameras, in patrol vehicles used by peace officers described in Section 856. A peace officer described in Section 856 may use the patrol vehicle mounted video and audio system to record any communications or other actions involving the officer while the officer is in uniform and acting within the scope of his or her authority.

(b) The department shall adopt a policy to establish standards regarding the activation of patrol vehicle mounted video and audio systems and the preservation and retention of recordings from patrol vehicle mounted video and audio systems, subject to the following requirements:

(1) Once a patrol vehicle mounted video and audio system has been activated pursuant to standards established by the department pursuant to subdivision (b), the patrol vehicle mounted video and audio system shall record the duration of an encounter.

(2) The department shall retain a recording from a patrol vehicle mounted video and audio system for a minimum of 90 days and a maximum of one year, except if the recording is necessary for a pending, or reasonably foreseeable civil or criminal action, or for training or administrative purposes.

(3) The department shall provide access to a recording from a patrol vehicle mounted video and audio system in accordance with all other provisions of law.

HISTORY:
Added Stats 2014 ch 629 § 1 (SB 1454), effective January 1, 2015.

§ 857. Entrance on private land

(a) Notwithstanding any other provision of law, the status of a person as an employee, agent, or licensee of the department does not confer upon that person a special right or

privilege to knowingly enter private land without the consent of the owner, a search warrant, or an inspection warrant.

(b) Subdivision (a) does not apply to employees, agents, or licensees of the department in the event of an emergency. For purposes of this section, "emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger demanding immediate action to prevent or mitigate loss of, or damage to, wildlife, wildlife resources, or wildlife habitat.

(c) Subdivision (a) does not apply to a sworn peace officer authorized pursuant to subdivision (e) of Section 830.2 of the Penal Code or, if necessary for law enforcement purposes, to other departmental personnel accompanying a sworn peace officer. Subdivision (a) shall not be construed to define or alter any authority conferred on those peace officers by any other law or court decision.

(d) Subdivision (a) does not apply to, or interfere with, the authority of employees or licensees to enter and inspect land in conformance with Section 4604 of the Public Resources Code.

(e) This section is not intended to expand or constrain the authority, if any, of employees, agents, or licensees of the department to enter private land to conduct inspections pursuant to Section 7702 of this code or Section 8670.5, 8670.7, or 8670.10 of the Government Code.

(f) If the department conducts a survey or evaluation of private land that results in the preparation of a document or report, the department shall, upon request and without undue delay, provide either a copy of the report or a written explanation of the department's legal authority for denying the request. The department may charge a fee for each copy, not to exceed the direct costs of duplication.

HISTORY:
Added Stats 1993 ch 1288 § 1 (SB 779). Amended Stats 1994 ch 146 § 43 (AB 3601); Stats 2003 ch 610 § 4 (AB 1770); Stats 2015 ch 154 § 27 (AB 1527), effective January 1, 2016.

§ 858. Processing of landowner complaints; Warden emblems

(a) The department, in cooperation with landowners and landowner organizations, shall, on or before January 1, 1995, develop a statewide policy and procedure for recording and processing landowner complaints regarding alleged misconduct by personnel of the department and a written protocol that ensures compliance with Section 857.

(b) The department shall, on or before January 1, 1995, designate official fish and game warden emblems and their placement. The department shall prohibit personnel of the department who are not peace officers from wearing any patch, badge, bar, or other indicia of peace officer status. The selection and configuration of official fish and game warden emblems shall be established by the department in cooperation with California game wardens to ensure that the public is readily able to distinguish game wardens from personnel who are not peace officers.

HISTORY:
Added Stats 1993 ch 1288 § 2 (SB 779).

§ 859. Acceptance of grants and donations for the purpose of administering the Canine (K9) Program

Notwithstanding Section 11005 of the Government Code, the department may seek and accept grants and donations from private and public organizations and agencies for the purpose of administering the Canine (K9) Program. The acceptance of one-time donations valued over fifteen thousand dollars ($15,000) shall require approval of the Department of Finance.

HISTORY:
Added Stats 2009 ch 294 § 3 (AB 1442), effective January 1, 2010.

§ 860. Sale of fish and game warden stamp; Authorization to design electronic version; Revenues

The department may offer for sale a fish and game warden stamp to be designed and produced as the department may determine. The fish and game warden stamp may be purchased on a voluntary basis from the department or a licensed agent authorized pursuant to Section 1055.1 for a donation of not less than five dollars ($5). The department may also design an electronic version of the fish and game warden stamp to be offered through the Automated License Data System. There shall be no indication on any license or permit of the purchase of a warden stamp. All revenues from sales under this section shall be deposited in the Fish and Game Warden Stamp Account which is hereby created in the Fish and Game Preservation Fund to permit separate accountability for the receipt and expenditure of these funds. Funds deposited in the Fish and Game Warden Stamp Account shall used, upon appropriation, to support the department's fish and game wardens.

HISTORY:
Added Stats 2009 ch 294 § 4 (AB 1442), effective January 1, 2010.

ARTICLE 2. COUNTY FISH AND GAME WARDENS

§ 875. Appointment; Term

The board of supervisors of each county may, in its discretion, appoint a suitable person to serve for a period of two years from the date of his appointment as fish and game warden of the county.

HISTORY:
Enacted 1957.

§ 876. Compensation

The board of supervisors shall fix the salary to be paid and the expenses to be allowed the county fish and game warden, which salary and expenses shall be paid from the county treasury.

HISTORY:
Enacted 1957.

§ 877. Removal

The board may by a majority vote of its members remove the warden at any time.

HISTORY:
Enacted 1957.

§ 878. Duty to enforce laws; Power to make arrests

The county fish and game warden shall enforce the state laws relating to the protection of fish and game. The warden has the powers and authority conferred by law upon peace officers listed in Section 830.6 of the Penal Code.

HISTORY:
Enacted 1957. Amended Stats 1968 ch 1222 § 34; Stats 1986 ch 817 § 3.

§ 879. Quarterly reports; Contents

The county fish and game warden shall report quarterly to the board of supervisors, giving a detailed statement of all arrests made, convictions had and fines collected, and a general statement in regard to the management of his office. A copy of such detailed statement shall, at the same time, be filed with the department.

HISTORY:
Enacted 1957.

§ 880. Deputy fish and game warden; Appointment; Term

The board of supervisors of each county may, in its discretion, appoint a deputy fish and game warden, to serve at the pleasure of the board.

HISTORY:
Enacted 1957.

§ 881. Powers and duties of deputy; Compensation

The deputy shall have such powers, perform such duties, and receive such salary and be entitled to such expenses as the board may provide.

HISTORY:
Enacted 1957.

§ 882. Payment of deputy from county treasury

The salary and expenses of a deputy county fish and game warden shall be paid from the county treasury.

HISTORY:
Enacted 1957.

CHAPTER 3. OTHER POWERS AND DUTIES

ARTICLE 1. GENERALLY

§ 1000. Expenditures for research, field investigation and statistics

The department shall expend funds necessary for biological research and field investigation and for the collection and diffusion of statistics and information that pertain to the conservation, propagation, protection, and perpetuation of birds and their nests and eggs, and of mammals, reptiles, amphibians, and fish.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 1; Stats 2015 ch 154 § 28 (AB 1527), effective January 1, 2016.

§ 1000.6. Legislative findings and declarations

(a) The Legislature finds and declares all of the following:

(1) The commercial fishing industry of the North Coast has been greatly affected by decisions made by federal and state agencies concerning the health of the salmon resource and the consequent shortening or closing of the season, further impacting the already economically depressed region.

(2) Sportfishing on the North Coast, a staple of the tourism industry of the region, could be substantially affected by the limitations of the salmon seasons.

(3) The method of determining salmon escapement counts on only the Klamath River is inadequate for determining the overall health of the salmon resource in northern California waters and consequent decisions regarding the commercial, sport, and Indian salmon fisheries in those waters because it does not take into consideration the escapement figures on the Eel River and the Smith River.

(b) The department shall use present assessment methods to assess the salmon escapement count on the Eel River and the Smith River, as well as the Klamath River, systems, employing out-of-work fishermen, where possible, to do the counts with department personnel in supervisory capacities. Those figures shall be used by the commission and the department in all reports, recommendations, and decisions concern-

ing the establishment of the commercial and sportfishing seasons in the state waters and in all recommendations to the Pacific Fishery Management Council or other regulatory agencies. This program shall be a priority for funding under the Fisheries Restoration Act of 1985 (Chapter 8 (commencing with Section 2760) added to Division 3 of the Fish and Game Code by Senate Bill No. 400 of the 1985–86 Regular Session).

(c) The department shall install sonar fish counting devices on the Klamath River system as a three-year test program to determine the accuracy of the devices, and shall make recommendations to the Legislature by January 1, 1990, as to their accuracy and whether they should be installed on other river systems. Present assessment methods shall continue on the Klamath River system during the test period as a control mechanism.

HISTORY:
Added Stats 1985 ch 1231 § 2.

§ 1001. Right to take plant or animal life for scientific or propagation purposes

Nothing in this code or any other law shall prohibit the department from taking, for scientific, propagation, public health or safety, prevention or relief of suffering, or law enforcement purposes, fish, amphibians, reptiles, mammals, birds, and the nests and eggs thereof, or any other form of plant or animal life.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 974 § 1; Stats 2007 ch 285 § 11 (AB 1729), effective January 1, 2008.

§ 1002. Permits to take or possess plant or animal life for scientific, educational, or propagation purposes

(a) The department may issue permits, subject to restrictions and regulations that the department determines are desirable, to take or possess, in any part of the state, for scientific, educational, or propagation purposes, mammals, birds and the nests and eggs thereof, fish, amphibians, reptiles, or any other form of plant or animal life.

(b) The department may issue a permit that is valid for 36 months from the date of issuance on the payment of a nonrefundable application fee of one hundred dollars ($100) and a permit fee of three hundred dollars ($300), as adjusted under Section 713.

(c) Notwithstanding subdivision (b), the department may issue a permit without fee that is valid for 12 months from the date of issuance to authorize only the banding of birds and the exhibition of live or dead wildlife specimens by public zoological gardens, scientific, or educational institutions.

(d)(1) The department may issue a special student permit that is valid for 12 months from the date of issuance on the payment of a nonrefundable application fee of twenty-five dollars ($25) and a permit fee of fifty dollars ($50), as adjusted under Section 713, to any student in a school of collegiate level or a commercial fishing class who is required by an instructor to collect specimens used in laboratory work in the school under supervision and in connection with a course in wildlife research or in the conduct of wildlife investigations and studies on behalf of the public.

(2) All fish taken under permit for a commercial fishing class student shall be taken in accordance with state law, except that Sections 7850, 7880, and 7881 do not apply. All fish taken under a permit for a commercial fishing class student may be sold only to a person licensed to receive fish from commercial fishermen as provided in Section 8032 or 8033 or donated to a charitable institution. All funds received from the sale of the fish shall be used solely for the support of commercial fishing classes.

(e) It is not necessary for the holder of the permit to have a sport fishing or hunting license to collect any fish, amphibian, reptile, aquatic animal or plant, bird, or mammal for scientific, educational, or propagation purposes in this state.

(f) Nothing in this section authorizes any act which violates Section 597 of the Penal Code.

(g) A permit under this section does not authorize the taking of fish or mammals from the ocean waters of this state which are within the boundaries of any city if the city has filed with the department an objection to the taking.

(h) The adjustment of the nonrefundable application fee and permit fees pursuant to Section 713 that are specified in subdivisions (b)and (d) shall be applicable to permits issued on or after January 1, 2013.

(i) The department, by regulation, may adjust the amount of the fees specified in subdivisions (b) and (d) as necessary to fully recover, but not exceed, all reasonable administrative and implementation costs of the department relating to those permits.

(j) No permit under this section is required for species listed as threatened or endangered pursuant to the California Endangered Species Act, when an entity holds a valid permit or memorandum of understanding for the subject species and the proposed activities, issued pursuant to Section 2081.

(k) No permit under this section is required for fully protected species listed in Section 3511, 4700, 5050, or 5515 if the entity holds a valid memorandum of understanding issued by the department for the subject species and proposed activities, in accordance with the respective section.

(*l*) A permit or amendment issued pursuant to Section 1002 is not transferable between individuals or entities.

(m) If a permitholder fails to submit information or reports required in a permit, the department shall revoke an existing permit, and may decline to issue a permit to that person or entity in subsequent years.

HISTORY:

Enacted 1957. Amended Stats 1957 ch 1972 § 26; Stats 1961 ch 1977 § 1; Stats 1963 ch 1956 § 1; Stats 1970 ch 364 § 1; Stats 1972 ch 974 § 2; Stats 1977 ch 353 § 3; Stats 1985 ch 1463 § 7; Stats 1986 ch 1368 § 5; Stats 1988 ch 377 § 1; Stats 1989 ch 1360 § 43; Stats 1994 ch 849 § 1 (SB 2113); Stats 2012 ch 559 § 13 (AB 2402), effective January 1, 2013.

§ 1002.5. Issuance of permit for scientific purposes; Approval of temporary employees or volunteers; Fees

(a) The department may issue a permit pursuant to Section 1002 to an appropriate public, private, or nonprofit entity, or a person, as determined by the department, in the name of a principal scientific investigator or the permitted entity or person.

(b) The department may approve individual temporary employees or volunteers to work under the permit, after receiving notification from the permittee. The permittee shall have adequate supervision over any temporary employees or volunteers approved to work under the permit.

(c) A permittee that allows a temporary employee or volunteer to work under a permit without approval from the department in accordance with this section is subject to Section 12000.

(d) The department shall charge a fee pursuant to subdivision (b) of Section 1002 for the issuance of a permit authorized by this section. If the department determines that the costs to issue a permit authorized by this section are greater than the costs to issue a permit pursuant to Section 1002, the department may charge a permit fee in an amount that is greater than the amount imposed by subdivision (b) of Section 1002 to recover those additional costs.

(e) The department may amend a permit issued under this section, including, but not limited to, the addition or removal of individual temporary employees or volunteers working under the permit, on the payment of a nonrefundable application fee of one hundred dollars ($100), as adjusted under Section 713 or regulations adopted by the department.

HISTORY:

Added Stats 2009 ch 346 § 1 (SB 286), effective January 1, 2010. Amended Stats 2012 ch 559 § 14 (AB 2402), effective January 1, 2013.

§ 1003. Shipment or transportation of mammals, birds, or other plant or animal life taken under scientific or propagation permit

Mammals, birds and their nests and eggs, fish and their eggs, reptiles, amphibians, mollusks, crustaceans, or any other form of plant or animal life taken under the provisions of a scientific or propagation permit issued pursuant to Section 1002 may be shipped or transported anywhere within or without the state if prior written approval is obtained from the department and the shipment is accompanied by the name, address, and permit number of the person holding the scientific or propagation permit.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 27; Stats 1972 ch 974 § 3; Stats 2015 ch 154 § 29 (AB 1527), effective January 1, 2016.

§ 1004. Capture and sale of birds and mammals for domestication

The department may capture and sell birds and mammals, at prices to be fixed by the commission, to persons engaged in the domestication and sale thereof in this State.

HISTORY:
Enacted 1957.

§ 1005. Exhibition of fish and game educational material

For the purpose of exhibiting fish and game educational material at fairs or sportsmen's shows and making other public displays, and to make conservation educational materials on fish and game available for any public use, including fairs, sportsmen's shows, schools, and civic organizations, the department may:

(a) Accept on behalf of the State donations of money and services from any person to defray such expenses as may be incurred by the department in connection therewith.

(b) Charge admissions or make a charge for the use of any departmental material or exhibits to be used in a fair, sportsmen's show, or by a civic organization.

HISTORY:
Enacted 1957.

§ 1005.5. Acceptance of gifts from counties

Notwithstanding Section 11005 of the Government Code, the department may accept gifts of personal property if the donor is a county of the state and the gift is purchased with fine money derived from fish and game violations. The department shall notify the Department of Finance 30 days in advance of accepting these gifts.

HISTORY:
Added Stats 1987 ch 296 § 1.

§ 1006. Inspection of boats, buildings and receptacles

The department may inspect the following:

(a) All boats, markets, stores and other buildings, except dwellings, and all receptacles, except the clothing actually worn by a person at the time of inspection, where birds, mammals, fish, reptiles, or amphibia may be stored, placed, or held for sale or storage.

(b) All boxes and packages containing birds, mammals, fish, reptiles, or amphibia which are held for transportation by any common carrier.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 974 § 4.

§ 1007. Importation, propagation, and distribution of birds, mammals or fish

The department may import, propagate, and distribute birds, mammals, or fish.

HISTORY:
Enacted 1957.

§ 1008. Investigation of diseases and problems; Laboratories

The department shall investigate all diseases of, and problems relating to, birds, mammals, or fish, and establish and maintain laboratories to assist in such investigation.

HISTORY:
Enacted 1957.

§ 1009. Acquisition and protection of rights-of-way

The department may obtain for the State rights of way over private lands for the purpose of furnishing access for the public to lands or waters open to public hunting or fishing whenever such rights of way are determined by the commission to be necessary for such public use. Such rights of way shall not be acquired by eminent domain proceedings.

The department may construct or cause to be constructed such fences, signs, and other structures as are necessary for the protection of any such right of way, and the cost of the construction shall be met out of the funds available to the department.

HISTORY:
Enacted 1957.

§ 1010. Sale of grazing permits

The department, by and with the approval of the Department of General Services, may sell grazing permits or otherwise dispose of excess vegetation or other products, produced on lands acquired by the department.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 371 § 78.

§ 1011. Insurance

(a) The department may procure insurance for any of the following purposes:

(1) For itself and landowners who agree to permit the department to use their land as cooperative hunting, fishing, conservation or recreational areas, against any liability resulting from the operation of those hunting, fishing, conservation or recreational areas.

(2) For its employees or other persons authorized by the department to conduct hunter education training courses against any public liability or property damage resulting from that training.

(b) The cost of insurance procured pursuant to subdivision (a) shall be a proper charge against and shall be paid out of the Fish and Game Preservation Fund.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1696 § 1; Stats 1965 ch 1184 § 1, effective July 14, 1965; Stats 1974 ch 1454 § 7; Stats 1975 ch 784 § 1; Stats 2007 ch 285 § 12 (AB 1729), effective January 1, 2008.

§ 1012. Insurance against liability of owner or operator of boarded vessel

The department may procure insurance for its employees for injury or death against the liability of the owner or operator of any vessel boarded by an employee as an observer.

HISTORY:
Added Stats 1980 ch 886 § 1, effective September 14, 1980.

§ 1013. Indemnification by department of lessor of real property or grantor of easement in real property; Insurance

In any lease, easement, or right-of-way entered into whereby the department leases real property or obtains a grant of easement or right-of-way in real property for the purpose of constructing, operating, or maintaining a fish screen, fish ladder, fishweir, or fishtrap, the department may agree to indemnify and hold harmless the lessor or grantor by reason of the uses authorized by such lease, easement, or right-of-way. Insurance may be purchased by the Department of General Services to protect the department against loss or expense arising out of such a lease, easement, or right-of-way.

HISTORY:
Added Stats 1961 ch 1853 § 1. Amended Stats 1965 ch 371 § 79.

§ 1014. Administration of fish and wildlife enhancement facilities; Contracts with federal government

If the Department of Parks and Recreation contracts with the federal government pursuant to Public Law 89-161 for the administration of recreation development or fish and wildlife enhancement facilities, as authorized by Section 5006.6 of the Public Resources Code, the Department of Fish and Wildlife is authorized to operate, maintain, and replace those facilities designated as fish and wildlife enhancement facilities and to assume all costs of that operation, maintenance, and replacement, subject to appropriation of funds by the Legislature.

HISTORY:
Added Stats 1st Ex Sess 1966 ch 66 § 2. Amended Stats 2015 ch 154 § 30 (AB 1527), effective January 1, 2016.

§ 1015. Report on protection of salmon and steelhead resources by environmental quality projects

Whenever the department is required, or provided an opportunity, to assess the adequacy of a project or to provide a detailed environmental impact statement or similar document pursuant to Public Law 91–190 or Section 21100, 21101, or 21102 of the Public Resources Code, or any other provision of law, it shall determine the extent to which salmon and steelhead resources will be protected from damage by the project in question, together with the extent to which the agency or person preparing the plans for such project has incorporated therein plans for increasing the salmon or steelhead resources of this state. To the fullest practicable extent, the department shall advise the commission at one of its regular scheduled meetings of the state's comments on the project. In no event shall more than one regular commission meeting transpire between the time the department renders comments to the requesting person or agency and the time it reports its findings to the commission.

HISTORY:
Added Stats 1971 ch 933 § 1.

§ 1016. Clean-up or abatement of oil sump affecting wildlife

(a) Whenever the department determines that an oil sump, as defined by Section 3780 of the Public Resources Code, is hazardous to wildlife, but does not constitute an immediate and grave danger to wildlife, the department shall forthwith notify the State Oil and Gas Supervisor of such condition in order that he may take action pursuant to Section 3783 of the Public Resources Code to have such condition cleaned up or abated. The department in making such notification shall specify the hazardous conditions.

(b) Whenever the department determines that an oil sump, as defined by Section 3780 of the Public Resources Code, constitutes an immediate and grave danger to wildlife, the department shall forthwith notify the State Oil and Gas Supervisor of such condition in order that he may take action pursuant to Section 3784 of the Public Resources Code to

have such condition cleaned up or abated. The department, in making such notification, shall specify the immediate and grave danger.

(c) The commission shall promulgate such rules and regulations as are necessary to implement the provisions of this section, including a reasonable definition of the term "hazardous" for the purposes of this section. It is the intent of the Legislature that the department adopt, as a part of such rules and regulations, a definition of the term "wildlife," as herein employed, which will provide for reasonable exclusions consistent with effectuating the wildlife protection purposes of this section.

(d) No provision of this section shall be construed as a limitation on the authority or responsibilities of the department with respect to the enforcement or administration of any provision of state law which it is authorized or required to enforce or administer.

HISTORY:
Added Stats 1973 ch 1076 § 1. Amended Stats 1974 ch 772 § 1, effective September 18, 1974; Stats 1979 ch 1076 § 2.

§ 1017. Use of informal consultative procedures prior to taking formal action

(a) It is the policy of the state to anticipate and resolve potential conflicts between the management, conservation, and protection of fish and wildlife resources and their habitat and private and public activities that may affect them.

(b) Accordingly, the department may use such informal consultative procedures prior to taking any formal action as will assist in the achievement of this policy.

(c) Any costs incurred by the department in engaging in informal consultative procedures, including, but not limited to, fees charged by any neutral party acting in the capacity of a mediator, discussion facilitator, or convener, are a proper charge against any funds lawfully available to the department for this purpose.

(d) The authority conferred by this section is not intended, and shall not be construed, to increase, decrease, duplicate, or supersede any other authority of the department or the commission under this code or any other provision of law.

(e) As used in this section, "formal action" means the adoption, amendment, or repeal of any rule, regulation, or order; entering into, amending, or canceling an agreement; and the issuance, suspension, or revocation of any permit, license, or other entitlement.

HISTORY:
Added Stats 1984 ch 611 § 1.

§ 1018. Isabella Dam preservation of species

The director shall use the department's resources, to the fullest extent feasible, to coordinate with the federal government to promote the preservation of species, including species listed as endangered species or threatened species under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act, Chapter 1.5 (commencing with Section 2050) of Division 3, and their habitats within the locale of Isabella Dam and Reservoir in Kern County in order to facilitate the continued operation of those facilities for flood control and water conservation storage as authorized by Congress and as provided in an agreement, dated October 23, 1964, among the United States and various local public agencies.

Nothing in this section is intended to amend, modify, or alter in any manner the intent of the California Endangered Species Act.

HISTORY:
Added Stats 1997 ch 525 § 1 (AB 1505).

§ 1019. Preparation and review of land management plans

(a) Subject to an appropriation of funds by the Legislature for that purpose, for parcels wholly within its jurisdiction acquired on or after January 1, 2002, the department shall

prepare draft management plans for public review within 18 months of the recordation date.

(b)(1) On or before February 1 of each year, the department shall submit a list of lands acquired during the previous two fiscal years and the status of the management plans for each acquisition to the fiscal committees of each house of the Legislature.

(2) Each fiscal committee in the Legislature shall consider the lists described in paragraph (1) in its budget decisions for the department.

HISTORY:
Added Stats 2002 ch 8 § 2 (AB 1414). Amended Stats 2003 ch 62 § 94 (SB 600).

§ 1020. Strategic plan for implementation of proposals

(a) The department and the commission shall develop a strategic plan to implement proposals arising from any of the following:

(1) The strategic vision developed and submitted to the Governor and the Legislature pursuant to Section 12805.3 of the Government Code.

(2) Any legislation enacted relating to the strategic vision process.

(3) The department's own proposals for reform.

(b)(1) The department and the commission may contract for consultants to assist in the preparation of the strategic plan pursuant to subdivision (a).

(2) Contracts entered into pursuant to paragraph (1) shall terminate no later than December 31, 2015.

(3) Contracts entered into pursuant to paragraph (1) shall be exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

HISTORY:
Added Stats 2012 ch 559 § 15 (AB 2402), effective January 1, 2013.

§ 1021. Conservation of monarch butterflies

(a) The department may take feasible actions to conserve monarch butterflies and the unique habitats they depend upon for successful migration. These actions may include, but are not limited to, habitat restoration on department lands, education programs, and voluntary agreements with private landowners.

(b) The department may partner with federal agencies, nonprofit organizations, academic programs, private landowners, and other entities that undertake actions to conserve monarch butterflies and aid their successful migration, including the Monarch Joint Venture.

(c) When undertaking actions to conserve monarch butterflies and their habitats pursuant to this section, the department shall use the best available science and consider, as appropriate and feasible, all of the following:

(1) Restoring or revegetating monarch caterpillar habitat using regionally or locally appropriate native milkweed species.

(2) Restoring or revegetating adult monarch butterfly habitat using regionally or locally appropriate native nectar plant species.

(3) Controlling nonnative weed species that threaten native milkweed species, and controlling pests and disease, using current best management practices consistent with integrated pest management principles that pose low risk to monarch butterflies and their habitat.

(4) Incorporating diverse tree species, structures, and arrangements when restoring or establishing winter habitat sites to match monarch butterfly preferences for temperature, light, moisture, wind, and other microclimate characteristics.

(5) Increasing the number of partnerships and making the most of partnerships to use residential and institutional landscaped areas, agricultural noncropped lands, transportation corridors, and conservation easements to create, restore, or enhance monarch butterfly habitat.

(d) The fact that a project applicant or landowner does not enter into a voluntary agreement to protect monarch butterflies shall not be grounds for denying a permit or agreement or requiring additional mitigation beyond what would be required to mitigate project impacts under other applicable laws, including, but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

HISTORY:
Added Stats 2015 ch 478 § 2 (AB 559), effective January 1, 2016.

§ 1022. EFP issued by department authorizing otherwise prohibited commercial or recreational marine fishing activity

(a) The commission may authorize, for research, educational, limited testing, data collection, compensation fishing, conservation engineering, or exploratory fishing, or any combination of these purposes, an EFP to be issued by the department that authorizes commercial or recreational marine fishing activity otherwise prohibited by this code or any regulation adopted pursuant to this code, subject, at a minimum, to all of the following:

(1) Activities conducted under the EFP shall be consistent with policies set forth in Section 7050 and any applicable fishery management plan.

(2) An EFP is subject to those conditions the commission deems necessary to ensure the protection of marine resources, and shall be revoked if the continued use would have an adverse impact on any resource or allocation of a resource, or other adverse impact to established fisheries or other marine living resources.

(3)(A) Except as provided in subparagraph (B), activities conducted under the EFP shall not involve engaging in bottom trawling in ocean waters of the state.

(B) Activities conducted under the EFP may involve engaging in bottom trawling if the EFP is issued to a person who holds a permit issued pursuant to Section 8494 or 8842 and the activities conducted under the EFP are limited to locations where bottom trawling is authorized under the applicable permit.

(4) An EFP exempts a permittee only from the provisions of this code and regulations adopted pursuant to this code specified in the EFP. All other applicable laws and regulations shall remain in effect.

(5) Permits shall be issued pursuant to the process established in subdivision (b).

(b) The commission shall establish by regulation an expeditious process for department review, public notice and comment, commission approval, and prompt department issuance of EFPs, that is consistent with Section 7059.

(c) Upon completion of the activities authorized in an EFP, or periodically under terms specified by the commission, a person fishing under an EFP shall submit to the commission and the department a final report summarizing the EFP research and findings, and any scientific reports or other publications created as a result of the activity.

(d) Unless otherwise specified by the commission, an EFP issued pursuant to this section is valid for a period of one year. However, the department shall not issue an EFP for the same purposes for more than four consecutive years.

(e) The department shall post, and annually update, information regarding approved EFP activities, including information on the fishery and region affected, the experimental intent, and other relevant information on its Internet Web site.

(f) On or before January 1, 2025, and every five years thereafter, the department shall complete and provide to the appropriate legislative committees a report summarizing the approved EFPs and benefits of the EFP program to the sustainability of California fisheries, efficiency of fishing effort, and reduction of bycatch in California fisheries.

(g) The commission may charge a permit fee as necessary to fully recover, but not exceed, all reasonable implementation and administrative costs of the department and the commission relating to the EFP.

(h) For purposes of this section, the following terms have the following meanings:

(1) "Compensation fishing" means fishing conducted for the purpose of recovering costs associated with resource surveys and scientific studies that support the management of a fishery, or fishing that serves as an incentive for participation in those studies. Compensation fishing may include fishing before, during, or following those surveys or studies.

(2) "Conservation engineering" means the study of fish behavior and the development and testing of new gear technology and fishing techniques that promote efficient and sustainable harvest of target species or reduce collateral effects, such as bycatch and adverse effects on habitat, or both.

(3) "EFP" means an experimental fishing permit.

(4) "Exploratory fishing" means fishing to collect data or conduct other research, typically to provide information that could inform the potential opening of a new fishery or an area currently closed to fishing.

HISTORY:
Added Stats 2018 ch 477 § 4 (AB 1573), effective January 1, 2019.

§ 1023. Pilot program to collect data regarding wildlife-vehicle collisions

(a) Upon appropriation by the Legislature, the department may develop a pilot program to collect and compile information and data on wildlife-vehicle collisions to support wildlife conservation efforts conducted through regional conservation investment strategies approved pursuant to Chapter 9 (commencing with Section 1850), the Advance Mitigation Program (Article 2.5 (commencing with Section 800) of Chapter 4 of Division 1 of the Streets and Highways Code), or any policy or project implemented to reduce the loss of wildlife from vehicle collisions. The pilot program shall be at a maximum of three geographically dispersed sites identified by the department to be areas of high wildlife-vehicle collisions.

(b) In developing the pilot program, the department may coordinate with other state agencies that remove dead wildlife from roadways to determine the scope of data collected on wildlife-vehicle collisions.

(c) At the conclusion of the pilot program, the department shall report to the commission on the number of wildlife-vehicle collisions identified during the study period, barriers to additional data collection, and the feasibility of creating a statewide wildlife-vehicle collision reporting system. The report shall include an estimate of the costs of implementing the statewide wildlife-vehicle collision reporting system.

HISTORY:
Added Stats 2019 ch 869 § 3 (SB 395), effective January 1, 2020.

ARTICLE 2. GENERAL LICENSE PROVISIONS

§ 1050. Preparation and issuance; Determination of form; Terms and conditions; Fees

(a) All licenses, permits, tags, reservations, and other entitlements authorized by this code shall be prepared and issued by the department.

(b) The commission shall determine the form of all licenses, permits, tags, reservations, and other entitlements and the method of carrying and displaying all licenses, and may require and prescribe the form of applications therefor and the form of any contrivance to be used in connection therewith, except for those programs where the department has fee-setting authority, in which case the department shall retain that authority.

(c) Whenever this code provides for a permit, license, tag, reservation, application, or other entitlement, the commission, in accordance with the provision, shall prescribe the terms and conditions under which the permit, license, tag, reservation, application, or

other entitlement shall be issued, except for those programs where the department has fee-setting authority, in which case the department shall retain that authority. The department shall issue the permit, license, tag, reservation, application, or other entitlement in accordance therewith and with the applicable provisions of law.

(d) Except for fees set by the department pursuant to subdivision (e), whenever this code does not specify whether a fee is to be collected, or does not specify the amount of a fee to be collected, or does not expressly prohibit the adjustment of statutorily imposed fees by the commission by reference to this section for the issuance of any license, tag, permit, application, reservation, or other entitlement, the commission may establish a fee or the amount thereof by regulation. The commission may also provide for the change in the amount of the fee in accordance with Section 713. Fees established by the commission shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department and commission relating to the program with regard to which the fee is paid. The commission may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department and commission, provided that full cost recovery is achieved within five years of the establishment of the fee.

(e) The department may establish fees and may adjust statutorily imposed fees by regulation for the filings, permits, determinations, or other department actions described in Section 711.4, 1002, or 1609. The department also may provide for the change in the amount of the fee in accordance with Section 713. Fees established by the department shall be in an amount sufficient to recover all reasonable administrative and implementation costs of the department relating to the program with regard to which the fee is paid. The department may establish a fee structure that provides for the phasing in of new fees leading up to full cost recovery for the department, provided that full cost recovery is achieved within five years of the establishment of the fee.

(f) Whenever this code provides for a license, tag, permit, reservation, or other entitlement, the commission or department, as applicable, may establish a nonrefundable application fee, not to exceed seven dollars and fifty cents ($7.50) sufficient to pay the department's costs for issuing the license, tag, permit, reservation, or other entitlement and may adjust the application fee in accordance with Section 713.

HISTORY:

Enacted 1957. Amended Stats 1961 ch 510 § 1; Stats 1970 ch 1404 § 1, operative June 1, 1971, ch 1539 § 1, operative June 1, 1971. Stats 1982 ch 1336 § 3; Stats 1989 ch 180 § 1, effective July 19, 1989; Stats 1990 ch 1620 § 3 (AB 2848); Stats 2001 ch 112 § 4 (AB 435); Stats 2012 ch 565 § 5 (SB 1148), effective January 1, 2013.

§ 1050.1. Entitlements valid upon receipt of fee

Any license, permit, tag, stamp, or other entitlement authorized pursuant to this code is not valid until it is filled out completely and accurately and the fee authorized or identified in statute or regulation for that entitlement is received and paid to the department or its agent. It is the responsibility of the user to ensure that the license, permit, tag, stamp, or other entitlement is filled out completely and accurately.

HISTORY:

Added Stats 1990 ch 1706 § 8 (AB 3158). Amended Stats 2007 ch 285 § 13 (AB 1729), effective January 1, 2008.

§ 1050.3. Entitlement purchased through the Internet; Temporary document

Notwithstanding any other provision of this code, the department may issue a temporary document that allows the holder of a license, permit, license tag, license stamp, application, reservation, or other entitlement purchased through the Internet to enjoy the privileges of the entitlement for a period not to exceed 30 calendar days from the date of purchase.

HISTORY:

Added Stats 2008 ch 98 § 1 (AB 2330), effective January 1, 2009.

§ 1050.5. Credit card charge

The department may accept a credit card charge as a method of payment. Any contract executed by the department with credit card issuers or draft purchasers shall be consistent with Section 6159 of the Government Code. Notwithstanding Title 1.3 (commencing with Section 1747) of Part 4 of Division 3 of the Civil Code, the department may impose a surcharge in an amount to cover the cost of providing the credit card service, including reimbursement for any fee or discount charged by the credit card issuer.

HISTORY:
Added Stats 1990 ch 1681 § 1 (AB 3727), effective September 30, 1990. Amended Stats 1992 ch 1005 § 1 (AB 3292).

§ 1050.6. Hunting and fishing license records confidential; Releasing confidential information

(a) Except as otherwise provided in this section, the names and addresses contained in records submitted and retained by the department for the purpose of obtaining recreational fishing and hunting licenses are confidential and are not public records.

(b) Notwithstanding any other provision of law, the department may release the confidential information described in subdivision (a) under the following circumstances:

(1) To an agent or authorized family member of the person to whom the information pertains.

(2) To an officer or employee of another governmental agency when necessary for the performance of his or her official duties.

(3) In accordance with Section 391.

(4) Pursuant to a court order.

HISTORY:
Added Stats 2001 ch 753 § 1.5 (AB 1673).

§ 1050.8. Issuance of collectible and commemorative licenses for purposes of promoting and supporting licensed hunting, fishing, and resource conservation; Conditions

(a) The department may issue collectible, commemorative licenses to any person for purposes of promoting and supporting licensed hunting, fishing, and resource conservation, subject to all of the following:

(1) A commemorative license may be designed and produced as the department may determine and shall be clearly marked and identified as a commemorative license, rendering it invalid for the take of any mammal, bird, fish, reptile, or amphibian.

(2) A commemorative license shall not confer any rights, privileges, or other entitlements to any person purchasing or in possession of such a license.

(3) Subdivision (a) of Section 1052, Section 1053.1, Article 2 (commencing with Section 3031) of Chapter 1 of Part 1 of Division 4, and Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6 do not apply to the purchase of a commemorative license. A commemorative license shall not qualify as evidence required in subdivision (a) of Section 3050.

(b) All funds derived from the sale of commemorative licenses shall be deposited in the Fish and Game Preservation Fund.

HISTORY:
Added Stats 2009 ch 294 § 5 (AB 1442), effective January 1, 2010. Amended Stats 2015 ch 683 § 4 (SB 798), effective January 1, 2016.

§ 1051. Numbering; Statement of expiration date and fee

Licenses of each class shall be uniquely numbered. Every license shall contain its expiration date and the fee for which it is issued. If no fee is either required by this code or established by the commission pursuant to Section 1050, the license shall so indicate.

HISTORY:
Enacted 1957. Amended Stats 1982 ch 1336 § 4; Stats 1994 ch 849 § 2 (SB 2113); Stats 2001 ch 112 § 5 (AB 435).

§ 1052. Transfer, use, or alteration of license, permit, application, or reservation

It is unlawful for any person to do any of the following:

(a) Transfer any license, tag, stamp, permit, application, or reservation.

(b) Use or possess any license, tag, stamp, permit, application, or reservation that was not lawfully issued to the user or possessor thereof or that was obtained by fraud, deceit, or the use of a fake or counterfeit application form.

(c) Use or possess any fake or counterfeit license, tag, stamp, permit, permit application form, band, or seal, made or used for the purpose of evading any of the provisions of this code, or regulations adopted pursuant thereto.

(d) Predate, fail to date, or alter any date of any license, tag, or permit.

(e) Postdate the date of application or the date of issuance of the license, tag, or permit. This subdivision does not apply to the date that a license, tag, or permit is valid.

(f) Alter, mutilate, deface, duplicate, or counterfeit any license, tag, permit, permit application form, band, or seal, or entries thereon, to evade the provisions of this code, or any regulations adopted pursuant thereto.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 557 § 1; Stats 1977 ch 384 § 1; Stats 1979 ch 1076 § 2.5; Stats 1989 ch 180 § 2, effective July 19, 1989; Stats 1996 ch 870 § 5 (AB 3245); Stats 2007 ch 285 § 14 (AB 1729), effective January 1, 2008.

§ 1052.5. Affixing of stamp to license document

Any stamp issued pursuant to this article is not valid unless affixed to the appropriate license document.

HISTORY:
Added Stats 1985 ch 377 § 1. Amended Stats 1990 ch 1681 § 2 (AB 3727), effective September 30, 1990; Stats 2007 ch 285 § 15 (AB 1729), effective January 1, 2008.

§ 1053. [Section repealed 2016.]

HISTORY:
Added Stats 2001 ch 112 § 7 (AB 435). Amended Stats 2001 ch 753 § 2 (AB 1673); Stats 2004 ch 431 § 1 (AB 2760); Stats 2005 ch 22 § 65 (SB 1108), effective January 1, 2006; Stats 2010 ch 148 § 1 (AB 1995), effective January 1, 2011; Repealed Stats 2015 ch 683 § 5 (SB 798), effective January 1, 2016. The repealed section related to the limitation on number of licenses or tags of same class to be issued for same license year and exceptions. See F & G C § 1053.1.

§ 1053.1. Limitation on number of licenses or tags of same class to be issued for same license year; Exceptions; Loss or destruction of stamp or endorsement

(a) A person shall not obtain more than one license, permit, reservation, or other entitlement of the same class, or more than the number of tags authorized by statute or regulation for the same license year, except under one of the following conditions:

(1) Nonresident hunting licenses issued pursuant to paragraphs (4) and (5) of subdivision (a) of Section 3031, and short-term sport fishing licenses issued pursuant to paragraphs (3), (4), and (5) of subdivision (a) of Section 7149, and paragraphs (3), (4), and (5) of subdivision (a) of Section 7149.05.

(2) The loss or destruction of an unexpired license, tag, permit, reservation, or other entitlement, except a stamp or endorsement, as certified by the applicant's signed affidavit and proof, as determined by the department, that the original license, tag, permit, reservation, or other entitlement was issued, and payment of a base fee of five

dollars ($5). The base fee shall be adjusted annually pursuant to Section 713, not to exceed the fee for the original entitlement, as follows:

(A) The adjustment shall apply to the hunting license years commencing on or after July 1, 1996.

(B) The adjustment shall apply to the fishing license years commencing on or after January 1, 1996.

(3) The loss or destruction of a stamp or endorsement imprinted on a base license and payment of a base fee of three dollars ($3) for each stamp or endorsement replaced on any base license document, adjusted annually pursuant to Section 713, not to exceed the fee for the original entitlement. The base fee in this paragraph shall apply to the 2011 license year.

(b) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2010 ch 148 § 2 (AB 1995), effective January 1, 2011.

§ 1053.5. Hunter education equivalency examination; Certificate of equivalency

Applicants for hunting licenses shall first satisfactorily complete a hunter education equivalency examination and obtain a certificate of equivalency as provided by regulations adopted by the commission, or show proof of completion of a hunter education training course, or show a previous year's hunting license.

HISTORY:
Added Stats 1986 ch 817 § 4. Amended Stats 2007 ch 285 § 16 (AB 1729), effective January 1, 2008; Stats 2015 ch 154 § 31 (1527), effective January 1, 2016, ch 683 § 6 (SB 798), effective January 1, 2016; Stats 2016 ch 546 § 22 (SB 1473), effective January 1, 2017.

§ 1054. False statement in obtaining license

(a) It is unlawful to submit, or conspire to submit, any false, inaccurate, or otherwise misleading information on any application or other document offered or otherwise presented to the department for any purpose, including, but not limited to, obtaining a license, tag, permit, or other privilege or entitlement pursuant to this code or regulations adopted thereto.

(b) The department may require the applicant for a license, tag, permit, or other privilege or entitlement to show proof of the statements or facts required for the issuance of any license, tag, permit, or other privilege or entitlement.

(c) For purposes of this section, "department" includes any department employee, license agent, or any person performing the duties of a department employee or license agent.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 17 (AB 1729), effective January 1, 2008.

§ 1054.2. Possession of license while fishing or hunting

Every person while engaged in taking any bird, mammal, fish, amphibian, or reptile shall have on his or her person or in his or her immediate possession, or where otherwise specifically required by law to be kept, any license, tag, stamp, or permit that is required in order to take the bird, mammal, fish, amphibian, or reptile. In the case of a person diving from a boat, the license or permit may be kept on the boat, or in the case of a person diving from shore, the license or permit may be kept within 500 yards of the shore.

HISTORY:
Added Stats 1989 ch 826 § 1. Amended Stats 2007 ch 285 § 18 (AB 1729), effective January 1, 2008.

§ 1054.5. Issuance of and collection of payment for entitlement, document, or authorization

The department may issue and shall collect payment for any entitlement, document, or authorization for which a fee is authorized pursuant to this code.

HISTORY:
Added Stats 1983 ch 1117 § 2.5. Amended Stats 1985 ch 1310 § 1, effective September 30, 1985; Stats 1986 ch 762 § 1; Stats 1992 ch 1370 § 5 (AB 3193), effective October 27, 1992.

§ 1054.8. Policies and procedures for choosing sellers of tags for fundraising

(a) The department shall establish, and keep current, written policies and procedures relating to the application process and the award of hunting tags for fundraising purposes, as authorized pursuant to subdivision (c) of Section 331, subdivision (d) of Section 332, Section 4334, or subdivision (d) of Section 4902.

(b) The policies and procedures shall include, but need not be limited to, all of the following:

(1) The application process and criteria.

(2) A standard application format.

(3) An appeal process.

(4) A requirement that all applications shall remain sealed until on or after a filing date specified by the department.

(c) The department shall make the policies and procedures available to interested parties 30 days before their implementation and shall receive and consider any related recommendations.

(d) The department shall not require a minimum tag sale price, except as otherwise provided in this code.

(e) It is the intent of the Legislature that the department develop policies and procedures that seek to maximize both the revenues received by the department and participation by qualified nonprofit organizations making application to sell the tags as sellers of the tags.

HISTORY:
Added Stats 1992 ch 1094 § 2 (AB 2604). Amended Stats 1993 ch 804 § 6 (AB 1432); Stats 2007 ch 285 § 19 (AB 1729), effective January 1, 2008.

§ 1055. [Section repealed 2016.]

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1887 § 8; Stats 1971 ch 1551 § 1, effective November 17, 1971; Stats 1978 ch 443 § 1; Stats 1982 ch 1336 § 5; Stats 1983 ch 1117 § 3; Stats 1985 ch 1310 § 2, effective September 30, 1985; Stats 1986 ch 762 § 2; Stats 1988 ch 340 § 1; Stats 1989 ch 500 § 1; Stats 1990 ch 1681 § 3 (AB 3727), effective September 30, 1990; Stats 1993 ch 1099 § 2 (AB 1353); Stats 1997 ch 424 § 2 (SB 263); Stats 1998 ch 247 § 2 (AB 2230); Stats 2001 ch 112 § 8 (AB 435); Stats 2004 ch 431 § 2 (AB 2760); Repealed Stats 2015 ch 683 § 7 (SB 798), effective January 1, 2016. The repealed section related to the authorization of license agents for licenses and other entitlements not issued through the Automated License Data System, fees and return of unissued and expired licenses.

§ 1055.1. Authorization of license agents for licenses and other entitlements issued through the Automated License Data System; Fees; Return of unissued and expired licenses

(a) Any person, except a commissioner, officer, or employee of the department, may submit an application to the department to be a license agent to issue licenses, permits, reservations, tags, or other entitlements.

(b) A person shall only be authorized to be a license agent to issue licenses, permits, reservations, tags, and other entitlements, upon the written approval of the department.

(c) The department may provide licenses, permits, reservations, tags, or other entitlements to authorized license agents and shall collect, prior to delivery, an amount equal to the fees for all licenses, permits, reservations, tags and other entitlements

provided. Any license agent who pays the fees prior to delivery for licenses, permits, reservations, tags, or other entitlements is exempt from Sections 1056, 1057, and 1059. Any licenses, permits, reservations, tags, or other entitlements provided pursuant to this subdivision that remain unissued at the end of the license year may be returned to the department for refund or credit, or a combination thereof, within six months of the item expiration date. No credit may be allowed after six months following the last day of the license year.

(d) Authorized license agents shall add a handling charge to the fees prescribed in this code or in regulations adopted pursuant to this code for any license, permit, reservation, tag, and other entitlement issued by the license agent in an amount that is 5 percent of the face value of the item rounded to the nearest five cents ($0.05).

(e) The handling charge added pursuant to subdivision (d) shall be incorporated into the total amount collected for issuing the license, permit, reservation, tag, and other entitlement, but the handling charge shall not be included when determining license fees in accordance with Section 713. A license agent may issue any license, permit, reservation, tag, or other entitlement for any amount up to 10 percent less than the fee prescribed in this code or in regulations adopted pursuant to this code. The license agent shall remit to the department the full amount of the fees as prescribed in this code or in regulations adopted pursuant to this code for all licenses, permits, reservations, tags, and other entitlements issued.

(f) The handling charge required by subdivision (d) is the license agent's only compensation for services. The license agent shall not be entitled to any other additional fee or charge for issuing any license, permit, reservation, tag, or other entitlement authorized pursuant to this section.

(g) The department may designate a nonprofit organization, organized pursuant to the laws of this state, or the California chapter of a nonprofit organization, organized pursuant to the laws of another state, as a license agent for the sale of lifetime licenses issued pursuant to Sections 3031.2 and 7149.2. These licenses may be sold by auction or by other methods and are not subject to the fee limitations prescribed in this code. An agent authorized to issue lifetime sport fishing licenses and lifetime hunting licenses under this subdivision is exempt from subdivisions (d) and (f). The license agent shall remit to the department the fees from the sale of lifetime licenses as defined in Sections 3031.2 and 7149.2.

(h) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:

Added Stats 2001 ch 112 § 9 (AB 435). Amended Stats 2004 ch 431 § 3 (AB 2760); Stats 2015 ch 683 § 8 (SB 798), effective January 1, 2016; Stats 2017 ch 26 § 5 (SB 92), effective June 27, 2017.

§ 1055.3. Issuance and sale of materials pursuant to article

The department may authorize any person other than a commissioner or an officer or employee of the department to issue, as an agent of the department, annual wildlife area passes and native species stamps, and to sell promotional materials and nature study aids pursuant to, and subject to the requirements of, this article. An agent thus authorized may add a handling charge pursuant to subdivisions (f), (g), and (h) of Section 1055 or subdivisions (d), (e), and (f) of Section 1055.1 to the fee prescribed in Article 3 (commencing with Section 1760) of Chapter 7.5 of Division 2 for each annual wildlife area pass or native species stamp issued.

HISTORY:

Added Stats 1988 ch 1539 § 2. Amended Stats 1990 ch 1681 § 4 (AB 3727), effective September 30, 1990; Stats 2015 ch 154 § 32 (AB 1527), effective January 1, 2016.

§ 1055.4. [Section repealed 2016.]

HISTORY:

Added Stats 2004 ch 431 § 4 (AB 2760). Repealed Stats 2015 ch 683 § 9 (SB 798), effective January 1, 2016. The repealed section related to a bad check fee for person authorized under F & G C § 1055.

§ 1055.5. [Section repealed 2016.]

HISTORY:
Added Stats 1985 ch 1310 § 3, effective September 30, 1985. Amended Stats 2001 ch 112 § 10 (AB 435); Stats 2004 ch 431 § 5 (AB 2760); Repealed Stats 2015 ch 683 § 10 (SB 798), effective January 1, 2016. The repealed section related to the remission and retention of fees by agents acting under F & G C § 1055(c) and remittance and reporting deadlines.

§ 1055.6. Remission and retention of fees by agents, document issuance through the Automated License Data System; Remittance and reporting deadlines

(a) Except as provided in subdivision (b), each license agent authorized pursuant to Section 1055.1 shall remit to the department the fees prescribed in this code or in regulations adopted pursuant to this code for all licenses, permits, reservations, tags, and other entitlements by electronic means, such as electronic fund transfer. In order to facilitate the prompt remittance of revenues, the department is authorized to withdraw funds from the bank account of the license agent, including adjustments, by electronic transfer. License agents shall ensure that the total fees required for all licenses, permits, reservations, tags, or other entitlements necessary to perform the electronic transfer are available on the date specified by the license agent contract.

(b) A license agent shall report to the department on or before the end of the next business day of the department any losses of fees received from the issuing of licenses, permits, reservations, tags, or other entitlements.

(c) The license agent may retain not more than fifteen cents ($0.15) of the fee received for each Colorado River special use validation issued pursuant to Section 7180.1 as compensation for services. The license agent shall remit to the department the fees prescribed by Section 7180.1, less any amounts retained under this subdivision, for all Colorado River special use validations issued. The license agent shall remit the net fees as prescribed in subdivision (a).

(d) Except as provided in subdivision (b), any fees not transmitted or made available to the department within seven days following the due date as specified by the department are delinquent, and delinquent fees are subject to interest and penalties prescribed in subdivision (b) of Section 1059. Interest and penalties shall be computed beginning one day following the due date as specified by the department.

(e) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 11 (AB 435). Amended Stats 2002 ch 453 § 2 (AB 3055).

§ 1056. Bond of license agent for failing to transmit required fees or accounting reports

A license agent who fails to transmit the fees or accounting reports required by Section 1055.6 not later than 60 days following the due date as specified by the department may be required to execute, in favor of the department, a bond, payable to the department, in a sum determined by the department in order to continue as a license agent. The bond shall secure the accurate accounting and payment to the department of the funds collected and the performance of the duties imposed upon the license agent by this article.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 1310 § 4, effective September 30, 1985; Stats 2001 ch 112 § 12 (AB 435); Stats 2004 ch 431 § 6 (AB 2760); Stats 2015 ch 683 § 11 (SB 798), effective January 1, 2016.

§ 1057. Segregation of specified entitlement money

All license, tag, permit, reservation, and other entitlement money shall be accounted for separately from other funds of a license agent, and shall at all times belong to the state.

HISTORY:
Enacted 1957. Amended Stats 2001 ch 112 § 13 (AB 435); Stats 2002 ch 453 § 3 (AB 3055).

§ 1058. State to have preferred claim for license fees; Estoppel

In case of an assignment for the benefit of creditors, receivership, or bankruptcy, the state shall have a preferred claim against the license agent's assignee, receiver, or trustee for all moneys owing the state for the issuing of licenses, permits, reservations, tags, and other entitlements as provided in this code and shall not be estopped from asserting that claim by reason of the commingling of funds or otherwise.

HISTORY:
Enacted 1957. Amended Stats 2001 ch 112 § 14 (AB 435); Stats 2009 ch 500 § 45 (AB 1059), effective January 1, 2010; Stats 2015 ch 154 § 33 (AB 1527), effective January 1, 2016.

§ 1059. Sanctions for failure to account for licenses or fees; Collection of unremitted fees

(a) The failure or refusal of any license agent to account for licenses, permits, reservations, tags, and other entitlements, or any fees received from their issuance as required by Section 1055.6 or upon demand by an authorized representative of the department is a misdemeanor.

(b) In addition to subdivision (a), any license agent who fails to remit fees to the department on or before the date required by Section 1055.6 shall pay interest and penalties prescribed for sales and use taxes and, except as otherwise provided in this code, the department shall collect amounts owing under the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code, insofar as they may be applicable, and for those purposes, "board" means the department.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 252 § 1. Stats 1985 ch 1310 § 6, effective September 30, 1985; Stats 2001 ch 112 § 15 (AB 435); Stats 2015 ch 683 § 12 (SB 798), effective January 1, 2016.

§ 1060. [Section repealed 2016.]

HISTORY:
Enacted 1957. Amended Stats 2001 ch 112 § 16 (AB 435); Stats 2004 ch 431 § 7 (AB 2760); Repealed Stats 2015 ch 683 § 13 (SB 798), effective January 1, 2016. The repealed section related to an affidavit for settlement in lieu of lost or destroyed licenses and its requirements and applicability.

§ 1061. License purchase voucher; Document issuance through the Automated License Data System

(a) The department may allow a person to purchase a license voucher as a gift for a licensee when the licensee's complete and accurate personal information, as defined in regulation, is not provided by the license buyer at the time of purchase.

(b) A license purchase voucher entitles the holder of the voucher to redeem it for the specific license, permit, tag, or other privilege or entitlement, and license year for which it was purchased.

(c) A license purchase voucher shall expire and be considered void if not redeemed within the license year for which it was purchased.

(d) A license purchase voucher may be issued and redeemed by a person authorized by the department to issue licenses.

(e) The license agent handling fee, as provided under subdivisions (d), (e), and (f) of Section 1055.1, shall only apply to the sale of the license purchase voucher.

(f) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 17 (AB 435). Amended Stats 2007 ch 285 § 20 (AB 1729), effective January 1, 2008; Stats 2015 ch 154 § 34 (AB 1527), effective January 1, 2016.

§ 1065. Inclusion on the Automated License Data System Online License Service Internet Web site

(a) A nonprofit conservation organization seeking promotion, exposure, and awareness of the organization on the Automated License Data System Online License Service Internet Web site, as feasible, through the display of the organization's logo, or other graphics agreed upon by the organization and the department, to give a prospective license buyer the opportunity to link electronically to the organization's Internet home page, shall submit, by September 30 of each year, a letter to the department providing evidence that the organization meets the criteria set forth in subdivision (c). If the department determines that the nonprofit conservation organization is eligible, it shall include the organization's logo or other graphics in a space with a link to the organization's Internet home page on the Automated License Data System Online License Service Internet Web site for a time period agreed upon by both parties.

(b) The department may impose a charge on a nonprofit conservation organization for inclusion on the Automated License Data System Online License Service Internet Web site pursuant to subdivision (a) that shall not exceed the costs associated with the direct administration of this section.

(c) As used in this section, "nonprofit conservation organization" means an entity that the department determines meets all of the following:

(1) It is a nonprofit organization described in Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)), that is exempt from taxation under Section 501(a) of that code (26 U.S.C. Sec. 501(a)).

(2) It is registered with the Attorney General.

(3) Its goals and objectives are related to the conservation of sport fish or game species.

(4) In at least one of the previous three calendar years, it has entered into, or been obligated under, a contract or other agreement, including, but not limited to, a license, easement, memorandum of understanding, or lease, with the department to perform habitat or other wildlife conservation work, to provide hunting or fishing opportunities for the public, to raise funds on behalf of the department, including, but not limited to, the sale of hunting fundraising tags or related items, or to otherwise provide assistance to the department that is consistent with the department's mission.

(d) The department shall deposit revenues of the charge imposed pursuant to subdivision (b) in the Fish and Game Preservation Fund, to be available, upon appropriation by the Legislature, exclusively to pay all initial and ongoing costs associated with the direct administration of this section, including, but not limited to, a portion of the costs of making changes to the Automated License Data System necessary to implement this section.

(e) The department shall implement the links from the Automated License Data System Online License Service Internet Web site by January 1, 2015, if it determines that date is feasible.

HISTORY:
Added Stats 2012 ch 593 § 1 (SB 1107), effective January 1, 2013.

§ 1068. Grant to nonprofit organization of sea urchin divers

(a) Beginning November 1, 1991, the director shall make a grant in installments to a nonprofit organization of sea urchin divers in an amount not to exceed four hundred thousand dollars ($400,000), for the organization to accomplish the following purposes:

(1) To establish a communications network among sea urchin divers, through a newsletter and such other means as are deemed necessary and appropriate by the

organization, providing divers with information on policies, procedures, statutes, and regulations affecting the sea urchin fishery, meeting announcements, and for other information the department reasonably requests to be transmitted to sea urchin divers.

(2) To establish an education program on the conservation and utilization of sea urchins.

(3) To convene statewide conferences for members of the industry to meet for purposes of strengthening the industry and benefiting industry goals.

The grant shall be paid, upon submission and approval of an annual budget, in quarterly installments, in amounts deemed appropriate by the department, upon the submission to the department of progress reports which demonstrate the continued achievements of the organization toward the intended goals.

(b) Prior to making the grant, the director shall verify from the nonprofit organization's bylaws that it is established for, among other purposes, the protection, conservation, enhancement, and promotion of the sea urchin fishery, and that its membership, including its board of directors, is composed solely of licensed commercial sea urchin divers.

(c) The grant shall be funded from revenues received pursuant to former subdivision (b) of Section 8051.1, as that subdivision read on December 31, 1995. If the department determines that the revenue received from former subdivision (b) of Section 8051.1, as that subdivision read on December 31, 1995, is not sufficient to fund the amount of the grant, including departmental overhead charges which shall be recovered from the revenues received pursuant to that former subdivision (b) of Section 8051.1, the department shall reduce the amount of the grant accordingly. The revenue received pursuant to that former subdivision (b) of Section 8051.1 shall remain available for funding of the grant program pursuant to this subdivision until that revenue is fully encumbered, or the authorized amount of the grant program is expended, whichever event is later.

(d) The revenue received pursuant to former subdivision (b) of Section 8051.1 as it read on December 31, 1995, shall first be used to reimburse the department for departmental overhead charges incurred in administering the grant.

HISTORY:

Added Stats 1991 ch 873 § 2 (AB 642), effective October 12, 1991. Amended Stats 1993 ch 617 § 1 (AB 14), effective September 30, 1993; Stats 1995 ch 615 § 1 (AB 718).

§ 1069. Agreement with Secretary of Food and Agriculture for collection of assessment for marketing council for fish or seafood

The director may enter into an agreement with the Secretary of Food and Agriculture for the collection of an assessment on behalf of any marketing council or commission for fish or seafood organized under the Food and Agricultural Code. The agreement may authorize the department to collect the assessment in conjunction with the collection of landing fees on those species for which the marketing council or commission is organized. The department shall remit the amount of the assessment collected to the Secretary of Food and Agriculture according to the agreement after making the collection. Before remitting the assessments, the department may deduct an administrative fee in an amount agreed to with the Secretary of Food and Agriculture to pay the costs of collection and remission of the assessments. The administrative fees shall be deposited in the Fish and Game Preservation Fund.

HISTORY:

Added Stats 1990 ch 850 § 1 (AB 3274). Amended Stats 2002 ch 973 § 1 (SB 1540); Stats 2017 ch 26 § 6 (SB 92), effective June 27, 2017.

§ 1070. [Section repealed 2016.]

HISTORY:

Added Stats 1985 ch 1310 § 7, effective September 30, 1985. Amended Stats 1990 ch 1681 § 5 (AB 3727), effective

September 30, 1990. Repealed Stats 2015 ch 683 § 14 (SB 798), effective January 1, 2016. The repealed section related to a summary fee remittance and accounting report by department.

ARTICLE 3. STATE FISH HATCHERIES

§ 1120. Establishment and maintenance

The commission shall establish fish hatcheries for stocking the waters of this State with fish. The department shall maintain and operate such hatcheries.

HISTORY:
Enacted 1957.

§ 1121. Indemnification provision in leases for purposes of fish hatchery entered into with public agencies; Insurance

In any lease entered into whereby the state leases from any county, city, irrigation district, or other public agency in this state, real property for the purpose of establishing or maintaining a fish hatchery, the state may agree to indemnify and hold harmless the lessor by reason of the uses authorized by such lease. Insurance may be purchased by the Department of General Services to protect the state against loss or expense arising out of such an agreement.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 371 § 80.

§ 1122. Claim for damages arising from use of leased realty

Any claim for damages arising against the state under Section 1121 shall be presented to the Department of General Services in accordance with Section 905.2 of the Government Code, and if not covered by insurance provided pursuant to Section 1121, the claim shall be payable only out of funds appropriated by the Legislature for that purpose. If the state elects to insure its liability under Section 1121, the Department of General Services may automatically deny the claim.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 137 § 6; Stats 2006 ch 538 § 178 (SB 1852), effective January 1, 2007; Stats 2016 ch 31 § 27 (SB 836), effective June 27, 2016.

§ 1122.5. Lease of Mount Whitney Fish Hatchery facilities; Specified uses; Lease provisions

Notwithstanding any other provision of law, the Director of General Services, with the consent of the department, may lease to the Friends of the Mount Whitney Hatchery, at no cost, and subject to any other terms and conditions that the director deems appropriate, for a term not to exceed 25 years, and with the possibility of renewal, the Mount Whitney Fish Hatchery facilities, or any portion thereof, situated in the County of Inyo. The leased portion of the building shall be used for environmental education purposes and other related activities designed to benefit the hatchery and the community. The lease shall require the Friends of the Mount Whitney Fish Hatchery to permit reasonable public access to the facility, to obtain and maintain liability insurance for the leased portion of the facility, and to maintain the leased portion of the facility at all times. The lease shall provide that any work done on the facility shall be performed in consultation with the State Office of Historic Preservation. The lease shall also provide that the state, agents of the state, the department, and agents of the department shall be held harmless from, and indemnified against, any liability resulting from the acts or omissions of the Friends of the Mount Whitney Fish Hatchery performed in the course of the lease agreement.

HISTORY:
Added Stats 2005 ch 653 § 2 (AB 193), effective January 1, 2006.

§ 1123. Spawn; Purchase, importation and stocking waters

The department may purchase and import spawn or ova of fish suitable for food, and stock with such spawn or ova the waters of this State.

HISTORY:
Enacted 1957.

§ 1123.5. Use of funds for fish purchases

Notwithstanding Section 1120 or any other provision of law, all funds allocated for fish purchases for the department's urban fishing program shall be used to purchase all fish and aquatic organisms by contract, pursuant to the requirements of the Public Contract Code, from private registered aquaculture facilities within the state unless the department determines one of the following conditions exists:

(a) After reasonable notice, the private facilities are unable to provide the specified fish or aquatic organism.

(b) The fish or aquatic organism is infected or diseased.

HISTORY:
Added Stats 1995 ch 810 § 3 (AB 1636).

§ 1124. Taking fish in pond or reservoir used in propagation

It is unlawful to take any fish in any pond, reservoir, or other water-retaining structure belonging to or controlled by the department and used for propagating, raising, holding, protecting, or conserving fish.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 21 (AB 1729), effective January 1, 2008.

§ 1125. Cultural operations and scientific investigations by Secretary of Interior of United States

The Secretary of the Interior of the United States and his duly authorized agents may conduct fish cultural operations and scientific investigations in the waters of this State in such a manner and at such times as may be jointly considered necessary and proper by the secretary and his agents, and the commission.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 1248 § 1.

§ 1126. Construction or repair of bird exclosures

Notwithstanding any other provision of law, department personnel may construct or repair bird exclosures at state owned or operated fish hatcheries. These activities shall not be subject to review by the Public Works Board. Nothing in this section exempts the department from complying with any provision of law governing services performed under contract by noncivil service employees.

HISTORY:
Added Stats 1992 ch 1370 § 6 (AB 3193), effective October 27, 1992.

ARTICLE 4. COUNTY FISH HATCHERIES

§ 1150. Establishment and maintenance; Purchase of spawn

The boards of supervisors of the several counties may establish and maintain fish hatcheries, and may purchase the spawn or ova of fish.

HISTORY:
Enacted 1957.

ARTICLE 5. PRIVATE NONPROFIT HATCHERIES

§ 1170. Permit

The commission may issue a permit, subject to such restrictions and regulations as the commission deems desirable, to a nonprofit organization to construct and operate an anadromous fish hatchery.

HISTORY:
Added Stats 1970 ch 862 § 1.

§ 1171. Financial capacity as prerequisite to issuance of permit

The commission shall not issue a permit unless it determines the nonprofit organization has the financial capability to successfully construct and operate the hatchery and will diligently and properly conduct the operation authorized under the permit.

HISTORY:
Added Stats 1970 ch 862 § 1.

§ 1172. Grounds for denial of permit

No permit will be issued which may tend to deplete the natural runs of anadromous fish, result in waste or deterioration of fish, or when the proposed operation is located on a stream or river below a state or federal fish hatchery or egg-taking station.

HISTORY:
Added Stats 1970 ch 862 § 1.

§ 1173. Status of fish handled in hatchery or in the wild

All fish handled under authority of this article during the time they are in the hatchery or in the wild are the property of the state and when in the wild may be taken under the authority of a sport or commercial fishing license as otherwise authorized for wild fish.

HISTORY:
Added Stats 1970 ch 862 § 1.

§ 1174. Conditions of permit

Any permit granted by the commission pursuant to this article shall contain all of the following conditions:

(a) If after a hearing the commission finds that the operation described in the permit and conducted pursuant to this article is not in the best public interest, the commission may alter the conditions of the permit to mitigate the adverse effects, or may cause an orderly termination of the operation under the permit. An orderly termination shall not exceed a three-year period and shall culminate in the revocation of the permit in its entirety.

(b) If the commission finds that the operation has caused deterioration of the natural run of anadromous fish in the waters covered by the permit, it may require the permittee to return the fishery to the same condition as was prior to issuance of the permit. If the permittee fails to take appropriate action, the commission may direct the department to take the action, and the permittee shall bear any cost incurred by the department.

(c) Prior to release into state waters and at any other time deemed necessary by the department, the fish may be examined by the department to determine that they are

not diseased or infected with any disease which, in the opinion of the department, may be detrimental to the state fishery resources.

HISTORY:
Added Stats 1970 ch 862 § 1. Amended Stats 1986 ch 1244 § 2.

§ 1175. State responsibility for operation

The state shall assume no responsibility for the operation of a hatchery pursuant to this article and shall not be in any manner liable for its operation.

HISTORY:
Added Stats 1970 ch 862 § 1.

ARTICLE 6. COOPERATIVE SALMON AND STEELHEAD REARING FACILITIES

§ 1200. Rearing facilities for salmon and steelhead; Agreements authorized

The department is authorized to enter into agreements with counties, nonprofit groups, private persons, individually or in combination, for the management and operation of rearing facilities for salmon and steelhead. All such agreements shall be in accordance with the policies of the commission and the criteria of the department which govern the operation under such agreements.

The purpose for operating such facilities shall be to provide additional fishing resources and to augment natural runs.

HISTORY:
Added Stats 1975 ch 1173 § 1.

§ 1201. Demonstration of financial ability prior to agreement

An applicant who wishes to enter into an agreement to operate a rearing facility shall demonstrate, to the satisfaction of the department prior to executing such agreement, such applicant's financial ability to properly operate the rearing facility. The department shall develop and specify the means for an applicant to make such a demonstration.

HISTORY:
Added Stats 1975 ch 1173 § 1.

§ 1202. Fish handled or released as property of state

All fish handled or released under authority of this article are the property of the state and may be taken only after their release into the wild and under the authority of a sport or commercial fishing license.

HISTORY:
Added Stats 1975 ch 1173 § 1.

§ 1203. Release of fish in accordance with policy of commission

The release of fish reared in facilities pursuant to this article shall be made in accordance with the policy of the commission.

HISTORY:
Added Stats 1975 ch 1173 § 1.

§ 1204. Funding

The department shall fund the agreements provided for in Section 1200 only on a matching basis with the persons or entities who enter into such agreements. Funds

appropriated for the purposes of this article shall not be used to purchase equipment or for construction.

The department shall be reimbursed from funds appropriated for the purposes of this article for administrative costs, legal costs, and supervisorial costs relating to the execution and supervision of such agreements by the department.

HISTORY:
Added Stats 1975 ch 1173 § 1.

§ 1205. Availability of fish of appropriate size and species under agreement

The department shall, subject to the limitations of appropriate egg sources and funding, make available fish of appropriate size and species to persons or entities who enter into agreements pursuant to this article.

HISTORY:
Added Stats 1975 ch 1173 § 1.

§ 1206. Release of salmon and steelhead at Point Conception

Salmon and steelhead raised pursuant to this article shall be released in streams, rivers, or waters north of Point Conception and upon release shall have unimpeded access to the sea.

HISTORY:
Added Stats 1975 ch 1173 § 1.

ARTICLE 6.5. TRANSGENIC SPECIES OF SALMONIDS

§ 1210. Production and stocking of transgenic species prohibited

(a) The hatchery production and stocking of transgenic species of salmonids is prohibited.

(b) As used in this section, "transgenic" has the same meaning as in Section 1.92 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

HISTORY:
Added Stats 2014 ch 444 § 1 (AB 504), effective January 1, 2015.

ARTICLE 7. NONPROFIT PARTNERSHIPS

§ 1225. Deposit of moneys into the Fish and Game Preservation Fund for conservation programs

All moneys collected or received from gifts or bequests, or from municipal or county appropriations or donations for purposes relating to conservation programs, projects, and activities by the department shall be deposited in the State Treasury to the credit of the Fish and Game Preservation Fund. All moneys deposited pursuant to this section shall be used for purposes relating to conservation programs, projects, and activities by the department.

HISTORY:
Added Stats 2012 ch 559 § 16 (AB 2402), effective January 1, 2013.

§ 1226. Agreements to accept funds or services for conservation programs

(a) The department may enter into one or more agreements to accept funds from any person, nonprofit organization, or other public or private entity for purposes relating to conservation programs, projects, and activities by the department. Any funds received pursuant to this section shall be deposited in the Fish and Game Preservation Fund. The

funds received shall supplement existing resources for purposes relating to conservation programs, projects, and activities by the department.

(b) The department may enter into one or more agreements to accept services from any person, nonprofit organization, or other public or private entity for purposes relating to conservation programs, projects, and activities by the department. Under the direction of the department, these services shall supplement existing staff resources. Agreements for services for the management and operation of department-managed lands shall be subject to the provisions of Section 1745.

HISTORY:
Added Stats 2012 ch 559 § 16 (AB 2402), effective January 1, 2013.

§ 1227. Agreements for assistance in securing long-term private funding sources for conservation programs

Notwithstanding any other law, the department may enter into one or more agreements with a person, nonprofit organization, or other public or private entity, as may be appropriate, to assist the department in its efforts to secure long-term private funding sources for purposes relating to conservation programs, projects, and activities by the department. The authority to enter into an agreement under this section shall include, but not be limited to, the authority to secure donations, memberships, corporate and individual sponsorships, and marketing and licensing agreements.

HISTORY:
Added Stats 2012 ch 559 § 16 (AB 2402), effective January 1, 2013. Amended Stats 2015 ch 154 § 35 (AB 1527), effective January 1, 2016.

CHAPTER 4. WILDLIFE CONSERVATION LAW OF 1947

ARTICLE 1. GENERALLY

§ 1300. Citation of chapter

This chapter is known and may be cited as the Wildlife Conservation Law of 1947.

HISTORY:
Enacted 1957.

§ 1301. Declaration of policy

The preservation, protection and restoration of wildlife within the State is an inseparable part of providing adequate recreation for our people in the interest of public welfare; and it is the policy of the State to acquire and restore to the highest possible level, and maintain in a state of high productivity, those areas that can be most successfully used to sustain wildlife and which will provide adequate and suitable recreation. To carry out these purposes, a single and coordinated program for the acquisition of lands and facilities suitable for recreational purposes, and adaptable for conservation, propagation, and utilization of the fish and game resources of the State, is established.

HISTORY:
Enacted 1957.

ARTICLE 2. THE WILDLIFE CONSERVATION BOARD

§ 1320. Creation; Members

(a) There is in the department the Wildlife Conservation Board, hereafter referred to as the board. The board consists of the president of the commission, the director, the Director of Finance, and four public members appointed pursuant to subdivision (b).

(b)(1) The Speaker of the Assembly and the Senate Committee on Rules shall each appoint a public member to serve on the board and the Governor shall appoint two public members to serve on the board. The public members shall each serve a term of four years. If a vacancy occurs during the term of a public member, the appointing authority shall appoint a person to fill the vacancy for a term of four years.

(2) Each public member shall have demonstrated interest and expertise in land acquisition for conservation purposes, including, but not limited to, any of the following:

(A) Experience with activities that benefit disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.

(B) Experience with a land conservation nonprofit organization, a public agency focused on land conservation, or public land management.

(C) Experience as a professional with expertise in one or more functions of the board, including conservation easements or other interests in real estate designed to further the mission of the board.

HISTORY:
Enacted 1957. Amended Stats 2016 ch 481 § 1 (SB 1089), effective January 1, 2017.

§ 1321. Chairman

The chairman of the board shall be elected by the members of the board.

HISTORY:
Enacted 1957.

§ 1322. Traveling expenses

The members of the board shall receive their actual and necessary traveling expenses, which shall be paid from the Wildlife Restoration Fund.

HISTORY:
Enacted 1957.

§ 1323. Participation in board's activities by appointed legislators

Three Members of the Senate, appointed by the Committee on Rules thereof, and three Members of the Assembly, appointed by the Speaker thereof, shall meet with the board and participate in its activities to the extent that such participation is not incompatible with their respective positions as Members of the Legislature.

HISTORY:
Enacted 1957.

§ 1324. Participating legislators as constituting an interim investigating committee

For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and as such shall have the powers and duties imposed upon such a committee by the Joint Rules of the Senate and the Assembly.

HISTORY:
Enacted 1957.

ARTICLE 3. POWERS AND PURPOSES

§ 1345. Investigation and study of areas within state

(a) The board shall investigate, study, and determine what areas within the state are most essential and suitable for wildlife production and preservation, and will provide

suitable recreation; and shall ascertain and determine what lands within the state are suitable for game propagation, game refuges, bird refuges, waterfowl refuges, game farms, fish hatcheries, game management areas, and what streams and lakes are suitable for, or can be made suitable for, fishing and hunting.

(b) In determining which areas are suitable for fishing and hunting, the board, in consultation with the department, shall take into consideration areas of the state where public access and opportunity for fishing and hunting are most needed.

HISTORY:
Enacted 1957. Amended Stats 2009 ch 294 § 6 (AB 1442), effective January 1, 2010.

§ 1346. Ascertainment of lands suitable for propagation of wild birds

The board shall also ascertain what lands are suitable for providing cover for the propagation and rearing in a wild state of waterfowl, shore birds, and upland birds, and the possibilities of acquiring easements on such lands to provide such cover.

HISTORY:
Enacted 1957.

§ 1347. Determination of land or water acquisitions to effectuate programs

As a result of the studies, the board shall determine what areas, lands, or rights in lands or waters should be acquired by the state in order to effectuate a coordinated and balanced program resulting in the maximum restoration of wildlife in the state and in the maximum recreational advantages to the people of the state.

This section shall become operative on July 1, 1993.

HISTORY:
Added Stats 1992 ch 452 § 2 (SB 452), operative July 1, 1993.

§ 1348. Acquisition of interests in real property and water rights

(a) The board shall authorize the acquisition of real property, rights in real property, water, or water rights as may be necessary to carry out the purposes of this chapter. The board may authorize acquisition by the department, but the department shall not acquire any property pursuant to this subdivision by eminent domain proceedings except that property as may be necessary to provide access roads or rights-of-way to areas to be used for fishing the coastal waters of the Pacific Ocean, and then only if the board of supervisors of the affected county has agreed by resolution to those proceedings for each parcel of land, and has further agreed by resolution to maintain the road or right-of-way. The board may authorize acquisition by the State Public Works Board, which may effect acquisitions pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

(b) For the purposes of this chapter and Chapter 4.1 (commencing with Section 1385), the board may authorize the acquisition of interests in real property and water rights by means of gifts, purchases, leases, easements, the transfer or exchange of property for other property of like value, transfers of development rights or credits, and purchases of development rights, conservation easements, and other interests.

(c) To further implement this chapter and Chapter 4.1 (commencing with Section 1385), the board may authorize the department to do any of the following:

(1) Accept federal grants and receive gifts, donations, subventions, rents, royalties, and other financial support from public or private sources. Proceeds received from any of these sources shall be deposited in the Wildlife Restoration Fund.

(2) Notwithstanding any other provision of law, lease, sell, exchange, or otherwise transfer any real property, interest in real property, or option acquired by or held under the jurisdiction of the board or the department. Except as provided in Section 1355, proceeds from transactions entered into pursuant to this paragraph shall be deposited in the Wildlife Restoration Fund.

(3) Lease degraded potential wildlife habitat real property to nonprofit organizations, local governmental agencies, or state and federal agencies if the lessee agrees to restore the real property to its highest possible wildlife habitat value and maintain the real property at that highest possible wildlife habitat value. If feasible, during the period of lease, the board may require that the real property be open to the public for compatible recreational opportunities. Proceeds from any lease or rental and interest thereon shall be deposited in the Wildlife Restoration Fund.

(4) Acquire former wildlife habitat real property, including riparian habitat real property, restore and sell the real property, or any interest therein, to private owners, local governmental agencies, or state departments and agencies, or exchange the property for other real property, if a written and recorded agreement is first secured to keep and maintain the real property as wildlife habitat in perpetuity. The agreement shall contain a reversion if the real property sold or exchanged is not maintained as wildlife habitat. The agreement containing the reversion shall be set forth in any conveyance transferring any real property, interest in real property, or option subject to this section. Proceeds from the sales shall be deposited in the Wildlife Restoration Fund.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1799 § 2; Stats 1975 ch 1239 § 4, operative July 1, 1976; Stats 1991 ch 762 § 1 (SB 906); Stats 1994 ch 935 § 3 (SB 492); Stats 2009 ch 294 § 7 (AB 1442), effective January 1, 2010.

§ 1348.1. Notice of intent to purchase land

Before the board authorizes the purchase of any land, or any interest therein, the board shall notify all owners of record of adjacent parcels of land of the intent of the board to purchase the land. The notice to the adjacent owners of land and the public notice shall include an explanation of the proposed use of the land by the department.

HISTORY:
Added Stats 1990 ch 1287 § 1 (AB 3419).

§ 1348.2. Purchase price for real property acquired by board

When the board acquires real property, other than by eminent domain, the purchase price for the real property shall not exceed the fair market value of the property, as defined in Section 1263.320 of the Code of Civil Procedure. The fair market value shall be set forth in an appraisal that is (a) prepared by a licensed real estate appraiser, and (b) approved by the Department of General Services.

HISTORY:
Added Stats 1997 ch 309 § 1 (SB 156). Amended Stats 1998 ch 485 § 73 (AB 2803).

§ 1348.3. Procedures for condemning wildlife conservation easements acquired by state agencies

(a) No governmental entity may condemn any wildlife conservation easement acquired by a state agency, except as provided in subdivision (b). As used in this section, the following terms have the following meanings:

(1) "Public use" as used in Article 6 (commencing with Section 1240.510) and Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure means privately owned lands managed for habitat in public trust.

(2) "Wildlife" has the same meaning as set forth in Section 89.5.

(3) "Wildlife conservation easement" means a recorded conservation easement, as defined in Section 815.1 of the Civil Code, that exists or will exist for at least 10 years and that is acquired and held by a state agency and administered primarily for the benefit of wildlife.

(b) Prior to the initiation by a governmental entity of condemnation proceedings against a wildlife conservation easement acquired by a state agency, the governmental

entity shall give notice to the holder of the easement, provide an opportunity for the holder of the easement to consult with the governmental agency, provide the holder of the easement the opportunity to state its objections to the condemnation, and provide a response to the objections. Article 6 (commencing with Section 1240.510) and Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure shall apply to condemnation proceedings initiated by a governmental entity against a wildlife conservation easement acquired by a state agency. In those proceedings, the condemning governmental entity shall be required to prove by clear and convincing evidence that its proposed use satisfies the requirements of Article 6 (commencing with Section 1240.510) or Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure.

HISTORY:
Added Stats 2001 ch 863 § 1 (AB 910). Amended Stats 2015 ch 154 § 36 (AB 1527), effective January 1, 2016.

§ 1349. Farm lands excepted from eminent domain proceedings; Nonapplication of section when owner consents

No farm lands may be acquired under the provisions of this chapter by proceedings in eminent domain except by specific authorization of the Legislature, notwithstanding any provision of Section 1348. Nothing in this section shall apply to any proceedings to acquire farm lands when the owner thereof has consented to, or requested the institution of, such proceedings.

HISTORY:
Enacted 1957.

§ 1350. Construction, management, and maintenance of facilities; Application for and award of specified financial support

(a) The department shall, when authorized by the board, construct in accordance with law such facilities as are suitable for the purpose for which the real property or rights in real property or water, or water rights were acquired. Each completed project shall be managed and maintained by the department.

The department, with the approval of the board, may enter into agreements with any other department or agency of this state, any local agency, or nonprofit organization, to provide for the construction, management, or maintenance of the facilities authorized by the board, and such other department or agency of this state, local agency, or nonprofit organization, and each of them may construct, manage, or maintain those facilities pursuant to the agreement. Work performed by a local agency or nonprofit organization under those agreements is exempt from Chapter 3 (commencing with Section 14250), of Part 5 of Division 3 of Title 2 of the Government Code. However, nothing in this section shall be construed to exempt any work from Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

(b) The department, when authorized by the board, may apply for and accept federal grants, and receive gifts, donations, and other financial support from public or private sources to be used for fish and wildlife habitat enhancement, including riparian habitat restoration projects on real property or waters for which the state obtains an interest. Funds received from any of those sources shall be deposited in the Wildlife Restoration Fund.

(c) The board may award grants or loans to nonprofit organizations, local governmental agencies, federal agencies, and state agencies for the purposes of fish and wildlife habitat restoration, enhancement, management protection and improvement of riparian resources, and for development of compatible public access facilities in the same manner and subject to the same terms and conditions as prescribed in Section 31116 of the Public Resources Code. Proceeds from repayment of any loans and the interest thereon shall be deposited in the Wildlife Restoration Fund.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 754 § 4; Stats 1965 ch 371 § 81; Stats 1991 ch 762 § 2 (SB 906).

§ 1351. Accessibility of areas for recreational purposes

Each recreational area shall be so managed and controlled that the public shall have access to and use of the area for all recreational purposes.

HISTORY:
Enacted 1957.

§ 1352. Wildlife Restoration Fund as available for expenditures; Deposit of federal moneys therein

(a) The money in the Wildlife Restoration Fund, as provided for by Section 19632 of the Business and Professions Code, is available for expenditure under any provision of this chapter.

(b) All federal moneys made available for projects authorized by the board shall be deposited in the Wildlife Restoration Fund. Any unexpended balances of the federal moneys remaining on or after June 30, 1979, in any other fund shall be transferred to the Wildlife Restoration Fund.

(c) Any moneys received in the Wildlife Restoration Fund from leases authorized pursuant to paragraph (2) or (3) of subdivision (c) of Section 1348 shall be expended, upon appropriation, by the department for the purposes of managing, maintaining, restoring, or operating lands owned and managed by the department.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 315 § 1; Stats 1979 ch 683 § 1; Stats 2013 ch 356 § 2 (SB 96), effective September 26, 2013.

§ 1352.5. San Francisco Baylands Restoration Program Account

(a) The San Francisco Baylands Restoration Program Account is hereby established within the Wildlife Restoration Fund, as provided for by Section 19632 of the Business and Professions Code, for the purpose of acquiring and restoring wetlands and lands that may be enhanced to support wetlands in the San Francisco Bay area in order to achieve the objectives of the Baylands Ecosystem Habitat Goals Report (Goals Report).

(b) Funds in the account may be expended by the board to acquire any lands identified in the Goals Report that are available for acquisition subject to the following conditions:

(1) The purchase price shall not exceed the fair market value of the property, as determined by an appraisal conducted pursuant to Section 1348.2. The appraisal shall also consider and describe all the specific requirements and restrictions of relevant state and federal laws, including, but not limited to, the McAteer-Petris Act (Title 7.2 (commencing with Section 66600) of the Government Code), related to the property value and development potential of lands considered for acquisition in the shoreline band of the San Francisco Bay area.

(2) The board has determined any of the following:

(A) Funds are available to implement the recommendations and objectives of the Goals Report for a significant portion of the property to be acquired by the board.

(B) Sufficient funding and authority exists for the long-term maintenance of all levees and dikes and all other land-use management requirements necessary to avoid environmental degradation for the property proposed to be acquired by the board.

(C) The property to be acquired by the board has no unique long-term maintenance requirements or has no land-use management requirements necessary to avoid environmental degradation.

(3) If the board determines to acquire all or a portion of the Cargill property, a matching federal appropriation for the acquisition of the Cargill property shall be

deposited into an account solely for the acquisition of the Cargill property or a portion thereof.

(4) The board has consulted with the State Coastal Conservancy and determined that the proposed acquisition is consistent with most of the goals of the San Francisco Bay Area Conservancy Program, as described in Section 31162 of the Public Resources Code.

(5) The acquisition of the property will not result in any liability to the state for the cleanup of hazardous materials.

(c) "Cargill property," for purposes of this section, means all property owned by the Cargill Salt Division that Cargill proposes to sell to the state and federal governments.

HISTORY:
Added Stats 2000 ch 395 § 2 (AB 398).

§ 1353. Purchase of boats, aircraft or other equipment

The board may purchase such boats, aircraft, or equipment as it deems necessary for the use of the department for the improvement and protection of marine fisheries.

HISTORY:
Enacted 1957.

§ 1354. Acquisition of lands or rights to provide public access to water

The board may authorize the acquisition of such lands or rights in land as may be necessary for the purpose of furnishing public access to lands or waters open to the public for fishing, hunting and shooting. The board may authorize such acquisition by the department.

HISTORY:
Added Stats 1957 ch 754 § 5.

§ 1355. Use of proceeds from sale of real property used as fish hatchery

The net proceeds of the sale or other disposition of real property used as a fish hatchery that has been acquired by or is under the jurisdiction of the board or the department, either in easement or in fee, shall be deposited in the Wildlife Restoration Fund or the Fish and Game Preservation Fund, as determined by the board, and shall be available for acquisition, enhancement, restoration, or construction projects for the benefit of wildlife.

HISTORY:
Added Stats 1994 ch 935 § 4 (SB 492).

§ 1356. Determination of a project's potential to reduce or sequester greenhouse gas emissions

The board, when it prioritizes the use of available funds for proposed acquisitions, with regard to the priority of a proposal to acquire forestland, may consider and take into account the potential of that proposed acquisition to beneficially reduce or sequester greenhouse gas emissions. The board may use policies, protocols, or other relevant information developed by the California Climate Action Registry as a basis for determining a project's potential to reduce or sequester greenhouse gas emissions.

HISTORY:
Added Stats 2006 ch 469 § 1 (SB 1686), effective January 1, 2007.

ARTICLE 3.5. OAK WOODLANDS CONSERVATION ACT

§ 1360. Citation of article

This article shall be known, and may be cited, as the Oak Woodlands Conservation Act.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1361. Definitions

For purposes of this article, the following terms have the following meanings:

(a) "Board" means the Wildlife Conservation Board established pursuant to Section 1320.

(b) "Conservation easement" means a conservation easement, as defined in Section 815.1 of the Civil Code.

(c) "Fund" means the Oak Woodlands Conservation Fund.

(d) "Land improvement" means restoration or enhancement of biologically functional oak woodlands habitat.

(e) "Local government entity" means any city, county, city and county, district, or other local government entity, if the entity is otherwise authorized to acquire and hold title to real property.

(f) "Nonprofit organization" means a tax-exempt nonprofit organization that meets the requirements of subdivision (a) of Section 815.3 of the Civil Code.

(g) "Oak" means any species in the genus Quercus.

(h) "Oak woodlands" means an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover.

(i) "Oak woodlands management plan" means a plan that provides protection for oak woodlands over time and compensates private landowners for conserving oak woodlands.

(j) "Special oak woodlands habitat elements" means multi- and single-layered canopy, riparian zones, cavity trees, snags, and downed woody debris.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1362. Legislative intent

It is the intent of the Legislature that this article accomplish all of the following:

(a) Support and encourage voluntary, long-term private stewardship and conservation of California's oak woodlands by offering landowners financial incentives to protect and promote biologically functional oak woodlands over time.

(b) Provide incentives to protect and encourage farming and ranching operations that are operated in a manner that protects and promotes healthy oak woodlands.

(c) Provide incentives for the protection of oak trees providing superior wildlife values on private lands.

(d) Encourage local land use planning that is consistent with the preservation of oak woodlands, particularly special oak woodlands habitat elements.

(e) Provide guidelines for spending the funds allocated for oak woodlands pursuant to the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code)).

(f) Establish a fund for oak woodlands conservation, to which future appropriations for oak woodlands protection may be made, and specify grant making guidelines.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1363. Oak Woodlands Conservation Fund created

(a) The Oak Woodlands Conservation Fund is hereby created in the State Treasury. The fund shall be administered by the board. Moneys in the fund may be expended, upon appropriation by the Legislature, for the purposes of this article.

(b) Money may be deposited into the fund from gifts, donations, funds appropriated by the Legislature for the purposes of this article, or from federal grants or loans or other sources, and shall be used for the purpose of implementing this article, including administrative costs. Funds from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code)), but not including funds dedicated as matching funds for the federal Forest Legacy Program, shall be deposited in the fund.

(c) To the extent consistent with the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (the Villaraigosa-Keeley Act (Chapter 1.692 (commencing with Section 5096.300) of Division 5 of the Public Resources Code)), the board may use money designated for the preservation and restoration of oak woodlands in the Oak Woodlands Conservation Fund for projects in conjunction with the California Forest Legacy Program (Div. 10.5 (commencing with Sec. 12200) of the P.R.C.)), but only for the purposes specified in this article and only if the following requirements are met:

(1) The Department of Forestry and Fire Protection shall make an initial recommendation to the board.

(2) The board may deny any initial recommendation to the Department of Forestry and Fire Protection. Subsequently, if the department alters an initial proposal, in a manner that the board determines to be significant, the board may withdraw its initial approval of the recommendation at any time during the process.

(d) The purposes for which moneys in the fund may be used include all of the following:

(1) Grants for the purchase of oak woodlands conservation easements. Any entity authorized to hold a conservation easement under Section 815.3 of the Civil Code may hold a conservation easement pursuant to this article. The holder of the conservation easement shall ensure, on an annual basis, that the conservation easement conditions have been met for that year.

(2) Grants for land improvement.

(3) Cost-sharing incentive payments to private landowners who enter into long-term conservation agreements. An agreement shall include management practices that benefit oak woodlands and promote the economic sustainability of farming and ranching operations.

(4) Public education and outreach by local government entities, park and open-space districts, resource conservation districts, and nonprofit organizations. The public education and outreach shall identify and communicate the social, economic, agricultural, and biological benefits of strategies to conserve oak woodlands habitat values, including watershed protection benefits that reduce soil erosion, increase streamflows, and increase water retention and sustainable agricultural operations.

(5) Assistance to local government entities, park and open-space districts, resource conservation districts, and nonprofit organizations for the development and implementation of oak conservation elements in local general plans.

(6) Technical assistance consistent with the purpose of preserving oak woodlands.

(e) Not more than 20 percent of all grants made by the board pursuant to this article may be used for the purposes described in paragraphs (4), (5), and (6) of subdivision (d). Not less than 80 percent of funds available for grants pursuant to this article shall be expended for the purposes described in paragraphs (1), (2), and (3) of subdivision (d).

(f) Notwithstanding any other provision of law, this article governs the expenditure of funds for the preservation of oak woodlands pursuant to paragraph (4) of subdivision (a) of Section 5096.350 of the Public Resources Code.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1363.5. [Section repealed 2013.]

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242), inoperative July 1, 2020, repealed January 1, 2021. Amended Stats 2004 ch

241 § 1 (AB 2635), inoperative July 1, 2020, repealed January 1, 2021; Stats 2005 ch 22 § 66 (SB 1108), effective January 1, 2006; Repealed Stats 2012 ch 728 § 40 (SB 71), effective January 1, 2013. The repealed section related to reporting activities and expenditures of fund.

§ 1364. Availability and purposes of fund

Moneys in the fund shall be available to local government entities, park and open-space districts, resource conservation districts, private landowners, and nonprofit organizations for the purposes set forth in subdivision (d) of Section 1363.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1365. Development and adoption of guidelines and criteria for awarding grants

The board shall develop and adopt guidelines and criteria for awarding grants that achieve the greatest lasting conservation of oak woodlands. The board shall develop these guidelines in consultation with the Department of Forestry and Fire Protection, the Department of Food and Agriculture, the University of California's Integrated Hardwood Range Management Program, conservation groups, and farming and ranching associations. As it applies to the award of grants for the implementation of this article, the board criteria shall specify that easement acquisitions that are the most cost-effective in comparison to the actual resource value of the easement shall be given priority.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1366. Qualifying for grant; Preparation of management plan

(a) To qualify for a grant pursuant to this article, the county or city in which the grant money would be spent shall prepare, or demonstrate that it has already prepared, an oak woodlands management plan that includes a description of all native oak species located within the county's or city's jurisdiction.

(b) To qualify for a grant pursuant to this article, the board shall certify that any proposed easement was not, and is not, required to satisfy a condition imposed upon the landowner by any lease, permit, license, certificate, or other entitlement for use issued by one or more public agencies, including, but not limited to, the mitigation of significant effects on the environment of a project pursuant to an approved environmental impact report or to mitigate a negative declaration required pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000)) of the Public Resources Code.

(c) To qualify for a grant under this article, the applicant shall demonstrate that its proposal provides protection of oak woodlands that is more protective than the applicable provisions of law in existence on the date of the proposal.

(d) A county or city may develop an oak woodlands management plan. A nonprofit corporation, park and open-space district, resource conservation district, or other local government entity may apply to the board for funds to develop an oak woodlands management plan for a county or city, but the county or city shall maintain ultimate authority to approve the oak woodlands management plan.

(e) The process for developing an initial oak woodlands management plan, and the adoption of significant amendments to a plan, as determined by the county or city, are subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(f) A proposal by a local government entity, nonprofit corporation, park and open-space district, private landowner, or resource conservation district for a grant to be expended for the purposes of this article shall be certified by the county or city as being consistent with the oak woodlands management plan of the county or city. If the land covered by the

proposal is in the jurisdiction of more than one county or city, each county or city shall certify that the proposal is consistent with the oak woodlands management plan of each county or city.

(g) If two or more entities seek grant funding from the board pursuant to this article for the same jurisdiction, the county or city shall designate which entity shall lead the efforts to manage oak woodlands habitat in the area.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1367. Memorandum of understanding regarding protection of oak woodlands

On or before April 1, 2002, the board and the Department of Forestry and Fire Protection shall develop a memorandum of understanding regarding the protection of oak woodlands that does all of the following:

(a) If necessary, creates a specific process for working together to use money from the fund in conjunction with the California Forest Legacy Program Act of 2000 (Division 10.5 (commencing with Section 12200) of the Public Resources Code).

(b) Lists elements a county or city shall include in its oak woodlands management plan. Items included in the plan shall assist a county or a city to specify conservation priorities and prevent oak woodlands habitat fragmentation while minimizing the cost and administrative burden associated with developing the plan. The elements may include any or all of the following:

(1) Tree inventory mapping.

(2) Oak canopy retention standards.

(3) Oak habitat mitigation measures.

(4) A procedure to monitor the effectiveness of the plan and to modify the plan as necessary.

(c) Designates an online repository for oak woodlands management plans that will be easily accessible to the public and any other state agency involved in oak woodlands conservation efforts.

(d) Discusses the relationship between oak woodlands conservation efforts under this article and efforts by other state agencies to protect oak woodlands, including efforts to combat sudden oak death, and outlines a plan, as necessary, for coordinating with these agencies.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1368. Effect of conservation easement through use of eminent domain on application for grant

The board may not approve a grant to a local government entity, park and open-space district, resource conservation district, or nonprofit organization if the entity requesting the grant has acquired, or proposes to acquire, an oak woodlands conservation easement through the use of eminent domain, unless the owner of the affected lands requests the owner to do so.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1369. City or county planning department awarded grant required to report to city council or board of supervisors on use of grand funds

A city or county planning department may utilize a grant awarded for the purposes of this article to consult with a citizen advisory committee and appropriate natural resource specialists in order to report publicly to the city council or the board of supervisors on the status of the city's or county's oak woodlands. Each city or county

planning department that receives a grant for the purposes of this article shall report to the city council or to the board of supervisors of the county, as appropriate, on the use of those grant funds within one year from the date the grant is received.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1370. Minimum deposit into fund required

No money may be expended from the fund to adopt guidelines or to administer the fund until at least one million dollars ($1,000,000) is deposited in the fund.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

§ 1372. Effect of article on local policy or land use decisionmaking

Nothing in this article grants any new authority to the board or any other agency, office, or department to affect local policy or land use decisionmaking.

HISTORY:
Added Stats 2001 ch 588 § 2 (AB 242).

ARTICLE 3.7. MONARCH BUTTERFLY AND POLLINATOR RESCUE PROGRAM

§ 1374. Establishment; Purpose; Powers; Grants

(a) The Monarch Butterfly and Pollinator Rescue Program is hereby established and shall be administered by the Wildlife Conservation Board.

(b) The purpose of the program is to recover and sustain populations of monarch butterflies and other pollinators.

(c) To achieve the purposes of the program, the Wildlife Conservation Board may do all of the following:

(1) Provide grants for the restoration or enhancement of California prairie and other appropriate breeding habitat for monarch butterflies and pollinators on private and public lands.

(2) Provide grants for the restoration or enhancement of overwintering monarch butterfly habitat on private and public lands.

(3) Provide technical assistance to grant recipients, including farmers and ranchers, regarding restoration and enhancement of breeding, overwintering, and other appropriate monarch butterfly habitat.

(4) Award grants pursuant to this chapter.

(5) Provide grants for seasonal or temporary habitat improvements.

(6) Provide block grants in which suballocations are made by the grant recipient, with the approval of the Wildlife Conservation Board.

(d) Eligible recipients for grants under the program include private landowners, nonprofit organizations, resource conservation districts, or public agencies.

(e)(1) Before disbursing a grant pursuant to this article, the Wildlife Conservation Board shall develop and adopt project selection and evaluation guidelines. The guidelines shall include monitoring and reporting requirements to help assess grant outcomes.

(2) The Wildlife Conservation Board shall coordinate with the Department of Food and Agriculture in developing program guidelines.

HISTORY:
Added Stats 2018 ch 760 § 2 (AB 2421), effective January 1, 2019.

§ 1374.1. Monarch Butterfly and Pollinator Rescue Fund Account

(a) The Monarch Butterfly and Pollinator Rescue Fund Account is hereby created in the State Treasury. The account shall be administered by the Wildlife Conservation Board. Moneys in the account may be expended, upon appropriation by the Legislature, for the purposes of this article.

(b) Moneys may be deposited into the account from gifts, donations, funds appropriated by the Legislature for the purposes of this article, or from federal grants or other sources, and shall be used for the purpose of implementing this article, including administrative costs.

HISTORY:
Added Stats 2018 ch 760 § 2 (AB 2421), effective January 1, 2019.

ARTICLE 4. COOPERATION WITH UNITED STATES

§ 1375. Cooperation with federal agencies

The board may act either independently or may cooperate with the United States Fish and Wildlife Service, Department of Interior, or any other federal agency in determining any of the questions referred to in this chapter, or in the acquisition and construction of any of the projects mentioned in this chapter.

HISTORY:
Enacted 1957.

CHAPTER 4.1. CALIFORNIA RIPARIAN HABITAT CONSERVATION PROGRAM

§ 1385. Citation of chapter

This chapter shall be known and may be cited as the California Riparian Habitat Conservation Act.

HISTORY:
Added Stats 1991 ch 762 § 3 (SB 906).

§ 1386. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) California's rivers, wetlands, and waterways, and the fisheries and wildlife habitat they provide, are valuable and finite resources that benefit the people of the state and are threatened with deterioration or degeneration that may endanger the natural beauty and productivity of these valuable resources.

(b) The public interest requires the coordinated protection of rivers and riparian resources in order to maintain an equilibrium between the natural endowment of, and manmade alterations to, California's river environment, and in order to preserve the scenic beauty of these natural resources and the recreational and economic benefits they provide.

(c) By virtue of the special conditions and circumstances of the natural ecology, the increasing human populations and needs in the state, and the numerous governmental agencies with an interest in coordinating activities which affect rivers and riparian habitat resources, there is a need for a coordinated state rivers and riparian habitat protection program.

HISTORY:
Added Stats 1991 ch 762 § 3 (SB 906).

§ 1387. Establishment and administration of California Riparian Habitat Conservation Program

The Wildlife Conservation Board shall establish and administer, through the department, the California Riparian Habitat Conservation Program pursuant to this chapter and Chapter 4 (commencing with Section 1300). The purpose and goal of the program is to protect, preserve, and restore riparian habitats throughout the state by the acquisition of interests and rights in real property and waters to the extent deemed necessary to carry out the purposes of the program.

HISTORY:
Added Stats 1991 ch 762 § 3 (SB 906).

§ 1388. Approval of projects and coordination of activities

The board, pursuant to this chapter, shall approve projects to acquire, preserve, restore, and enhance riparian habitat throughout the state, and coordinate its activities undertaken pursuant to this program with other resources protection activities of the board and other state agencies.

HISTORY:
Added Stats 1991 ch 762 § 3 (SB 906).

§ 1389. Preservation and enhancement of riparian habitat as primary concern of Board, department, and specified agencies

The preservation and enhancement of riparian habitat shall be a primary concern of the Wildlife Conservation Board and the department, and of all state agencies whose activities impact riparian habitat, including the Department of Conservation, the Department of Parks and Recreation, the Department of Water Resources, the Department of Forestry and Fire Protection, the State Coastal Conservancy, the California Conservation Corps, the California Tahoe Conservancy, the Santa Monica Mountains Conservancy, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and the State Lands Commission.

HISTORY:
Added Stats 1991 ch 762 § 3 (SB 906). See this section as modified in Governor's Reorganization Plan No. 2 of 2012 § 68. Amended Stats 2013 ch 352 § 94 (AB 1317), effective September 26, 2013, operative July 1, 2013.

§ 1390. Authorization by Board for specified activities of department

In order to accomplish the objectives of this chapter, the Wildlife Conservation Board may authorize the department to do all of the following:

(a) Acquire interests in real property and water rights through gift, purchase, lease, easement, and transfer or exchange of easements, development rights or credits, and other interests in real property.

(b) Coordinate its activities under the program with any governmental program for surplus real property sales in the state.

(c) Award grants and loans to local public agencies, state agencies, federal agencies, and nonprofit organizations for the purposes of this program.

(d) For the purposes of this chapter, "nonprofit organization" means any private, nonprofit organization which qualifies for exempt status under Section 501(c) (3) of the United States Internal Revenue Code of 1986, and has among its principal charitable purposes the preservation of real property for scientific, historic, educational, recreational, scenic or open-space values, the protection of the natural environment, or the preservation and enhancement of fisheries and wildlife or their habitat.

(e) Exercise any authority and comply with requirements contained in Sections 1348 and 1350, as appropriate, to preserve and enhance riparian habitat for purposes of this chapter.

HISTORY:
Added Stats 1991 ch 762 § 3 (SB 906).

§ 1391. Conditions for grants to nonprofit organizations

Grants to nonprofit organizations pursuant to Section 1390 for the acquisition of real property or interests therein shall be subject to all of the following conditions:

(a) The purchase price of any interest in real property acquired by the nonprofit organization may not exceed fair market value as established by an appraisal approved by the Wildlife Conservation Board.

(b) The Wildlife Conservation Board approves the terms under which the interest in real property is acquired.

(c) The interest in real property acquired pursuant to a grant from the Wildlife Conservation Board may not be used as security for any debt to be incurred by the nonprofit organization unless the board approves the transaction.

(d) The transfer of real property acquired pursuant to a grant shall be subject to the approval of the Wildlife Conservation Board and the execution of an agreement between the board and the transferee sufficient to protect the interest of the State of California.

(e) The state shall have a right of entry and power of termination in and over all interests in real property acquired with state funds, which may be exercised if any essential term or condition of the grant is violated.

(f) If the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the state. However, prior to that termination, upon approval of the board, another public agency or nonprofit organization may receive title to all or a portion of that interest in real property by recording its acceptance of title in writing. Any deed or other instrument of conveyance whereby real property is being acquired by a nonprofit organization pursuant to this section shall be recorded and shall set forth the executory interest or right of entry on the part of the state.

HISTORY:
Added Stats 1991 ch 762 § 3 (SB 906).

CHAPTER 4.3. INLAND WETLANDS CONSERVATION PROGRAM

ARTICLE 1. DEFINITIONS

§ 1400. Construction of chapter

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1401. "Fund"

"Fund" means the Inland Wetlands Conservation Fund, created in the Wildlife Restoration Fund by Section 1430.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1402. "Board"

"Board" means the Wildlife Conservation Board created by Section 1320.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1403. "Inland areas"

"Inland areas" means the entire area of California except lands under the jurisdiction of the State Coastal Conservancy, lands within the Santa Monica Mountains Zone, as defined in Section 33105 of the Public Resources Code, and lands under the jurisdiction of the California Tahoe Conservancy Agency in the Lake Tahoe region, as defined in Section 66905.5 of the Government Code.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1404. "Program"

"Program" means the Inland Wetlands Conservation Program, as provided in this chapter.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1405. "Nonprofit organization"

"Nonprofit organization" means an organization described in subsection (c) of Section 501 of the Internal Revenue Code of the United States (26 U.S.C. 501 (c)).

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

ARTICLE 2. THE INLAND WETLANDS CONSERVATION PROGRAM

§ 1410. Creation

The Inland Wetlands Conservation Program is hereby created in the board.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1411. Designation as program for use of allocated funds; Administration; Purpose and goal

(a) The Inland Wetlands Conservation Program is the program designated for use of the funds allocated pursuant to subdivision (f) of Section 2791, as enacted by the California Wildlife Protection Act of 1990. The board shall administer the program.

(b) The board is the agency designated for receipt of the funds allocated pursuant to subdivision (f) of Section 2791, as enacted by the California Wildlife Protection Act of 1990.

(c) The purpose and goal of the program is to carry out the programs of the Central Valley Habitat Joint Venture.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1412. Application for and acceptance of federal grants; Receipt of financial support from public and private sources

The board may apply for and accept federal grants and receive gifts, donations, subventions, rent, royalties, and other financial support from public and private sources for the purposes of the program.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1413. Acceptance of dedication of interests in lands in inland areas

The board may acquire or accept the gift or dedication of fee title, easements, leases, development rights, or other interests in lands in inland areas necessary to carry out the purposes of this chapter.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1414. Coordination of activities with federal land sales

The board shall coordinate its activities in the program with federal surplus land sales in inland areas.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1415. Authority to transfer land; Deposit of proceeds in fund

(a) Notwithstanding any other provision of law, the board may lease, rent, sell, exchange, or otherwise transfer any land, interest in land, or option acquired pursuant to this chapter for the purposes of carrying out the program.

(b) The proceeds from any lease, rental, sale, exchange, or transfer of land, or any interest therein, or option thereon, shall be deposited in the fund.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1416. Grants or loans for purpose of acquiring, restoring, or enhancing upland habitats

The board may make grants or loans to nonprofit organizations, local governmental agencies, and state departments and agencies for the purpose of wetland and associated upland habitat acquisition, restoration, or enhancement in the same manner and subject to the same provisions as prescribed in Section 31116 of the Public Resources Code. Proceeds from repayment of any loans and the interest thereon shall be deposited in the fund.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1417. Lease of nonwetland habitats to organizations under agreement of lessee to undertake restoration

The board may lease nonwetlands habitat in need of restoration to nonprofit organizations, local governmental agencies, and state departments and agencies under agreements in which the lessee agrees to restore the wetlands to their highest possible wetland value and maintain the wetlands at that highest possible wetland value. Proceeds from any lease or rental and interest thereon shall be deposited in the fund.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1418. Acquisition, restoration, and sale of former wetlands and upland habitat

The board may acquire former wetlands and associated upland habitat, restore those areas, and sell the lands, or any interest therein, to private owners, local governmental agencies, and state departments and agencies or exchange them for other land, if an

agreement is secured to keep and maintain the lands as wetlands in perpetuity. The agreement shall contain a reversion if the lands sold or exchanged are not maintained as wetlands. The agreement containing the reversion shall be set forth in any conveyance transferring any land, interest in land, or option subject to this section. Proceeds from the sales or exchanges shall be deposited in the fund.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1419. Return of remaining funds to board

Any funds remaining after an eligible acquisition, restoration, or enhancement of any project under this article shall be returned to the board and shall be deposited in the fund.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1420. Preference in reviewing grant or loan applications

In reviewing any grant or loan application, preference shall be given to projects on wetlands that have a secure source of water or are adjacent to existing wetlands that are protected by public ownership or conservation easements, or both. The board shall give preference to wintering habitat in the central valley.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1421. Preferences in creating new wetlands

When creating new wetlands, the board shall give preference to lands most suitable for this purpose due to elevations, existence of levees, proximity to existing wetlands that are protected, and potential sources of water. These potential sources of water are limited to all of the following:

(a) Water rights which are attached to the land to be restored including groundwater associated with the property.

(b) Water willingly made available for a wetlands conservation project through water conservation.

(c) Recycled water.

(d) Undeveloped water supplies of the state.

(e) Water marketed for wetlands purposes by a willing seller.

(f) Water otherwise made available for wetlands purposes by private, nonprofit, local, and regional entities.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325). Amended Stats 1995 ch 28 § 1.5 (AB 1247).

§ 1422. Report to Governor and Legislature

On or before January 1, 1992, and every third year thereafter, the board shall prepare and submit a report to the Governor and the Legislature on activities of the board under this chapter and other activities relating to wetland acquisition by the board. The report shall include, but is not limited to, the following:

(a) The status of wetland acquisition, restoration, and enhancement projects in inland areas.

(b) The net increase of wetland habitat as a result of projects of the board, including the activities carried out pursuant to the program.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

ARTICLE 3. FINANCES

§ 1430. Inland Wetlands Conservation Fund

The Inland Wetlands Conservation Fund is hereby created in the Wildlife Restoration Fund. The money in the fund shall be solely used to carry out the Inland Wetlands Conservation Program, including the administrative costs of the program.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

§ 1431. Deposit of allocations in fund; Appropriations

The board shall deposit in the fund all allocations made pursuant to subdivision (f) of Section 2791. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the board to carry out this chapter.

HISTORY:
Added Stats 1990 ch 1645 § 2 (AB 4325).

CHAPTER 5. FISH AND GAME MANAGEMENT

ARTICLE 1. GENERALLY

§ 1500. Authority for disposal of property

The department may, with the approval of the commission and the Department of General Services, exchange any portion of the property lying within the boundaries of any area or range referred to in this section for any property within or contiguous to such area or range or may sell any portion of the property within such boundaries and with the proceeds thereof acquire any property within or contiguous to such area or range; provided, that no exchange or sale of property authorized in this section shall materially reduce the total area of any range or area referred to in this section. A copy of each deed of conveyance executed and delivered by the department, and of each deed conveying lands to the state, pursuant to this section shall be delivered to the State Lands Commission.

The provisions of this section apply to all of the following:

(a) The Doyle Deer Winter Range, located in Lassen County.
(b) The Tehama Deer Winter Range, located in Tehama County.
(c) The Honey Lake Waterfowl Management Area, located in Lassen County.
(d) The Imperial Waterfowl Management Area, located in Imperial County.
(e) The Mendota Waterfowl Management Area, located in Fresno County.
(f) The San Jacinto Wildlife Area, located in Riverside County.
(g) The Lakes Earl/Talawa Wildlife Area, located in Del Norte County.
(h) The Santa Rosa Mountains Bighorn Sheep Reserve, located in Riverside County.
(i) The Camp Cady Wildlife Area, located in San Bernardino County.
(j) The Butte Valley Wildlife Area, located in Siskiyou County.
(k) The Ash Creek Wildlife Area, located in Lassen and Modoc Counties.
(*l*) The Moss Landing Wildlife Area, located in Monterey County.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1147 § 1; Stats 1965 ch 371 § 82; Stats 1979 ch 1076 § 3; Stats 1987 ch 1358 § 1.

§ 1500.5. Reservation of mineral deposits

With respect to exchanging or selling any property pursuant to Section 1500, the director, with respect to any parcel containing 15 acres or less, shall except and reserve

to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to any parcel containing more than 15 acres, the director shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits.

The rights to prospect for, mine, and remove shall be limited to those areas of the property conveyed which the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the resources and deposits.

HISTORY:
Added Stats 1987 ch 1358 § 2.

§ 1501. Habitat improvement work

The department may expend such funds as may be necessary for the improvement of property, including nonnavigable lakes and streams, riparian zones, and upland, in order to restore, rehabilitate, and improve fish and wildlife habitat. The improvement activities may include, but are not limited to, the removal of barriers to migration of fish and wildlife and the improvement of hatching, feeding, resting, and breeding places for wildlife.

The department may undertake the services and habitat improvement work on private, public, and public trust lands without the state acquiring an interest in the property.

HISTORY:
Enacted 1957. Amended Stats 1989 ch 1400 § 1, effective October 2, 1989.

§ 1501.5. Contracts for habitat preservation, restoration and enhancement

(a) The department may enter into contracts for fish and wildlife habitat preservation, restoration, and enhancement with public and private entities whenever the department finds that the contracts will assist in meeting the department's duty to preserve, protect, and restore fish and wildlife.

(b) The department may grant funds for fish and wildlife habitat preservation, restoration, and enhancement to public agencies, Indian tribes, and nonprofit entities whenever the department finds that the grants will assist it in meeting its duty to preserve, protect, and restore fish and wildlife.

(c) Contracts authorized under this section are contracts for services and are governed by Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code. No work under this section is public work or a public improvement, and is not subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(d) This section does not apply to contracts for any of the following:

(1) Construction of office, storage, garage, or maintenance buildings.

(2) Drilling wells and installation of pumping equipment.

(3) Construction of permanent hatchery facilities, including raceways, water systems, and bird exclosures.

(4) Construction of permanent surfaced roadways and bridges.

(5) Any project requiring engineered design or certification by a registered engineer.

(6) Any contract, except contracts with public agencies, nonprofit organizations, or Indian tribes that exceed fifty thousand dollars ($50,000) in cost, excluding the cost for gravel, for fish and wildlife habitat preservation, restoration, and enhancement for any one of the following:

(A) Fish screens, weirs, and ladders.

(B) Drainage or other watershed improvements.

(C) Gravel and rock removal or placement.

(D) Irrigation and water distribution systems.
(E) Earthwork and grading.
(F) Fencing.
(G) Planting trees or other habitat vegetation.
(H) Construction of temporary storage buildings.

HISTORY:
Added Stats 1989 ch 1400 § 2, effective October 2, 1989. Amended Stats 1990 ch 1425 § 1 (AB 2849).

§ 1502. Feeding of game birds, mammals or fish

The department, in accordance with policies established by the commission, may provide for the feeding of game birds, mammals, or fish at such times as natural foods therefor are not available, and may provide suitable area or areas for such feeding, and may for those purposes expend such money as is necessary from the Fish and Game Preservation Fund.

HISTORY:
Enacted 1957.

§ 1503. Feeding of deer; Consent of owner of privately owned land required

The department shall provide for the feeding of deer wherever the director finds that natural forage is unavailable therefor due to excessive snow. The times, extent, and manner of such feeding shall be prescribed by the director. In carrying out the provisions of this section neither the department nor the director shall be bound by any policy determination or regulation of the commission, it being the purpose of this section to commit to the independent discretion of the director all matters within the purview of this section.

No deer shall be fed pursuant to this section upon any privately owned land without the consent of the owner or person in lawful possession of such land.

HISTORY:
Enacted 1957.

§ 1504. Reimbursement of county for property operated by state as wildlife management areas; Payment of assessments levied by irrigation, drainage or reclamation districts

(a) When income is derived directly from real property acquired and operated by the state as a wildlife management area, and regardless of whether income is derived from property acquired after October 1, 1949, the department may pay annually to the county in which the property is located an amount equal to the county taxes levied upon the property at the time title to the property was transferred to the state. The department may also pay the assessments levied upon the property by any irrigation, drainage, or reclamation district.

(b) Any delinquent penalties or interest applicable to any of those assessments made before September 9, 1953, are hereby canceled and shall be waived.

(c) Payments provided by this section shall only be made from funds that are appropriated to the department for the purposes of this section.

(d) As used in this section, the term "wildlife management area" includes waterfowl management areas, deer ranges, upland game bird management areas, and public shooting grounds.

(e) Any payment made under this section shall be made on or before December 10 of each year, with the exception of newly acquired property for which payments shall be made pursuant to subdivision (f).

(f) Any payments made for the purposes of this section shall be made within one year of the date title to the property was transferred to the state, or within 90 days from the date of designation as a wildlife management area, whichever occurs first, prorated for

the balance of the year from the date of designation as a wildlife management area to the 30th day of June following the date of designation as a wildlife management area, and, thereafter, payments shall be made on or before December 10 of each year.

(g) Notwithstanding any other law, payments provided under this section shall not be allocated to a school district, a community college district, or a county superintendent of schools.

HISTORY:

Enacted 1957. Amended Stats 1988 ch 525 § 1; Stats 1989 ch 1382 § 1; Stats 2015 ch 24 § 1 (SB 83), effective June 24, 2015.

§ 1505. Power of department to manage spawning areas

(a) The department may manage, control, and protect the portions of the following spawning areas that occupy state-owned lands, to the extent necessary to protect fishlife in these areas:

(1) The Sacramento River between Keswick and Squaw Hill Bridge, near Vina.

(2) The Feather River between Oroville and the mouth of Honcut Creek.

(3) The Yuba River between Englebright Dam and a point approximately four miles east of Marysville.

(4) The American River between Nimbus Dam and a point one mile downstream from Arden Way.

(5) The Mokelumne River between Pardee Dam and Lockeford.

(6) The Stanislaus River between Goodwin Dam and Riverbank.

(7) The Tuolumne River between La Grange Dam and the Geer Road (J14) Bridge.

(8) The Merced River between Crocker Huffman Dam and Cressey.

(9) The Trinity River between Lewiston Dam and the confluence of the North Fork Trinity, near Helena.

(10) The Eel River, from Fort Seward to Lake Pillsbury.

(11) The South Fork Eel River.

(12) The Middle Fork Smith River, from its mouth to Knopti Creek.

(13) The South Fork Smith River, from its mouth to Harrington Creek.

(14) The Salmon River, from its mouth to Rush Creek on the South Fork Salmon River, to Carter Meadow on the east fork of the South Fork Salmon River, and to Finley Camp on the North Fork Salmon River.

(15) Battle Creek, from its mouth to Coleman Powerhouse.

(16) The Cosumnes River, from Meiss Road Bridge to Latrobe Road Bridge.

(17) The Van Duzen River, from Yager Creek to the falls 1½ miles above Bloody Run Creek.

(18) The Mad River, from Blue Lake Bridge to Bug Creek.

(19) The Middle Fork Eel River.

(20) The Mattole River.

(21) The Noyo River.

(22) The Big River, Mendocino County.

(23) The Gualala River.

(24) The Garcia River, Mendocino County.

(b) In the event of a conflict between an action of the department pursuant to this section and the action of another department or agency of the state or another public agency, the action of the Department of Fish and Wildlife taken pursuant to this section shall prevail, except in the event of conflict with the following actions:

(1) An action of the state or regional water quality control boards in establishing waste discharge requirements.

(2) An action required for commerce and navigation.

(3) An action by a public agency that is reasonably necessary for bridge crossings, water conservation or utilization, or flood protection projects, including the construction, maintenance, and operation thereof. This paragraph shall not apply to the

depositing of materials, other than necessary structural materials, in, or the removing of materials from the streambeds in the areas designated in this section, other than as necessary for the installation of structures.

(c) The director shall disapprove a stream alteration of a prime salmon or steelhead spawning area on land of which ownership has not been legally determined, when in the director's opinion the alteration would prove deleterious to fishlife.

HISTORY:

Added Stats 1961 ch 909 § 1. Amended Stats 1971 ch 1405 § 1; Stats 1972 ch 67 § 1; Stats 1973 ch 397 § 1; Stats 1974 ch 352 § 1; Stats 2015 ch 154 § 37 (AB 1527), effective January 1, 2016.

§ 1506. Reduction of mosquito production; Consultation; Best management practices

(a) For purposes of this section, the following definitions apply:

(1) "Managed wetland habitat" means artificially irrigated and intensively managed wetland habitat administered primarily for the benefit of waterfowl and other wetland-dependent species.

(2) "Best management practices" means management strategies jointly developed by the department, the State Department of Public Health, and mosquito abatement and vector control districts, in consultation with the Central Valley Joint Venture, for the ecological control of mosquitoes on managed wetland habitat.

(3) "Wildlife management area" has the same meaning as set forth in subdivision (d) of Section 1504.

(4) "Mosquito abatement and vector control district" has the same meaning as set forth in subdivision (f) of Section 2002 of the Health and Safety Code.

(b)(1) A mosquito abatement and vector control district whose district boundaries include one or more wildlife management areas or a mosquito abatement and vector control district in which vectors and vectorborne diseases from a wildlife management area may enter the district shall periodically, or at least semiannually, notify the department of those areas that are of concern due to the potential for high mosquito populations that may incur associated mosquito control costs.

(2)(A) To reduce mosquito production at those wildlife management areas described in paragraph (1), the department shall consult with local mosquito abatement and vector control districts to identify those areas within wildlife management areas having the highest need for additional mosquito reduction through the implementation of best management practices.

(B) If the wetland occupies land outside the jurisdictional boundaries of a mosquito abatement and vector control district, the department may consult with the State Department of Public Health to determine which best management practices can be implemented in the absence of an organized local mosquito control program.

(c) This section does not affect existing authority of a mosquito abatement and vector control district under Section 2040 of the Health and Safety Code.

(d)(1) A private landowner whose property includes managed wetland habitat located within the boundaries of a mosquito abatement and vector control district may initiate the opportunity to enter into a memorandum of understanding with the district if all of the following criteria are met:

(A) The managed wetland habitat is encumbered by a state or federal conservation easement or similar state or federal voluntary habitat agreement or is protected in perpetuity by state or federal law.

(B) The managed wetland habitat is within the boundaries of the Central Valley Joint Venture, as those boundaries are identified in the Central Valley Joint Venture Implementation Plan.

(2) The goal of a memorandum of understanding entered into pursuant to paragraph (1) is to establish a process to implement best management practices for the

purposes of decreasing mosquito production, providing net cost savings to the landowner, decreasing the application of pesticides, and maintaining or enhancing the waterfowl habitat values on the property.

(3) Notwithstanding paragraph (2) of subdivision (a), the Central Valley Joint Venture, in consultation with mosquito abatement and vector control districts, the department, and the State Department of Public Health, may periodically modify the best management practices in order to best fulfill the purposes described in paragraph (2) of this subdivision.

(4) A memorandum of understanding entered into pursuant to paragraph (1) shall not conflict with the provisions of any applicable conservation easement or other state or federal habitat agreement. The participating private landowner shall ensure that the memorandum of understanding is in compliance with the requirements of this paragraph. Compliance with the requirements of this paragraph is the sole responsibility of the private landowner and subject to enforcement pursuant to the terms contained in any applicable conservation easement or habitat agreement.

HISTORY:
Added Stats 2014 ch 494 § 2 (AB 896), effective January 1, 2015. Amended Stats 2017 ch 446 § 1 (AB 718), effective January 1, 2018.

ARTICLE 2. WILDLIFE MANAGEMENT AREAS AND GAME FARMS

§ 1525. Acceptance of donations and grants; Acquisition of land and water

For the purposes of propagating, feeding and protecting birds, mammals, and fish, and establishing wildlife management areas or public shooting grounds the department, with the approval of the commission, may do all of the following:

(a) Accept, on behalf of the state, donations of birds, mammals, and fish, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

(b) Acquire, by purchase, lease, rental or otherwise, and occupy, develop, maintain, use and administer, land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms, wildlife management areas, or public shooting grounds.

HISTORY:
Enacted 1957. Amended Stats 2000 ch 385 § 1 (AB 2800).

§ 1526. Manner of acquisition

Any property acquired for wildlife management areas or public shooting grounds shall be acquired in the name of the State, and shall, at all times, be subject to such rules and regulations as may be prescribed from time to time by the commission for the occupation, use, operation, protection, and administration of such property as wildlife management areas or public shooting grounds.

HISTORY:
Enacted 1957.

§ 1526.4. Lease on Lower Sherman Island

(a) The department, upon request of the leaseholder, shall extend any existing lease for a recreational homesite on Lower Sherman Island to the holder of any lease of lands under the control of the department, under the following conditions:

(1) The existing lease is between the department and an individual person, partnership, or any affiliated group of two or more persons.

(2) Subject to subdivision (e), the lease may be extended for the natural life of the person who is the leaseholder on January 1, 1991. With respect to any lease to an affiliated group or an association of persons, the lease shall expire upon the death of the last individual who is a leaseholder on January 1, 1991.

(3) The lease, or any interest therein, may not be transferred, bequeathed, hypothecated, encumbered, sublet, assigned, sold, alienated, exchanged, or otherwise changed to the benefit of another party. The leaseholder shall annually certify to the department that he or she has not transferred, bequested, hypothecated, encumbered, sublet, assigned, sold, alienated, or exchanged the lease for consideration or by gift, or otherwise.

(4) If a lease is violated or breached by the leaseholder at any time during the life of the leaseholder, the lease may be terminated by the department within 30 days of the receipt by the department of actual or constructive notice of the breach.

(b) All leases entered into pursuant to this section shall include the following:

(1) A requirement for public access to navigable waters adjacent to the lease properties.

(2) A provision prohibiting the introduction and cultivation of exotic plant species and requiring existing exotic plant species to be removed according to a plan developed by the department.

(3) A provision establishing the right of the department and county employees to inspect the property for the purposes of monitoring and enforcing the conditions of the lease.

(4) A provision requiring the lessee, within 60 days after the lease is extended, and annually thereafter, to provide the department with proof that (A) the lessee will remove the buildings and all ancillary structures and facilities necessary to return the area to a natural condition, or (B) the lessee has made arrangements for the removal of the buildings and all ancillary structures and facilities necessary to return the area to a natural condition, upon termination of the lease.

(c) The department shall develop a plan for the removal of nonnative plants from the island. The plan shall include, at a minimum, the following:

(1) The type and location of nonnative plants.

(2) The relative threat that these plants pose to the natural environment of the island.

(3) A time schedule for the leaseholders to remove the nonnative plants within 200 yards of the leaseholders' structures.

(d) Proceeds from the leases of lands under the control of the department on Lower Sherman Island shall be deposited in the Fish and Game Preservation Fund and used for the purpose of enforcing and monitoring those lease terms and managing the Lower Sherman Island Wildlife area.

(e) The department shall, on or before July 31, 1991, and annually thereafter, review all leases of land subject to subdivision (a) under the control of the department and, as soon as possible, charge the fair market rate on those leases of land.

HISTORY:
Added Stats 1991 ch 323 § 1 (AB 739), effective August 5, 1991.

§ 1527. Acquisition of valid title; Payment; Effect of rights of way or other reservations

The department shall do all things necessary to secure a valid title in the State to the property acquired for wildlife management areas or public shooting grounds but no payment shall be made therefor until the title is satisfactory to the Attorney General, and is vested in the State. The acquisition of the property by the State is not prohibited by reason of rights of way, easements, or reservations which, from their nature, in the opinion of the department, will in no manner interfere with the use of the property for the purpose for which it is acquired.

HISTORY:
Enacted 1957.

§ 1528. Manner of operation of public shooting grounds and wildlife management areas; Fees for use privileges

Lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas shall be operated on a nonprofit basis by the department. Multiple recreational use of wildlife management areas is desirable and that use shall be encouraged by the commission. Except for hunting and fishing purposes, only minimum facilities to permit other forms of multiple recreational use, such as camping, picnicking, boating, or swimming, shall be provided. Except as provided in Section 1765, and to defray the costs associated with multiple use, the commission may determine and fix the amount of, and the department shall collect, fees for any use privileges. However, tours by organized youth and school groups are exempt from the payment of those fees. Only persons holding valid hunting licenses may apply for or obtain shooting permits for public shooting grounds, state marine (estuarine) recreational management areas, or wildlife management areas.

HISTORY:
Enacted 1957. Amended Stats 1969 ch 988 § 1; Stats 1988 ch 1539 § 3; Stats 2000 ch 385 § 2 (AB 2800).

§ 1529. Distribution of output of state game farm

The output of any state game farm shall be distributed on public lands or where the department determines that the output will receive adequate protection and be most likely to thrive and multiply.

HISTORY:
Enacted 1957.

§ 1530. Entry on or taking of bird or mammal from wildlife management area or public shooting grounds; Regulation

Except in accordance with the regulations of the commission, it is unlawful to enter upon any wildlife management areas or public shooting grounds established under the provisions of this article, or to take therein any bird or the nest or eggs thereof, or any mammal.

The taking of birds and mammals on public shooting grounds shall be regulated by the commission by regulation as provided in this section. Prior to making any such regulation, the commission shall, at an open meeting of the commission, publicly announce the contents of the regulation it proposes to make and at the same time specify a subsequent open meeting to be held not less than 30 days thereafter at which it will take final action on the proposed regulation.

HISTORY:
Enacted 1957.

ARTICLE 3. SHARED HABITAT ALLIANCE FOR RECREATIONAL ENHANCEMENT PROGRAM

§ 1570. Legislative intent

In establishing the Shared Habitat Alliance for Recreational Enhancement ("SHARE") program, it is the intent of the Legislature to encourage private landowners to voluntarily make their land available to the public for wildlife-dependent recreational activities. The Legislature further encourages private landowners to use any funds received from the SHARE program for wildlife conservation purposes on their property. The SHARE program shall be a collaborative effort by all participants to facilitate

wildlife-dependent recreational activities on private land at minimal expense to the state. The Legislature declares that interested nongovernmental organizations are the key to developing, planning, and implementing the SHARE program.

HISTORY:
Added Stats 2003 ch 758 § 2 (AB 396). Amended Stats 2004 ch 183 § 110 (AB 3082).

§ 1571. Definitions

For purposes of this article, the following definitions apply:

(a) "Agreement" includes, but is not limited to, a contract, license, easement, memorandum of understanding, or lease.

(b) "Partnership" means a collaborative effort involving financial or in-kind contributions by nongovernmental organizations, the department, and other interested parties working in concert to achieve the goals of the program.

(c) "Private landowner" means an owner of any possessory interest in real property that is suitable for use for wildlife-dependent recreational activities.

(d) "Program" means the SHARE program established under this article.

(e) "Wildlife-dependent recreational activities" means hunting, fishing, wildlife observation, conservation education, and related outdoor activities through means that are consistent with applicable law.

HISTORY:
Added Stats 2003 ch 758 § 2 (AB 396). Amended Stats 2009 ch 394 § 1 (AB 1423), effective January 1, 2010.

§ 1572. Shared Habitat Alliance for Recreational Enhancement (SHARE) program established; SHARE Account; Regulations and fees; Funding; Use of funds

(a) There is hereby established the Shared Habitat Alliance for Recreational Enhancement (SHARE) program. The department, in partnership with nonprofit conservation groups and other interested nongovernmental organizations that seek to increase and enhance wildlife-dependent recreational opportunities, shall work cooperatively to implement the program in order to facilitate public access to private lands in a voluntary and incentive-based manner.

(b) The department shall adopt regulations for the management and control of wildlife-dependent recreational activities on land that is subject to the program. The department shall report to the commission annually on the status of the program and maintain data on the types of wildlife-dependent recreational activities preferred by landowners and participants in the program.

(c)(1) The SHARE Account is hereby established in the Fish and Game Preservation Fund. Money deposited in the account from the sources cited in this subdivision shall only be used for the purposes set forth in this article.

(2) Consistent with existing law, the department may establish and impose user fees, use existing hunting and fishing license stamp or tag fees from the Fish and Game Preservation Fund, or apply for grants, federal funds, or other contributions from other sources to fund the program. General Fund moneys shall not be used for the program.

(3) All funding generated pursuant to paragraph (2) from grants, federal funds, or other sources, where the person or entity providing the funds specifically designates in writing prior to the time of transmittal of the funds to the department that the funds are intended solely for the purposes of the program, and any user fees assessed by the department specifically for the program, shall be deposited in the SHARE Account in the Fish and Game Preservation Fund. The moneys in the account, upon appropriation by the Legislature, shall be available for expenditure by the department solely for programs and projects to benefit the program and for the direct costs and administrative overhead incurred solely in carrying out the department's program activities.

Funds may also be used for wildlife conservation purposes on lands subject to an agreement under the program. Administrative overhead shall be limited to the reasonable costs associated with the direct administration of the program. The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met.

(d) The department may make grants to, or enter into agreements with, nonprofit organizations, governmental entities, or any other entities for the use of the funds described in subdivision (c) when the department finds that the agreements are necessary for carrying out the purposes of this article.

(e) The program is not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(f) The department may reimburse a nonprofit organization, a private landowner, or other entity for its costs related to the implementation of the program.

HISTORY:

Added Stats 2003 ch 758 § 2 (AB 396). Amended Stats 2004 ch 183 § 111 (AB 3082); Stats 2007 ch 285 § 21.4 (AB 1729), effective January 1, 2008; Stats 2009 ch 394 § 2 (AB 1423), effective January 1, 2010.

§ 1573. Voluntary agreements with landowners; Compensation; Confidentiality; Cancellation or modification; Protections and remedies; Waiver of liability as prerequisite to using land subject to agreement; Priorities

(a)(1) The department may enter into a voluntary agreement with a private landowner, including an agreement under which the private landowner is compensated by the department for public use of the land, to provide public access for wildlife-dependent recreational activities. Any financial compensation offered to a private landowner pursuant to this paragraph shall not exceed thirty dollars ($30) per acre, or fifty dollars ($50) per public participant per day, and shall be commensurate with the quality of the wildlife-dependent recreational opportunities that are to be provided on the property.

(2) The department also may enter into a voluntary agreement with a private landowner to facilitate access to adjacent public lands or waters, upon approval of the governmental entity that holds title to the land. This article does not authorize a private landowner to exclude persons not participating in the SHARE program from using public land for wildlife-dependent recreational activities.

(3) The department may enter into a voluntary agreement with a governmental entity to provide wildlife-dependent recreational opportunities to the public on public lands or waters.

(b) Notwithstanding any other provision of law, the department shall keep confidential and not release to the public any personal identifying information received from a private landowner participating in the program, unless the director determines that release of that information is necessary for the administration of the program.

(c) Either the department or a private landowner may, in writing, modify or cancel an agreement executed under the program, at any time. Upon cancellation or modification of the agreement by either party, the other party shall be reimbursed for any lost revenues or expenses incurred pursuant to the terms of the original agreement.

(d) In addition to any other protection or remedy under law, the protections and remedies afforded to an owner of an estate or any other interest in real property under Section 846 of the Civil Code shall apply to a private landowner, nonprofit organization, or other entity participating in the program.

(e) The department shall require every person who wants to use land that is subject to an agreement pursuant to subdivision (a), prior to using that land, to sign a waiver that releases the department or any private group, nonprofit organization, governmental entity, or other organization involved in administering the program, and the private landowner, from liability for any injury or damage that arises from, or is connected with

that person's use of the land. Upon request, the department shall provide a copy of the waiver to any of the parties to the waiver.

(f) An agreement executed pursuant to the program shall not authorize the take of nongame species by public participants in the program. An agreement may not authorize a private landowner to transfer a hunting or fishing license, stamp, or tag to another person, unless otherwise authorized by law.

(g) In determining which lands may be included in the program, the department shall give priority to those lands with the greatest wildlife habitat value. To the extent possible, the department shall also include in the program private lands that permit multiple wildlife-dependent recreational activities, in order to take into consideration the participation of the general public in the program.

HISTORY:
Added Stats 2003 ch 758 § 2 (AB 396). Amended Stats 2009 ch 394 § 3 (AB 1423), effective January 1, 2010.

§ 1574. Revocation of public access privilege; Enforcement of regulations

(a) The department may revoke, for up to three years, the public access privilege granted pursuant to this article, of any person who violates any provision of this code or regulation adopted pursuant to this code while on any property that is subject to an agreement under the program.

(b) The department shall enforce all applicable regulations established by the commission or the department on property that is subject to an agreement executed under the program.

HISTORY:
Added Stats 2003 ch 758 § 2 (AB 396). Amended Stats 2009 ch 394 § 4 (AB 1423), effective January 1, 2010.

ARTICLE 3.5. COOPERATIVE HUNTING AREAS

§ 1575. Cooperative hunting areas

To provide added protection for landowners from the depredation of trespassers and to provide additional hunting opportunities to public hunters and private landowners, the department may contract with landowners for the establishment of cooperative hunting areas according to terms as the respective parties may agree upon, subject to the following conditions:

(a) Cooperative deer and elk hunting areas shall be at least 5,000 acres in size, including the open, restricted, and portions thereof, and may consist of the adjoining lands of one or more owners.

(b) The boundaries of each area shall be posted by the department with a sign stating legal hunting may be allowed in the area if written permission is obtained from the owner or their duly authorized agent.

(c) The department shall enforce the trespass provisions of the Penal Code and the provisions of this code within these areas.

(d) The commission may establish regulations and set fees for the management and control of hunting in these areas.

HISTORY:
Added Stats 2007 ch 285 § 21.5 (AB 1729), effective January 1, 2008.

ARTICLE 4. ECOLOGICAL RESERVES

§ 1580. Acquisition of land and water for establishment of ecological reserve

The Legislature hereby declares that the policy of the state is to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types,

both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools for the future use of mankind through the establishment of ecological reserves. For the purpose of establishing those ecological reserves, the department, with the approval of the commission, may obtain, accept on behalf of the state, acquire, or control, by purchase, lease, easement, gift, rental, memorandum of understanding, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for the purpose of establishing ecological reserves. Any property obtained, accepted, acquired, or controlled by the department pursuant to this article may be designated by the commission as an ecological reserve. The commission may adopt regulations for the occupation, utilization, operation, protection, enhancement, maintenance, and administration of ecological reserves. The ecological reserves shall not be classified as wildlife management areas pursuant to Section 1504 and shall be exempt from Section 1504.

HISTORY:
Added Stats 1968 ch 1257 § 1. Amended Stats 1977 ch 1181 § 1; Stats 1981 ch 342 § 1; Stats 1985 ch 635 § 1; Stats 1993 ch 667 § 1 (AB 521); Stats 2000 ch 385 § 3 (AB 2800).

§ 1581. Acquisition to be in name of state; Governing rules and regulations

Any property acquired in fee for ecological reserves shall be acquired in the name of the state, and shall, at all times, be subject to such rules and regulations as may be prescribed from time to time by the commission for the occupation, use, operation, protection, and administration of such property as ecological reserves.

HISTORY:
Added Stats 1968 ch 1257 § 1.

§ 1582. Valid title to be acquired in fee; Acquisition by eminent domain prohibited

The department shall do all things necessary to secure a valid title in the state to the property acquired in fee for ecological reserves but no payment shall be made therefor until the title is vested in and satisfactory to the state. No such land will be acquired by eminent domain.

HISTORY:
Added Stats 1968 ch 1257 § 1.

§ 1583. Entry upon reserves or taking of plant or animal life

Except in accordance with the regulations of the commission it is unlawful to enter upon any ecological reserves established under the provisions of this article, or to take therein any bird or the nest or eggs thereof, or any mammal, fish, mollusks, crustaceans, amphibia, reptiles or any other form of plant or animal life.

HISTORY:
Added Stats 1968 ch 1257 § 1.

§ 1584. "Ecological reserve"

As used in this article, "ecological reserve" means land or land and water areas that are designated as an ecological reserve by the commission pursuant to Section 1580 and that are to be preserved in a natural condition, or which are to be provided some level of protection as determined by the commission, for the benefit of the general public to observe native flora and fauna and for scientific study or research.

HISTORY:
Added Stats 1968 ch 1257 § 1. Amended Stats 1985 ch 635 § 2; Stats 1993 ch 667 § 2 (AB 521).

§ 1585. Facilities and programs in ecological reserves

Notwithstanding Section 1580, which sets forth the primary purposes of ecological reserves, the department may construct facilities and conduct programs in ecological reserves it selects to provide natural history education and recreation if those facilities and programs are compatible with the protection of the biological resources of the reserve. As provided in Sections 1764 and 1765, the department may control access, use, and collect fees for selected ecological reserves.

HISTORY:
Added Stats 1988 ch 1539 § 4.

§ 1586. Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund

The Upper Newport Bay Ecological Reserve Maintenance and Preservation Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated, without regard to fiscal years, to the department for purposes related to the maintenance and preservation of the Upper Newport Bay Ecological Reserve.

HISTORY:
Added Stats 1998 ch 777 § 1 (SB 1546). Amended Stats 1999 ch 66 § 1 (AB 1103), effective July 6, 1999.

§ 1587. Mirage Trail opening to recreational hiking [Repealed effective January 1, 2028]

The Mirage Trail within the Magnesia Spring Ecological Reserve shall be open nine months of the year during the months of May to January, inclusive, and closed for three months during the months of February to April, inclusive, to recreational hiking if the commission determines that all of the following conditions are met:

(a) Local public agencies or other nonstate entities will assume complete financial responsibility for the following as determined to be necessary by the commission:

(1) Fencing to dissuade hikers from traversing beyond the trail and into sensitive Peninsular bighorn sheep habitat.

(2) Signage and educational materials to educate hikers about Peninsular bighorn sheep.

(b) A single entity has been designated to fulfill the financial arrangements and other terms and conditions determined by the commission to be necessary pursuant to subdivision (a).

(c) The entity designated pursuant to subdivision (b) has committed to expend at least one hundred thousand dollars ($100,000) by January 1, 2018, to monitor the Peninsular bighorn sheep, consistent with the Coachella Valley Multiple Species Habitat Conservation Plan.

(d) The commission shall, beginning January 1, 2020, and by January 1 every two years thereafter, at a public hearing, assess compliance with the requirements of this section and post its findings and any recommendations on its Internet Web site.

(e) This section shall remain in effect only until January 1, 2028, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2028, deletes or extends that date.

HISTORY:
Added Stats 2012 ch 527 § 1 (AB 880), effective January 1, 2013, repealed January 1, 2018. Amended Stats 2013 ch 76 § 63 (AB 1097), effective January 1, 2014, repealed January 1, 2018, ch 594 § 1 (AB 1097), effective January 1, 2014, repealed January 1, 2018 (ch 594 prevails); Stats 2017 ch 315 § 1 (AB 661), effective January 1, 2018, repealed January 1, 2028.

ARTICLE 5. CLASSIFICATION OF MARINE MANAGED AREAS WITH HARVEST RESTRICTIONS

§ 1590. Duties of commission

The commission may designate, delete, or modify state marine recreational management areas established by the commission for hunting purposes, state marine reserves, and state marine conservation areas, as delineated in subdivision (a) of Section 36725 of the Public Resources Code. The commission shall consult with, and secure concurrence from, the State Park and Recreation Commission prior to modifying or deleting marine reserves and marine conservation areas designated by the State Park and Recreation Commission. The commission shall not delete or modify state marine recreational management areas designated by the State Park and Recreation Commission.

HISTORY:
Added Stats 2000 ch 385 § 4 (AB 2800). Amended Stats 2003 ch 610 § 5 (AB 1770).

§ 1591. Classification guidelines

(a) The Marine Managed Areas Improvement Act (Chapter 7 (commencing with Section 36600) of Division 27 of the Public Resources Code) establishes a uniform classification system for state marine managed areas and is incorporated herein by reference. Any proposals for marine protected areas made after January 1, 2002, shall follow the guidelines set forth in that act. Pursuant to Section 36750 of the Public Resources Code, all marine protected areas in existence and not reclassified in accordance with the Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3) on January 1, 2002, shall be reclassified by the State Interagency Coordinating Committee established pursuant to Section 36800 of the Public Resources Code into one of the following classifications:

(1) State marine reserve.
(2) State marine park.
(3) State marine conservation area.

(b) State marine recreational management areas established by the commission for hunting purposes, state marine reserves, and state marine conservation areas shall be designated, deleted, or modified by the commission pursuant to that act. The restrictions and allowable uses applicable to those areas are as set forth in that act.

HISTORY:
Added Stats 2000 ch 385 § 4 (AB 2800). Amended Stats 2003 ch 610 § 5 (AB 1770).

CHAPTER 6. FISH AND WILDLIFE PROTECTION AND CONSERVATION

§ 1600. Legislative findings and declarations

The Legislature finds and declares that the protection and conservation of the fish and wildlife resources of this state are of utmost public interest. Fish and wildlife are the property of the people and provide a major contribution to the economy of the state, as well as providing a significant part of the people's food supply; therefore their conservation is a proper responsibility of the state. This chapter is enacted to provide conservation for these resources.

HISTORY:
Added Stats 2003 ch 736 § 2.

§ 1601. Definitions

The following definitions apply to this chapter:

(a) "Agreement" means a lake or streambed alteration agreement.

(b) "Day" means calendar day.

(c) "Emergency" has the same definition as in Section 21060.3 of the Public Resources Code.

(d) "Entity" means any person, state or local governmental agency, or public utility that is subject to this chapter.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1602. Conditions allowing for substantial diversion or obstruction of natural flow, or for change or use of any material from bed, channel, or bank of river, stream, or lake

(a) An entity shall not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

(1) The department receives written notification regarding the activity in the manner prescribed by the department. The notification shall include, but is not limited to, all of the following:

(A) A detailed description of the project's location and a map.

(B) The name, if any, of the river, stream, or lake affected.

(C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.

(D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(E) A copy of any other applicable local, state, or federal permit or agreement already issued.

(F) Any other information required by the department.

(2) The department determines the notification is complete in accordance with Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, irrespective of whether the activity constitutes a development project for the purposes of that chapter.

(3) The entity pays the applicable fees, pursuant to Section 1609.

(4) One of the following occurs:

(A)(i) The department informs the entity, in writing, that the activity will not substantially adversely affect an existing fish or wildlife resource, and that the entity may commence the activity without an agreement, if the entity conducts the activity as described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(ii) Each region of the department shall log the notifications of activities where no agreement is required. The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this clause may be renewed annually.

(B) The department determines that the activity may substantially adversely affect an existing fish or wildlife resource and issues a final agreement to the entity that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.

(C) A panel of arbitrators issues a final agreement to the entity in accordance with subdivision (b) of Section 1603, and the entity conducts the activity in accordance with the agreement.

(D) The department does not issue a draft agreement to the entity within 60 days from the date notification is complete, and the entity conducts the activity as

described in the notification, including any measures in the notification that are intended to protect fish and wildlife resources.

(b)(1) If an activity involves the routine maintenance and operation of water supply, drainage, flood control, or waste treatment and disposal facilities, notice to and agreement with the department shall not be required after the initial notification and agreement, unless the department determines either of the following:

(A) The work described in the agreement has substantially changed.

(B) Conditions affecting fish and wildlife resources have substantially changed, and those resources are adversely affected by the activity conducted under the agreement.

(2) This subdivision applies only if notice to, and agreement with, the department was attained prior to January 1, 1977, and the department has been provided a copy of the agreement or other proof of the existence of the agreement that satisfies the department, if requested.

(c) Notwithstanding subdivision (a), the department is not required to determine whether the notification is complete or otherwise process the notification until the department has received the applicable fees.

(d)(1) Notwithstanding subdivision (a), an entity shall not be required to obtain an agreement with the department pursuant to this chapter for activities authorized by a license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture for the term of the license or renewed license if all of the following occur:

(A) The entity submits all of the following to the department:

(i) The written notification described in paragraph (1) of subdivision (a).

(ii) A copy of the license or renewed license for cannabis cultivation issued by the Department of Food and Agriculture that includes the requirements specified in Section 26060.1 of the Business and Professions Code.

(iii) The fee specified in paragraph (3) of subdivision (a).

(B) The department determines in its sole discretion that compliance with the requirements specified in Section 26060.1 of the Business and Professions Code that are included in the license will adequately protect existing fish and wildlife resources that may be substantially adversely affected by the cultivation without the need for additional measures that the department would include in a draft streambed alteration agreement in accordance with Section 1603.

(C) The department notifies the entity in writing that the exemption applies to the cultivation authorized by the license or renewed license.

(2) The department shall notify the entity in writing whether the exemption in paragraph (1) applies to the cultivation authorized by the license or renewed license within 60 days from the date that the notification is complete and the fee has been paid.

(3) If an entity receives an exemption pursuant to this subdivision and fails to comply with any of the requirements described in Section 26060.1 of the Business and Professions Code that are included in the license, the failure shall constitute a violation under this section, and the department shall notify the Department of Food and Agriculture of any enforcement action taken.

(e) It is unlawful for any entity to violate this chapter.

HISTORY:

Added Stats 2003 ch 736 § 2 (SB 418). Amended Stats 2016 ch 32 § 58 (SB 837), effective June 27, 2016; Stats 2016 ch 340 § 1.5 (SB 839), effective September 13, 2016; Stats 2017 ch 27 § 108 (SB 94), effective June 27, 2017.

§ 1603. Determination of affect of activity; Draft agreement; Arbitration

(a) After the notification is complete, the department shall determine whether the activity may substantially adversely affect an existing fish and wildlife resource. If the department determines that the activity may have that effect, the department shall

provide a draft agreement to the entity within 60 days after the notification is complete. The draft agreement shall describe the fish and wildlife resources that the department has determined the activity may substantially adversely affect and include measures to protect those resources. The department's description of the affected resources shall be specific and detailed, and the department shall make available, upon request, the information upon which its determination of substantial adverse effect is based. Within 30 days of the date of receipt of the draft agreement, the entity shall notify the department whether the measures to protect fish and wildlife resources in that draft agreement are acceptable. If the department's measures are not acceptable, the entity shall so notify the department in writing and specify the measures that are not acceptable. Upon written request, the department shall meet with the entity within 14 days of the date the department receives the request for the purpose of resolving any disagreement regarding those measures. If the entity fails to respond, in writing, within 90 days of receiving the draft agreement, the department may withdraw that agreement, and require the entity to resubmit a notification to the department before commencing the activity.

(b) If mutual agreement is not reached at any meeting held pursuant to subdivision (a), the entity may request, in writing, the appointment of a panel of arbitrators to resolve the disagreement. A panel of arbitrators shall be appointed within 14 days of receipt of the written request. The panel of arbitrators shall be comprised of three persons, as follows: one representative selected by the department; one representative selected by the affected entity; and a third person mutually agreed upon by the department and the entity, who shall serve as the panel chair. If the department and the entity cannot agree on the third person within that 14-day period, the third person shall be appointed in the manner provided by Section 1281.6 of the Code of Civil Procedure. The third person shall have scientific expertise relevant to the fish and wildlife resources that may be substantially adversely affected by the activity proposed by the entity and to the measures proposed by the department to protect those resources. The authority of the panel of arbitrators is limited to resolving disagreements regarding the measures specified in subdivision (a), and subdivisions (b) and (g) of Section 1605, and, in the case of an extension, whether or not the agreement needs to be modified to protect fish and wildlife resources. Any decision by the panel of arbitrators shall be issued within 14 days from the date the panel was established, shall be binding on the department and the affected entity, shall be based on the best scientific information reasonably available at the time of the arbitration, and, except for a decision to extend an agreement without modification, shall be made in the form of a final agreement. The final agreement issued by the panel shall also include, without modification, all measures that were not subject to arbitration. Each party shall pay the expenses of their selected representative and pay one-half the expenses of the third person.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1604. Appeal of arbitration decision

Any party affected by a decision made by an arbitration panel pursuant to this chapter may petition a court of competent jurisdiction for confirmation, correction, or vacation of the decision in accordance with Chapter 4 (commencing with Section 1285) of Title 9 of Part 3 of the Code of Civil Procedure.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1605. Term of agreement

(a)(1) Except as otherwise provided in this section, the term of an agreement shall not exceed five years.

(2) Notwithstanding paragraph (1), after the agreement expires, the entity shall remain responsible for implementing any mitigation or other measures specified in the agreement to protect fish and wildlife resources.

(b) Any entity may request one extension of a previously-approved agreement, if the entity requests the extension prior to the expiration of its original term. The department shall grant the extension unless it determines that the agreement requires modification because the measures contained in the agreement no longer protect the fish and wildlife resources that the activity may substantially adversely affect. In the event the department makes that determination, the department shall propose measures intended to protect those resources.

(c) If the entity disagrees with the department's determination that the agreement requires modification to protect fish and wildlife resources or with the measures proposed by the department, the disagreement shall be resolved pursuant to the procedures described in subdivision (b) of Section 1603.

(d) The department may not extend an agreement for more than five years.

(e)(1) An original agreement shall remain in effect until the department grants the extension request, or new measures are imposed to protect fish and wildlife resources by agreement or through the arbitration process.

(2) Notwithstanding paragraph (1), an original agreement may not remain in effect for more than one year after its expiration date.

(f) If the entity fails to submit a request to extend an agreement prior to its expiration, the entity shall submit a new notification before commencing or continuing the activity covered by the agreement.

(g) Notwithstanding paragraph (1) of subdivision (a), the department may issue an agreement, that otherwise meets the requirements of this chapter, for a term longer than five years if the following conditions are satisfied:

(1) The information the entity provides to the department in its notification meets the requirements of paragraph (1) of subdivision (a) of Section 1602.

(2) The entity agrees to provide a status report to the department every four years. The status report shall be delivered to the department no later than 90 days prior to the end of each four-year period, and shall include all of the following information:

(A) A copy of the original agreement.

(B) The status of the activity covered by the agreement.

(C) An evaluation of the success or failure of the measures in the agreement to protect the fish and wildlife resources that the activity may substantially adversely affect.

(D) A discussion of any factors that could increase the predicted adverse impacts on fish and wildlife resources, and a description of the resources that may be adversely affected.

(3) The department shall review the four-year status report, and conduct an onsite inspection to confirm that the entity is in compliance with the agreement and that the measures in the agreement continue to protect the fish and wildlife resources. If the department determines that the measures in the agreement no longer protect the fish and wildlife resources that are being substantially adversely affected by the activity, the department, in consultation with the entity, and within 45 days of receipt of the report, shall impose one or more new measures to protect the fish and wildlife resources affected by the activity. If requested to do so by the entity, the department shall make available the information upon which it determined the agreement no longer protects the affected fish and wildlife resources. If the entity disagrees with one or more of the new measures, within seven days of receiving the new measures, it shall notify the department, in writing, of the disagreement. The entity and the department shall consult regarding the disagreement. The consultation shall be completed within seven days after the department receives the entity's notice of disagreement. If the department and entity fail to reach agreement, the entity may request, in writing, the appointment of a panel of arbitrators to resolve the disagreement. The panel of

arbitrators shall be appointed within 14 days of the completed consultation. The panel of arbitrators shall issue a decision within 14 days of the date it is established. All other provisions of subdivision (b) of Section 1603 regarding the panel shall apply to any arbitration panel established in accordance with this subdivision. If the entity fails to provide timely status reports as required by this subdivision, the department may suspend or revoke the agreement.

(4) The agreement shall authorize department employees to conduct onsite inspections relevant to the agreement, upon reasonable notice. Nothing in this section limits the authority of department employees to inspect private or public sites.

(5) Except as provided in paragraph (3), subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and the time periods to process agreements specified in this chapter do not apply to agreements issued pursuant to this section.

(h) Each region of the department shall log the notifications of activities for which a long-term agreement is being considered pursuant to subdivision (g). The log shall list the date the notification was received by the department, a brief description of the proposed activity, and the location of the activity. Each item shall remain on the log for one year. Upon written request by any person, a regional office shall send the log to that person monthly for one year. A request made pursuant to this paragraph may be renewed annually.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1606. Agreement may not be conditioned on other permit

The department shall not condition the issuance of an agreement on the receipt of another local, state, or federal permit.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1607. Extension of time period

Any time period prescribed in this chapter may be extended by mutual agreement.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1608. Information required upon notification of activity

The department shall provide any entity that submits a notification pursuant to Section 1602 with all of the following information:

(a) The time period for review of the notification.

(b) An explanation of the entity's right to object to any measures proposed by the department.

(c) The time period within which objections may be made in writing to the department.

(d) The time period within which the department is required to respond, in writing, to the entity's objections.

(e) An explanation of the right of the entity to arbitrate any measures in a draft agreement.

(f) The procedures and statutory timelines for arbitration, including, but not limited to, information about the payment requirements for arbitrator fees.

(g) The current schedule of fees to obtain an agreement.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1609. Graduated schedule of fees

(a) The department may establish a graduated schedule of fees to be charged to any entity subject to this chapter. The fees charged shall be established in an amount

necessary to pay the total costs incurred by the department in administering and enforcing this chapter, including, but not limited to, preparing and submitting agreements and conducting inspections. The department shall annually adjust the fees pursuant to Section 713. Fees received pursuant to this section shall be deposited in the Fish and Game Preservation Fund.

(b)(1) The fee schedule established pursuant to subdivision (a) shall not include a fee that exceeds five thousand dollars ($5,000) for any single project.

(2) The fee limitation described in paragraph (1) does not apply to any project included in any agreement issued pursuant to subdivision (g) of Section 1605.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418). Amended Stats 2016 ch 340 § 2 (SB 839), effective September 13, 2016.

§ 1610. Applicability of chapter

(a) Except as provided in subdivision (b), this chapter does not apply to any of the following:

(1) Immediate emergency work necessary to protect life or property.

(2) Immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in an area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(3) Emergency projects undertaken, carried out, or approved by a state or local governmental agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, within the existing right-of-way of the highway, that has been damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide, within one year of the damage. Work needed in the vicinity above and below a highway may be conducted outside of the existing right-of-way if it is needed to stop ongoing or recurring mudslides, landslides, or erosion that pose an immediate threat to the highway, or to restore those roadways damaged by mudslides, landslides, or erosion to their predamage condition and functionality. This paragraph does not exempt from this chapter any project undertaken, carried out, or approved by a state or local governmental agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide. The exception provided in this paragraph does not apply to a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code.

(b) The entity performing the emergency work described in subdivision (a) shall notify the department of the work, in writing, within 14 days of beginning the work. Any work described in the emergency notification that does not meet the criteria for the emergency work described in subdivision (a) is a violation of this chapter if the entity did not first notify the department in accordance with Section 1602 or 1611.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418). Amended Stats 2016 ch 340 § 3 (SB 839), effective September 13, 2016.

§ 1611. Submission of timber harvesting plan as notification of activity

(a) An entity that submits a timber harvesting plan in accordance with Section 4581 of the Public Resources Code or directly to the department is deemed to have given the notification required by Section 1602, as long as the following information is included in the plan:

(1) The volume, type, and equipment to be used in removing or displacing any one or combination of soil, sand, gravel, or boulders.

(2) The volume of water, intended use, and equipment to be used in any water diversion or impoundment, if applicable.

(3) The equipment to be used in road or bridge construction.

(4) The type and density of vegetation to be affected and an estimate of the area involved.

(5) A diagram or sketch of the location of the operation that clearly indicates the stream or other water and access from a named public road. Locked gates shall be indicated and the compass direction shall be shown.

(6) A description of the period of time in which operations will be carried out.

(b) Notwithstanding subdivision (a), the department is not required to determine whether the notification is complete or otherwise process the notification until the timber harvesting plan and the proper notification fee have both been received by the department.

(c) Nothing in this section requires the department to issue an agreement fewer than 60 days from the date the notification is complete.

(d) The date on which the term of an agreement issued pursuant to this section begins shall be the date timber operations first commence, unless the agreement specifies a later beginning date.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1612. Suspension or revocation of agreement

The department may suspend or revoke an agreement at any time if it determines that an entity is not in compliance with the terms of the agreement or fails to provide timely status reports as required by subdivision (g) of Section 1605. The department shall adopt regulations establishing the procedure for suspension or revocation of an agreement. The procedure shall require the department to provide to the entity a written notice that explains the basis for a suspension or revocation, and to provide the entity with an opportunity to correct any deficiency before the department suspends or revokes the agreement.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1613. Suspension of notification process

If, after receiving a notification, but before the department executes a final agreement, the department informs the entity, in writing, that the activity described in the notification, or any activity or conduct by the entity directly related thereto, violates any provision of this code or the regulations that implement the code, the department may suspend processing the notification, and subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and the timelines specified in Section 1603 do not apply. This section ceases to apply if any of the following occurs:

(a) The department determines that the violation has been remedied.

(b) Legal action to prosecute the violation is not filed within the applicable statute of limitations.

(c) Legal action to prosecute the violation has been terminated.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418). Amended Stats 2004 ch 183 § 112 (AB 3082); Stats 2016 ch 340 § 4 (SB 839), effective September 13, 2016.

§ 1614. Work required by court or administrative order not subject to arbitration

If the entity is required to perform work subject to this chapter pursuant to a court or administrative order or notice, the entity shall include the measures proposed by the department to protect fish and wildlife resources in the agreement. Those measures are not subject to arbitration.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1615. Penalties for violation of chapter

(a) An entity that violates this chapter is subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation.

(b) The civil penalty imposed pursuant to subdivision (a) is separate from, and in addition to, any other civil penalty imposed pursuant to this section or any other provision of the law.

(c) In determining the amount of any civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court may consider the degree of toxicity and volume of the discharge, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and, with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines that justice may require.

(d) Every civil action brought under this section shall be brought by the Attorney General upon complaint by the department, or by the district attorney or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

(e)(1) In any civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding any of the following:

(A) That irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued.

(B) That the remedy at law is inadequate.

(2) The court shall issue a temporary restraining order, preliminary injunction, or permanent injunction in a civil action brought pursuant to this chapter without the allegations and without the proof specified in paragraph (1).

(f) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003, and shall be apportioned in the following manner:

(1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100.

(2) Fifty percent shall be distributed to the department for deposit in the Fish and Game Preservation Fund. These funds may be expended to cover the costs of any legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418). Amended Stats 2016 ch 340 § 5 (SB 839), effective September 13, 2016.

§ 1616. Provisions governing agreements executed prior to January 1, 2004

Any agreement or any memorandum of understanding executed by the department pursuant to this chapter prior to January 1, 2004, shall be subject to, and shall be governed by, the provisions of this chapter that were in existence prior to that date. This section does not apply to paragraph (2) of subdivision (b) of Section 1602, requiring an entity to provide a copy or other satisfactory evidence of an agreement attained prior to January 1, 1977, upon the request of the department.

HISTORY:
Added Stats 2003 ch 736 § 2 (SB 418).

§ 1617. Adoption of general agreements for cannabis cultivation

(a) The department may adopt general agreements for the cultivation of cannabis.

(b) Any general agreement adopted by the department subsequent to adoption of regulations under this section shall be in lieu of an individual agreement described in subparagraph (B) of paragraph (4) of subdivision (a) of Section 1602.

(c) Subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and all other time periods to process agreements specified in this chapter do not apply to the issuance of a general agreement adopted by the department pursuant to this section.

(d) Any general agreement issued by the department pursuant to this section is a final agreement and is not subject to Section 1603 or 1604.

(e) The department shall charge a fee for a general agreement adopted by the department under this section in accordance with Section 1609.

(f) If the department adopts or amends a general agreement under this section, it shall do so as an emergency regulation. An emergency regulation adopted pursuant to this section, and any amendments to it, shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, an emergency regulation adopted by the department, or any amendments to it made by the department pursuant to this section, shall stay in effect until revised by the department.

(g) Regulations adopted pursuant to this section, and any amendment thereto, shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

HISTORY:

Added Stats 2016 ch 32 § 59 (SB 837), effective June 27, 2016. Amended Stats 2017 ch 27 § 109 (SB 94), effective June 27, 2017.

CHAPTER 6.5. HABITAT RESTORATION AND ENHANCEMENT ACT (REPEALED JANUARY 1, 2022)

§ 1650. Citation of chapter (Repealed January 1, 2022)

This chapter shall be known, and may be cited, as the Habitat Restoration and Enhancement Act.

HISTORY:

Added Stats 2014 ch 604 § 2 (AB 2193), effective January 1, 2015, repealed January 1, 2022.

§ 1651. Definitions (Repealed January 1, 2022)

As used in this chapter:

(a) "Fish passage guidelines" means those guidelines specified in the department's California Salmonid Stream Habitat Restoration Manual and the National Marine Fisheries Service, Southwest Region, Guidelines for Salmonid Passage at Stream Crossings, and subsequent amendments or updates to either document.

(b) "Habitat restoration or enhancement project" means a project with the primary purpose of improving fish and wildlife habitat. A habitat restoration or enhancement project shall meet the eligibility requirements for the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits a written request pursuant to Section 1652 or 1653. The order or current equivalent may include programmatic waivers or waste discharge requirements for small habitat restoration projects.

(c) "Project proponent" means a person, public agency, or nonprofit organization seeking to implement a habitat restoration or enhancement project.

(d) "Species recovery plan" means a guidance document prepared by a government agency that identifies recovery actions, based upon the best scientific and commercial data available, necessary for the protection and recovery of listed species.

HISTORY:
Added Stats 2014 ch 604 § 2 (AB 2193), effective January 1, 2015, repealed January 1, 2022.

§ 1652. Approval of non-certified habitat restoration or enhancement projects; Procedures; Requirements (Repealed January 1, 2022)

(a) A project proponent may submit a written request to approve a habitat restoration or enhancement project to the director pursuant to this section if the project has not received certification pursuant to the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits the written request. If the project has received certification pursuant to that order, or its current equivalent, the project proponent may submit a request for approval of the project pursuant to Section 1653.

(b) A written request to approve a habitat restoration or enhancement project pursuant to this section shall contain all of the following:

(1) The name, address, title, organization, telephone number, and email address of the natural person or persons who will be the main point of contact for the project proponent.

(2) A full description of the habitat restoration or enhancement project that includes the designs and techniques to be used for the project, restoration or enhancement methods, an estimate of temporary restoration- or enhancement-related disturbance, project schedule, anticipated activities, and how the project is expected to result in a net benefit to any affected habitat and species, consistent with paragraph (4) of subdivision (c).

(3) An assessment of the project area that provides a description of the existing flora and fauna and the potential presence of sensitive species or habitat. The assessment shall include preproject photographs of the project area that include a descriptive title, date taken, the photographic monitoring point, and photographic orientation.

(4) A geographic description of the project site including maps, land ownership information, and other relevant location information.

(5) A description of the environmental protection measures incorporated into the project design, so that no potentially significant adverse effects on the environment, as defined in Section 15382 of Title 14 of the California Code of Regulations, are likely to occur with application of the specified environmental protection measures. Environmental protection measures may include, but are not limited to, appropriate seasonal work limitations, measures to avoid and minimize impacts to water quality and potentially present species protected by state and federal law, and the use of qualified professionals for standard preconstruction surveys where protected species are potentially present.

(6) Substantial evidence to support a conclusion that the project meets the requirements set forth in this section. Substantial evidence shall include references to relevant design criteria and environmental protection measures found in the documents specified in paragraph (4) of subdivision (c).

(7) A certifying statement that the project will comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), which may include, but not be limited to, the requirements of Section 15333 of Title 14 of the California Code of Regulations.

(c) Notwithstanding any other law, within 60 days after receiving a written request to approve a habitat restoration or enhancement project, the director shall approve a

habitat restoration or enhancement project if the director determines that the written request includes all of the required information set forth in subdivision (b), and the project meets all of the following requirements:

(1) The project purpose is voluntary habitat restoration and the project is not required as mitigation.

(2) The project is not part of a regulatory permit for a nonhabitat restoration or enhancement construction activity, a regulatory settlement, a regulatory enforcement action, or a court order.

(3) The project meets the eligibility requirements of the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits the written request, but has not received certification pursuant to that order or its equivalent.

(4) The project is consistent with, or identified in, sources that describe best available restoration and enhancement methodologies, including one or more of the following:

(A) Federal- and state-listed species recovery plans or published protection measures, or previously approved department agreements and permits issued for voluntary habitat restoration or enhancement projects.

(B) Department and National Marine Fisheries Service fish screening criteria or fish passage guidelines.

(C) The department's California Salmonid Stream Habitat Restoration Manual.

(D) Guidance documents and practice manuals that describe best available habitat restoration or enhancement methodologies that are utilized or approved by the department.

(5) The project will not result in cumulative adverse environmental impacts that are significant when viewed in connection with the effects of past, current, or probable future projects.

(d) If the director determines that the written request does not contain all of the information required by subdivision (b), or fails to meet the requirements set forth in subdivision (c), or both, the director shall deny the written request and inform the project proponent of the reason or reasons for the denial.

(e) The project proponent shall submit a notice of completion to the department no later than 30 days after the project approved pursuant to this section is completed. The notice of completion shall demonstrate that the project has been carried out in accordance with the project's description. The notice of completion shall include a map of the project location, including the final boundaries of the restoration area or areas and postproject photographs. Each photograph shall include a descriptive title, date taken, photographic monitoring point, and photographic orientation.

(f) The project proponent shall submit a monitoring report describing whether the restoration project is meeting each of the restoration goals stated in the project application. Each report shall include photographs with a descriptive title, date taken, photographic monitoring point, and photographic orientation. The monitoring reports for Section 401 Water Quality Certification or waste discharge requirements of the State Water Resources Control Board or a regional water quality control board, or for department or federal voluntary habitat restoration programs, including, but not limited to, the Fisheries Restoration Grant Program, may be submitted in lieu of this requirement.

HISTORY:

Added Stats 2014 ch 604 § 2 (AB 2193), effective January 1, 2015, repealed January 1, 2022. Amended Stats 2015 ch 303 § 165 (AB 731), effective January 1, 2016, repealed January 1, 2022.

§ 1653. Approval of certified habitat restoration or enhancement projects; Procedures; Requirements (Repealed January 1, 2022)

(a) A project proponent may submit a written request to approve a habitat restoration or enhancement project to the director pursuant to this section if the project has received

certification pursuant to the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits the written request.

(b) A written request to approve a habitat restoration or enhancement project pursuant to this section shall include all of the following:

(1) Notice that the project proponent has received a notice of applicability that indicates that the project is authorized pursuant to the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its equivalent at the time the project proponent submits the written request.

(2) A copy of the notice of applicability.

(3) A copy of the notice of intent provided to the State Water Resources Control Board or a regional water quality control board.

(4) A description of species protection measures incorporated into the project design, but not already included in the notice of intent, to avoid and minimize impacts to potentially present species protected by state and federal law, such as appropriate seasonal work limitations and the use of qualified professionals for standard preconstruction surveys where protected species are potentially present.

(5) The fees required pursuant to Section 1655.

(c) Upon receipt of the notice specified in paragraph (1) of subdivision (b), the director shall immediately have published in the General Public Interest section of the California Regulatory Notice Register the receipt of that notice.

(d) Within 30 days after the director has received the notice of applicability described in subdivision (b), the director shall determine whether the written request accompanying the notice of applicability is complete.

(e) If the director determines within that 30-day period, based upon substantial evidence, that the written request is not complete, then the project may be authorized under Section 1652.

(f) The director shall immediately publish the determination pursuant to subdivision (d) in the General Public Interest section of the California Regulatory Notice Register.

(g) The project proponent shall submit the monitoring plan, monitoring report, and notice of completion to the department as required by the State Water Resources Control Board's Order for Clean Water Act Section 401 General Water Quality Certification for Small Habitat Restoration Projects, or its current equivalent at the time the project proponent submits the written request. The order or its current equivalent may include programmatic waivers or waste discharge requirements for small scale restoration projects.

HISTORY:

Added Stats 2014 ch 604 § 2 (AB 2193), effective January 1, 2015, repealed January 1, 2022. Amended Stats 2015 ch 303 § 166 (AB 731), effective January 1, 2016, repealed January 1, 2022.

§ 1654. Approval of habitat restoration or enhancement project in lieu of other permit, agreement, license, or approval; Suspension of approval; Objection (Repealed January 1, 2022)

(a) The director's approval of a habitat restoration or enhancement project pursuant to Section 1652 or 1653 shall be in lieu of any other permit, agreement, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 6 (commencing with Section 1600) and Chapter 10 (commencing with Section 1900) of this division and Chapter 1.5 (commencing with Section 2050) of Division 3.

(b) This chapter shall not be construed as expanding the scope of projects requiring a permit, agreement, license, or other approval issued by the department.

(c)(1) If the director determines at any time that the project is no longer consistent with subdivision (c) of Section 1652 or subdivision (b) of Section 1653, as applicable,

due to a material change between the project as submitted and the project being implemented or a change in the environmental circumstances in the area of implementation, the director shall notify the project proponent in writing and project implementation shall be suspended. Written notice from the director shall be delivered in person, by certified mail, or by electronic communication to the project proponent and shall specify the reasons why approval of the project was suspended. The approval for a project shall not be revoked pursuant to this subdivision unless it has first been suspended pursuant to this subdivision.

(2) Within 30 days of receipt of a notice of suspension, the project proponent may file an objection with the director. Any objection shall be in writing and state the reasons why the project proponent objects to the suspension. The project proponent may provide additional environmental protection measures, design modifications, or other evidence that the project is consistent with subdivision (c) of Section 1652 or subdivision (b) of Section 1653, as applicable, and request that the notice of suspension be lifted and approval granted.

(3) The director shall revoke approval or lift the suspension of project approval within 30 days after receiving the project proponent's objection pursuant to paragraph (2).

(d) Pursuant to Section 818.4 of the Government Code, the department and any other state agency exercising authority under this section shall not be liable with regard to any determination or authorization made pursuant to this section.

HISTORY:
Added Stats 2014 ch 604 § 2 (AB 2193), effective January 1, 2015, repealed January 1, 2022. Amended Stats 2015 ch 303 § 167 (AB 731), effective January 1, 2016, repealed January 1, 2022.

§ 1655. Habitat Restoration and Enhancement Account; Application fees (Repealed January 1, 2022)

(a) The Habitat Restoration and Enhancement Account is hereby created in the Fish and Game Preservation Fund.

(b) The department may enter into an agreement to accept funds from any public agency, person, business entity, or organization to achieve the purposes of this chapter. The department shall deposit any funds so received in the account. The funds received shall supplement existing resources for department administration and permitting of projects and programs included in this chapter.

(c) The department shall assess an application fee for a project submitted to the department pursuant to Section 1652 or 1653 consistent with the fees adopted by the department pursuant to Chapter 6 (commencing with Section 1600), but the application fee shall not exceed the reasonable administrative and implementation costs of the department relating to the project.

(d) Moneys in the account shall be available to the department, upon appropriation by the Legislature, for the purposes of administering and implementing this chapter.

HISTORY:
Added Stats 2014 ch 604 § 2 (AB 2193), effective January 1, 2015, repealed January 1, 2022.

§ 1656. Reports to Legislature (Repealed January 1, 2022)

(a) The department shall submit a report on the implementation of this chapter to the Legislature no later than December 31, 2020, which shall include, but not be limited to, the number, type, and geographical distribution of approved projects, funding adequacy, and recommendations for changes and improvements in the program.

(b) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

HISTORY:
Added Stats 2014 ch 604 § 2 (AB 2193), effective January 1, 2015, repealed January 1, 2022.

§ 1657. Repeal of chapter (Repealed January 1, 2022)

This chapter shall remain in effect only until January 1, 2022, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

HISTORY:
Added Stats 2014 ch 604 § 2 (AB 2193), effective January 1, 2015, repealed January 1, 2022.

CHAPTER 7. CONSERVATION OF AQUATIC RESOURCES

§ 1700. Policy

It is hereby declared to be the policy of the state to encourage the conservation, maintenance, and utilization of the living resources of the ocean and other waters under the jurisdiction and influence of the state for the benefit of all the citizens of the state and to promote the development of local fisheries and distant-water fisheries based in California in harmony with international law respecting fishing and the conservation of the living resources of the oceans and other waters under the jurisdiction and influence of the state. This policy shall include all of the following objectives:

(a) The maintenance of sufficient populations of all species of aquatic organisms to insure their continued existence.

(b) The recognition of the importance of the aesthetic, educational, scientific, and nonextractive recreational uses of the living resources of the California Current.

(c) The maintenance of a sufficient resource to support a reasonable sport use, where a species is the object of sport fishing, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport.

(d) The growth of local commercial fisheries, consistent with aesthetic, educational, scientific, and recreational uses of such living resources, the utilization of unused resources, taking into consideration the necessity of regulating the catch within the limits of maximum sustainable yields, and the development of distant-water and overseas fishery enterprises.

(e) The management, on a basis of adequate scientific information promptly promulgated for public scrutiny, of the fisheries under the state's jurisdiction, and the participation in the management of other fisheries in which California fishermen are engaged, with the objective of maximizing the sustained harvest.

(f) The development of commercial aquaculture.

HISTORY:
Added Stats 1970 ch 88 § 1. Amended Stats 1982 ch 1486 § 4.

CHAPTER 7.2. TROUT MANAGEMENT

§ 1725. Citation

This act shall be known as the Trout and Steelhead Conservation and Management Planning Act of 1979.

HISTORY:
Added Stats 1979 ch 847 § 1.

§ 1726. Legislative findings

The Legislature hereby finds and declares that it is the policy of the state to do all of the following:

(a) Establish and maintain wild trout stocks, that, to the extent possible, should be native fish, in suitable waters of the state that are readily accessible to the general public as well as in those waters in remote areas.

(b) Establish angling regulations designed to maintain the wild trout fishery in those waters by natural reproduction.

(c) Discourage artificial planting of hatchery-raised hybrid and nonnative fish species in wild trout waters or in other areas that would adversely affect native aquatic and nonaquatic species.

HISTORY:
Added Stats 1979 ch 847 § 1. Amended Stats 2007 ch 432 § 1 (SB 384), effective January 1, 2008; Stats 2012 ch 565 § 6 (SB 1148), effective January 1, 2013.

§ 1726.1. Further findings and declarations regarding management and restoration

The Legislature further finds and declares all of the following:

(a) Hatchery production and stocking of California's waters started over 140 years ago and is an enduring part of California's history and attempts to steward its natural resources.

(b) Sustainable and adaptive management provides and improves recreational angling opportunities while protecting and maintaining native and wild trout fisheries, other species, and their mutual habitat.

(c) Management of the genetic diversity of California's native trout species is imperative.

(d) Habitat restoration and the protection of cold water ecosystems are both of utmost importance to maintaining healthy wild trout populations, ensuring and promoting angler opportunities, and the sustainability of the inland trout fishery.

(e) The department shall seek to provide and enhance diverse recreational angling opportunities in California.

HISTORY:
Added Stats 2012 ch 565 § 7 (SB 1148), effective January 1, 2013.

§ 1726.4. Inventory of trout streams and lakes

(a) For the purposes of this chapter, "trout" includes steelhead trout.

(b) The department, in administering its existing wild trout program, shall maintain an inventory of all California trout streams and lakes to determine the most suitable angling regulations for each stream or lake. The department shall determine for each stream or lake whether it should be managed as a wild trout fishery, or whether its management should involve the temporary planting of native trout species to supplement wild trout populations that is consistent with this chapter. In maintaining the inventory, the department shall give priority to those streams and lakes that have the highest biological potential for producing sizeable wild trout, which are inhabited by rare species, or where the quality of the fishery is threatened or endangered and take into consideration public use. The biological and physical inventories prepared and maintained for each stream, stream system, or lake shall include an assessment of the resource status, threats to the continued well-being of the fishery resource, the potential for fishery resource development, and recommendations, including necessary changes in the allowed take of trout, for the development of each stream or lake to its full capacity as a fishery, consistent with this chapter.

(c) This section does not provide any public entity or private party with any new or additional authority to affect the management of, or access to, any private land without the written consent of the owner. Privately owned lakes and ponds not open to the use of the general public shall be subject to this section only with the written consent of the owner. This chapter shall not be construed as authorizing or requiring special treatment of adjacent land areas or requiring land use restrictions. It is the intent of the Legislature that this chapter should not diminish the existing authority of the department.

(d) The department shall make the inventory maintained pursuant to subdivision (b) publicly available on the department's Internet Web site and the department shall continuously revise that inventory with the goal of reviewing every watershed once per decade.

HISTORY:
Added Stats 1979 ch 847 § 1. Amended Stats 2007 ch 432 § 2 (SB 384), effective January 1, 2008; Stats 2012 ch 565 § 8 (SB 1148), effective January 1, 2013.

§ 1726.5. Further legislative findings

The Legislature further finds and declares that activities and programs mandated by this chapter are a continuation and perpetuation of the department's existing wild trout program and other programs, and as such they shall be funded from existing budgetary resources.

HISTORY:
Added Stats 1979 ch 847 § 1.

§ 1727. Maintenance of existing wild trout program

(a) In order to provide for a diversity of available angling experiences throughout the state, it is the intent of the Legislature that the commission maintain the existing wild trout program, and as part of the program, develop additional wild trout waters in the more than 20,000 miles of trout streams and approximately 5,000 lakes containing trout in California.

(b) The department shall prepare a list of no less than 25 miles of stream or stream segments and at least one lake that it deems suitable for designation as wild trout waters. The department shall submit this list to the commission for its consideration at the regular October commission meeting.

(c) The commission may remove any stream or lake that it has designated as a wild trout fishery from the program at any time. If any of those waters are removed from the program, an equivalent amount of stream mileage or an equivalent size lake shall be added to the wild trout program.

(d) The department shall prepare and complete management plans for all wild trout waters not more than three years following their initial designation by the commission and update the management plan every five years following completion of the initial management plan.

HISTORY:
Added Stats 1979 ch 847 § 1. Amended Stats 2007 ch 432 § 3 (SB 384), effective January 1, 2008; Stats 2012 ch 565 § 9 (SB 1148), effective January 1, 2013 (ch 565 prevails), ch 728 § 41 (SB 71), effective January 1, 2013; Stats 2013 ch 275 § 4 (AB 1420), effective January 1, 2014.

§ 1728. Strategic Plan for Trout Management; Implementation; Review

(a) Every five years the department shall update the Strategic Plan for Trout Management published in November 2003 as necessary to guide the state's trout management.

(b) The Strategic Plan for Trout Management shall be intended to ensure all of the following:

(1) Thriving and self-sustaining, wild and native trout populations throughout their historic ranges.

(2) Providing and improving angling opportunities for wild and native trout and other trout.

(3) Providing for the conservation of wild and native trout.

(4) Environmental sustainability and overall ecosystem and watershed health.

(c) The Strategic Plan for Trout Management shall be guided by all of the following considerations:

(1) Adaptively managing trout populations, including, but not limited to, stocking practices, to establish thriving and self-sustaining native and wild trout fisheries in wild trout waters and, where possible, in other waters.

(2) Increasing angler satisfaction.

(3) Ensuring appropriate age distribution of wild trout when appropriate.

(4) Establishing ecologically and environmentally sustainable hatchery and stocking practices for native trout, including, but not limited to, the following:

(A) Hatchery and stocking practices consistent with this chapter.

(B) Stocking plans shall include consideration of angler satisfaction and public use of, and access to, the waters for angling. This may include, but is not limited to, harvest and catch rates, including, but not limited to, trophy catch rates, the potential for high angler satisfaction, and where appropriate, put and grow stocking.

(C) Native trout shall be preferentially stocked when stocking is employed.

(D) Designing stocking plans to maintain and optimize the genetic diversity of trout populations and to be consistent with the direction provided by the strategic trout management team.

(E) Stocking plans for species listed in Section 7261 shall not exceed the documented biological carrying capacity of the water or ecosystem.

(5) Integrating stakeholder involvement into the planning process.

(6) Monitoring and evaluating management processes through angler surveys, public meetings coordinated with county fish and game commissions, or by other means.

(d) The department shall prepare and complete trout management plans consistent with the Strategic Plan for Trout Management for all wild trout waters not more than three years following their initial designation by the commission. The department shall update the management plan every five years or as necessary following completion of the initial management plan. The department shall prepare trout management plans for other waters consistent with the Strategic Plan for Trout Management as appropriate.

(e) Before implementation, the Strategic Plan for Trout Management produced by the department shall be reviewed by the strategic trout management team, the hatchery operations committee, and an ad hoc peer review committee convened by the department to ensure compliance with sound management practices, improved genetic diversity, and use of the best available scientific information.

(f) The Strategic Plan for Trout Management and plans completed pursuant to subdivision (d) shall be publicly available on the department's Internet Web site.

HISTORY:
Added Stats 2012 ch 565 § 11 (SB 1148), effective January 1, 2013.

§ 1729. Stocking of appropriate waters with hatchery-produced trout; Education; Reproduction; Surveys; Review of regulations

(a) The department shall give priority to stocking native hatchery-produced species in California's waters, where stocking is determined to be appropriate by the department. Stocking of hatchery-produced fish is not appropriate in all of California's waters, including, but not limited to, stocking in California's waters that would adversely affect species listed under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3).

(b) Hatchery-produced trout shall be stocked to support sustainable angling recreation and promote angler access to trout fishing, including, but not limited to, urban fisheries.

(c) The department may provide outreach and educational materials to all anglers to promote awareness of environmental sustainability, ecosystem health, fish genetics, angling opportunities, and fish population management.

(d) Educational programs utilizing the hatcheries shall be encouraged.

(e) The department shall ensure that all trout stocked in waters of the state for recreational purposes are unable to reproduce through triploidy or other means, with the exception of fish planted into brood stock lakes, surplus brood stock planted according to fishery management decisions, fish planted to supplement waters that the department has determined to be genetically isolated from native fish populations, and native trout species produced for recovery and restoration within their native range.

(f) The department may develop, conduct, and respond to regular angler preference and satisfaction surveys. This is not a substitute for a preferred scientific data collection and monitoring program that would facilitate adaptive management of California's inland trout fisheries.

(g) The department shall review angling regulations periodically and adjust those regulations to ensure consistency with the strategic plan described in Section 1728.

HISTORY:
Added Stats 2012 ch 565 § 12 (SB 1148), effective January 1, 2013.

§ 1730. Intradepartmental strategic trout management team

(a) By January 1, 2014, the department shall form an intradepartmental strategic trout management team to provide direction and oversee trout management statewide. Working under the framework of the Strategic Plan for Trout Management, the strategic trout management team shall direct and implement focused management and monitoring efforts for trout at the watershed level, in cooperation with local stakeholders.

(b) The strategic trout management team shall be responsible for developing basin management plans that are conservation based and are consistent throughout California for inland watersheds.

(c) The basin plans in subdivision (b) shall be reviewed by an ad hoc peer review committee, which may be convened under the guidance of the department's Science Institute to ensure compliance with sound management practices and utilization of the best available scientific information.

HISTORY:
Added Stats 2012 ch 565 § 13 (SB 1148), effective January 1, 2013.

CHAPTER 7.3. BLACK BASS CONSERVATION AND MANAGEMENT

§ 1740. Title

This chapter shall be known as the Black Bass Conservation and Management Act of 1980.

HISTORY:
Added Stats 1980 ch 1302 § 1.

§ 1741. Purpose

The Legislature hereby finds and declares that it is the policy of the state to preserve and enhance black bass resources and to manage black bass populations to provide satisfactory recreational opportunities to the public.

HISTORY:
Added Stats 1980 ch 1302 § 1.

§ 1742. Funding

The Legislature further finds and declares that the black bass management program components specified in this chapter are a continuation of the department's existing

warmwater fisheries program, and, as such, shall be funded from existing department budgetary resources.

HISTORY:
Added Stats 1980 ch 1302 § 1.

§ 1743. Program components

(a) The department's black bass management program shall include, but not be limited to, the following components:

(1) The department shall determine the angler harvest of black bass populations and shall recommend to the commission the changes in angling regulations for black bass that would be necessary to prevent or correct overharvest.

(2) The department shall consider recommending to the commission catch and release regulations for black bass, including minimum or maximum size restrictions and management for trophy-sized black bass in some waters.

(3) The department shall consider the suitability of the many different species, subspecies, and strains of black bass when management programs are formulated.

(4) The department shall improve shoreline habitat for black bass in waters where insufficient habitat exists and shall encourage reservoir operating agencies to carry out shoreline habitat improvement projects.

(b) For the purposes of this section, "black bass" means fishes of the Centrarchidae family.

HISTORY:
Added Stats 1980 ch 1302 § 1.

CHAPTER 7.4. DEPARTMENT-MANAGED LANDS

§ 1745. Contracts or agreements for management and operation of lands; Use of lands; Priorities; Fees; Purchase of entry permit; Exemption; Deposit of fees

(a) For purposes of this section, the following terms have the following meanings:

(1) "Department-managed lands" includes lands, or lands and water, acquired for public shooting grounds, state marine (estuarine) recreational management areas, ecological reserves, and wildlife management areas.

(2) "Nonconsumptive uses" means compatible uses other than hunting and fishing.

(b)(1) Department-managed lands shall be operated on a nonprofit basis by the department.

(2) The department may enter into contracts or other agreements for the management and operation of department-managed lands with nonprofit conservation groups, recognized under Section 501(c) of the Internal Revenue Code, or resource conservation districts, as described in Chapter 3 (commencing with Section 9151) of Division 9 of the Public Resources Code.

(A) The contracts or other agreements authorized pursuant to this paragraph are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(B) The contracts or other agreements authorized pursuant to this paragraph shall adhere to the goals and objectives included in an approved management plan and shall be consistent with the purpose for which the lands were acquired and managed by the department. Any changes to the management plan shall be subject to public review and comment.

(c) Multiple recreational use of department-managed lands is desirable and that use shall be encouraged by the commission. Except for hunting and fishing purposes, only

minimum facilities to permit other forms of multiple recreational use, such as camping, picnicking, boating, or swimming, shall be provided.

(d)(1) Hunting, fishing, wildlife viewing, wildlife photography, conservation education, and fish and wildlife research are priority uses compatible with department-managed lands, except for ecological reserves where uses shall be considered on an individual basis.

(2) Public uses of department-managed lands not described in paragraph (1), or subdivision (c) or (f), shall be authorized by regulations adopted by the commission. The commission may require the purchase of a special use permit for these other uses.

(e) Except as provided in Section 1765 and subdivision (h), and to defray the costs associated with multiple use, the commission may determine and fix the amount of, and the department shall collect, fees for any use privileges. Only persons holding valid hunting licenses may apply for or obtain shooting permits for department-managed lands.

(f) Commencing January 1, 2015, the department shall require the purchase of an entry permit for nonconsumptive uses of department-managed lands if the department finds that it is practical and would be cost effective for the state to collect entry permit fees.

(g) The following shall apply if the department requires the purchase of an entry permit pursuant to subdivision (f):

(1) The department shall require the purchase of an entry permit for nonconsumptive uses of a department-managed land only if a sign providing notice of the requirement has been posted at the department-managed land.

(2) To the extent feasible, the department shall allow nonconsumptive users to purchase an entry permit onsite.

(3) The department shall use the Automated License Data System to sell an entry permit.

(4) A nonconsumptive user shall have an entry permit in his or her immediate possession while on department-managed lands.

(h) Failure to obtain a permit as required pursuant to this section shall be an infraction as described in Section 12002.2.1. A person in possession of a valid hunting license, sport fishing license, or trapping license shall be exempt from a requirement to obtain a permit.

(i) The moneys generated pursuant to this section shall be deposited in the Native Species Conservation and Enhancement Account within the Fish and Game Preservation Fund, and shall be available, upon appropriation by the Legislature, to the department for the management and operation of its lands. To the extent that the department is able to identify the source of the fee revenue collected, the department shall provide no less than 35 percent of the funds generated pursuant to this section to the department-managed lands from which the fee revenues were collected.

(j) The commission and department may continue to allow free access to a department-managed land if the commission or department finds the best interests of that area would be served by not fixing a fee for use privileges.

HISTORY:
Added Stats 2012 ch 597 § 1 (SB 1249), effective January 1, 2013.

§ 1745.1. Lease of department-managed lands for agricultural activities; Use of moneys collected from leases

(a) Notwithstanding any other provision of this code, the department may lease department-managed lands for agricultural activities, including, but not limited to, grazing, where consistent with the purpose for which the lands were acquired and compatible with the department's approved management plan for the area, if available.

(b) The moneys collected from agricultural leases entered into pursuant to subdivision (a) shall be deposited by the department into the Wildlife Restoration Fund and, upon

appropriation by the Legislature, may be used to support the management, maintenance, restoration, and operations of department-managed lands.

HISTORY:
Added Stats 2013 ch 387 § 1 (SB 749), effective January 1, 2014.

§ 1745.2. Apiculture on department-managed wildlife areas; Consultation with apiculture experts; Deposit of moneys in Wildlife Restoration Fund; Temporary placement of beehives

(a) The department shall do both of the following:

(1) Consider authorizing apiculture on department-managed wildlife areas, where deemed appropriate by the department.

(2) Determine, when developing or amending its land management plans, the following:

(A) If the department-managed wildlife areas, or any portion of the those areas, are suitable for apiculture and whether apiculture is consistent with the management goals and objectives for those areas on a temporary, seasonal, or long-term basis.

(B) If the administration of apiculture on department-managed wildlife areas, where deemed appropriate by the department, is meeting the management goals and objectives for those areas.

(C) The appropriate fee and lease rent to be assessed for conducting apiculture on department-managed wildlife areas. The amount of the fee shall be sufficient to recover, but not exceed, all reasonable administrative and implementation costs of the department. The lease rent shall take into account whether the lease is a nonexclusive use of the land.

(b) The department, in implementing this section, may consult with apiculture experts, including, but not limited to, the Department of Food and Agriculture, the University of California, other academic or professional experts, and interested stakeholders, when considering authorizing apiculture on department-managed wildlife areas consistent with the respective management goals and objectives for those areas.

(c) Moneys collected for conducting apiculture on department-managed wildlife areas pursuant to subparagraph (C) of paragraph (2) of subdivision (a) shall be deposited by the department into the Wildlife Restoration Fund and, upon appropriation by the Legislature, be used to support the management, maintenance, restoration, and operation of department-managed wildlife areas.

(d) The department may authorize the temporary placement of beehives on department-managed wildlife areas through simple lease or permit agreements specifying appropriate conditions. These agreements are not subject to competitive bidding requirements.

(e) The department may continue any authorization for apiculture on department-managed areas that it granted before January 1, 2015, without taking further action.

HISTORY:
Added Stats 2014 ch 338 § 1 (AB 2185), effective January 1, 2015. Amended Stats 2015 ch 303 § 168 (AB 731), effective January 1, 2016, ch 380 § 2 (AB 1259), effective September 30, 2015 (ch 380 prevails).

CHAPTER 7.5. NATIVE SPECIES CONSERVATION AND ENHANCEMENT

ARTICLE 1. SHORT TITLE

§ 1750. Citation of chapter

This chapter shall be known and may be cited as the Native Species Conservation and Enhancement Act.

HISTORY:
Added Stats 1974 ch 898 § 1.

ARTICLE 2. FINDINGS AND DECLARATIONS

§ 1755. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) That it is the policy of this state:

(1) To maintain sufficient populations of all species of wildlife and native plants and the habitat necessary to insure their continued existence at the optimum levels possible to insure the policies stated in paragraphs (2), (3), and (4).

(2) To provide for the beneficial use and enjoyment of wildlife and native plants by all citizens of the state.

(3) To perpetuate native plants and all species of wildlife for their intrinsic and ecological values, as well as for their direct benefits to man.

(4) To provide for aesthetic, educational, and nonappropriative uses of the various wildlife and native plant species.

(b) That the conservation and enhancement of wildlife species which are not the object of hunting and native plant species is in the general public interest and it is appropriate that the cost of programs to achieve such conservation and enhancement, including the biological and botanical research necessary thereto, and the diffusion of the information resulting therefrom to the public, be borne to the extent necessary by general public funds.

HISTORY:
Added Stats 1974 ch 898 § 1. Amended Stats 1977 ch 1181 § 2.

§ 1756. Policy

(a) The policy set forth in this chapter is in the public interest without regard to the economic value or the lack of economic value of wildlife or native plants.

(b) It is the policy of the state to require the recreational users of the state's wildlife resources to support the management of lands managed by the department and the management of wildlife consistent with Section 711.

HISTORY:
Added Stats 1974 ch 898 § 1. Amended Stats 1977 ch 1181 § 3; Stats 1988 ch 1539 § 5.

ARTICLE 2.5. BIRD HABITAT CONSERVATION

§ 1758. Comment on public hunting programs

The department shall annually provide an opportunity for licensed hunters to comment and make recommendations on the public hunting programs, including anticipated habitat conditions in the hunting areas on Type A and Type B Wildlife Areas, as defined under the commission's regulations, through public meetings or other public outreach. In complying with this section, the department may hold regional meetings on its hunting programs for several different wildlife areas.

HISTORY:
Added Stats 2013 ch 387 § 2 (SB 749), effective January 1, 2014.

ARTICLE 3. NATIVE SPECIES CONSERVATION AND ENHANCEMENT ACCOUNT

§ 1760. Native Species Conservation and Enhancement Account

The department shall maintain within the Fish and Game Preservation Fund a Native

Species Conservation and Enhancement Account, which is hereby created, to permit separate accountability for the receipt and expenditure of moneys derived through donation from persons or organizations for the support of nongame and native plant species conservation and enhancement programs.

HISTORY:
Added Stats 1974 ch 898 § 1. Amended Stats 1977 ch 1181 § 4.

§ 1761. Disposition of funds

Whenever the department receives funds from persons or organizations for the support of nongame and native plant species conservation and enhancement programs, such funds shall be deposited in the Fish and Game Preservation Fund and credited to the Native Species Conservation and Enhancement Account.

HISTORY:
Added Stats 1974 ch 898 § 1. Amended Stats 1977 ch 1181 § 5.

§ 1762. Recognition of donation; Certificate, decal, medallion

The department shall provide each person or organization making a contribution of five dollars ($5) or more for the support of nongame and native plant species conservation and enhancement programs a suitably prepared certificate, decal, medallion, or other object of public appreciation signifying the interest of such person or organization in the conservation and enhancement of native plant and wildlife species. The commission shall approve the form, nature, and content of any certificate, decal, medallion or other object proposed for use by the department pursuant to this section.

HISTORY:
Added Stats 1974 ch 898 § 1. Amended Stats 1977 ch 1181 § 6.

§ 1763. Measures taken to encourage donations; Costs

The department may take all appropriate measures to encourage donations by individuals, organizations, and public agencies to the Native Species Conservation and Enhancement Account, including, but not limited to, public information concerning the status of native plant and wildlife species threatened by the activities of man. The cost to the department to carry out the provisions of this section may be charged to the Native Species Conservation and Enhancement Account.

HISTORY:
Added Stats 1974 ch 898 § 1. Amended Stats 1977 ch 1181 § 7.

§ 1764. Designation of area requiring pass; Authorized persons; Exceptions

(a) The director shall designate those particular areas of land managed by the department at which possession of a valid annual wildlife pass or day use pass shall be required. No designation shall be effective until a management plan for the area has been presented at a public meeting and the plan has been approved by the director.

(b) No person shall enter the designated area unless that person possesses an annual wildlife area pass or a day use pass issued pursuant to Section 1765, a valid hunting license issued pursuant to Section 3031, a valid trapping license issued pursuant to Section 4006, or a valid sport fishing license issued pursuant to Section 7149.05, 7150, or 7151, or that person is a member of a tour by an organized youth or school group that has been issued a day use pass.

(c) Notwithstanding subdivision (b), possession of a license or pass shall not be required of any person who:

(1) Is passing through the area on a public right-of-way.

(2) Possesses authorization by the commission or the department to conduct scientific or educational research.

(3) Is discharging duties in the course of employment, as specified by the department.

(4) Possesses written authorization from the department to enter the area for a specific purpose.

HISTORY:
Added Stats 1988 ch 1539 § 6. Amended Stats 2015 ch 683 § 15 (SB 798), effective January 1, 2016.

§ 1765. Passes; Time period; Fees; Fee reductions

(a) The department may issue an annual wildlife area pass or a day use pass that authorizes the bearer to enter and use facilities and programs on the department managed lands subject to Section 1764 for the period of a calendar year or, if issued after the beginning of the year, for the remainder thereof. The fee for the annual wildlife area pass is ten dollars ($10). The fee for the day use pass is two dollars ($2); however, a tour by an organized youth or school group is exempt from the payment of this fee. The fees shall be adjusted in the calendar years following 1989 in accordance with Section 713. A person under the age of 16 years is exempt from the payment of fees under this section for an annual wildlife area pass or a day use pass.

(b) Any person eligible for a reduced fee or free sportfishing license pursuant to Section 7150 or 7151 shall be issued an annual wildlife area pass upon application therefor and under the same conditions and for the same fee as provided in those sections. There shall be appropriated in the annual Budget Act from the General Fund, for transfer to the Native Species Conservation and Enhancement Account, a sum equal to two dollars ($2) for each free annual wildlife area pass issued pursuant to this subdivision during the preceding calendar year.

HISTORY:
Added Stats 1988 ch 1539 § 7.

§ 1766. Sale items; Fees

The department may also offer for sale a native species stamp, promotional materials, and nature study aids. The fee for a native species stamp is seven dollars and fifty cents ($7.50), as adjusted in the calendar years following 1989 in accordance with Section 713.

HISTORY:
Added Stats 1988 ch 1539 § 8.

§ 1767.5. Revenues from fees and sales; Priority of availability

(a) The revenues from fees and sales under this article and Section 1055.3 shall be deposited in the Native Species Conservation and Enhancement Account in the Fish and Game Preservation Fund, and shall be available for appropriation for expenditure in the 1988-89 and subsequent fiscal years in the following order of priority:

(1) Repayment of any loan to the account from the Fish and Game Preservation Fund. The amounts repaid annually shall be prorated to complete the repayment with interest on or before July 1, 1993. Interest shall be calculated at the rate earned by the Surplus Money Investment Fund from the date funds for the loan were advanced to the date of repayment.

(2) The costs of ongoing wildlife management programs incurred at any lands managed by the department alone or cooperatively with other governmental agencies, irrespective of their designation pursuant to Section 1764, that are not adequately funded under subdivision (a) or (c) of Section 711.

(3) The costs of natural history education and recreational programs and improvements at areas designated pursuant to Section 1764.

(4) Augmentation of wildlife management programs and acquisition of additional lands at areas designated pursuant to Section 1764.

(b) Revenues from fees and sales under this article and Section 1055.3 shall be used to augment and not to replace money appropriated from existing funds available to the department for the purposes specified in subdivision (a).

HISTORY:
Added Stats 1988 ch 1539 § 9. Amended Stats 1992 ch 1370 § 7 (AB 3193), effective October 27, 1992.

§ 1768. Legislative findings and declarations

The Legislature finds and declares that the revenues from fees and sales under this article are related to the protection and propagation of fish and game within the meaning of Section 9 of Article XVI of the California Constitution.

HISTORY:
Added Stats 1988 ch 1539 § 10.

§ 1769. Permissible measures

The department may take all appropriate measures to encourage persons to obtain annual wildlife area passes and day use passes issued pursuant to Section 1765, and to promote the sale of native species stamps, promotional materials, and nature study aids to provide revenue for the support of the department. The measures may include, but are not limited to, the dissemination of public information concerning the status of wildlife, fish, and plant species, conservation activities of the department, and programs and facilities provided by the department for the enjoyment of the lands managed by the department.

HISTORY:
Added Stats 1988 ch 1539 § 11.

ARTICLE 4. ENDANGERED AND RARE FISH, WILDLIFE, AND PLANT SPECIES CONSERVATION AND ENHANCEMENT ACCOUNT

§ 1770. Creation of account

The department shall maintain within the Fish and Game Preservation Fund an Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account which is hereby created.

HISTORY:
Added Stats 1983 ch 1058 § 1.

§ 1771. Deposit of funds

(a) Whenever the department receives funds from the Treasurer under Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code for the support of this article, the funds shall be deposited in the Fish and Game Preservation Fund and credited to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account. These funds are for the support of programs for endangered and rare animals and native plant species as determined by the commission, related conservation and enhancement programs, and programs for those species which may be candidates for determination as endangered or rare under the criteria developed by the commission.

(b) The administrative overhead assessment on that portion of funds deposited in the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account expended through contracts shall not exceed 15 percent.

HISTORY:
Added Stats 1983 ch 1058 § 1. Amended Stats 1992 ch 658 § 1 (AB 3145).

§ 1772. Encouragement of donations; Dissemination of information

The department may take all appropriate measures to encourage donations to this account through the tax return checkoff system provided for in Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code. The department may also disseminate information to the public concerning the status of endangered and rare species. The cost to the department to carry out the provisions of this section may be charged to this account.

HISTORY:
Added Stats 1983 ch 1058 § 1.

ARTICLE 5. NATIVE CALIFORNIA WILDLIFE REHABILITATION VOLUNTARY TAX CONTRIBUTION FUND

§ 1773. Maintenance of Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund

The department shall maintain the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund established pursuant to Section 18749.1 of the Revenue and Taxation Code.

HISTORY:
Added Stats 2017 ch 504 § 1 (AB 1031), effective January 1, 2018.

§ 1773.1. Competitive grant program for specified purposes; Administrative expenses

(a) The funds deposited in the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund pursuant to Article 5.2 (commencing with Section 18749) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code are for the support of a competitive grant program to be established by the department for the purposes of the recovery and rehabilitation of injured, sick, or orphaned wildlife, and conservation education.

(b) A maximum of 5 percent of the funds allocated to the department may be used to defray the administrative expenses associated with administering the Native California Wildlife Rehabilitation Voluntary Tax Contribution Fund.

HISTORY:
Added Stats 2017 ch 504 § 1 (AB 1031), effective January 1, 2018.

§ 1773.2. Eligibility for grant

To be eligible for grant funding from the competitive grant program established pursuant to Section 1773.1, an applicant shall meet all of the following criteria:

(a) The applicant shall provide proof that it is a nonprofit organization that operates a wildlife rehabilitation facility permitted pursuant to Section 679 of Title 14 of the California Code of Regulations.

(b) The applicant shall be in compliance with all conditions of its Wildlife Rehabilitation Memorandum of Understanding.

(c) The applicant shall maintain active participation in the wildlife rehabilitation medical database.

HISTORY:
Added Stats 2017 ch 504 § 1 (AB 1031), effective January 1, 2018.

CHAPTER 7.8. SACRAMENTO–SAN JOAQUIN VALLEY WETLANDS MITIGATION BANK ACT OF 1993

ARTICLE 1. GENERAL PROVISIONS

§ 1775. Citation of chapter

This chapter shall be known and may be cited as the Sacramento–San Joaquin Valley Wetlands Mitigation Bank Act of 1993.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1776. Findings and declarations

The Legislature finds and declares the following:

(a) Wetlands are an important natural resource of the Sacramento–San Joaquin Valley because they provide significant habitat for migratory waterfowl of the Pacific flyway, for endangered species, and for many other resident wildlife and fish populations. Wetlands provide additional public benefits, including water quality improvement, flood protection, stream bank stabilization, recreation, and scientific research.

(b) Active and voluntary involvement by private landowners is necessary for the long-term availability and productivity of wetlands in the Sacramento–San Joaquin Valley.

(c) Large wetland preserves in the Sacramento–San Joaquin Valley, under certain circumstances, can provide an environmentally preferable alternative to a number of small, isolated wetland preserves of the same type surrounded by urban development.

(d) It is the policy of the state with respect to the Sacramento–San Joaquin Valley:

(1) To provide for the protection, preservation, restoration, enhancement, and expansion of the wetland habitat in the Sacramento–San Joaquin Valley.

(2) To promote the protection, preservation, restoration, enhancement, and expansion of the Sacramento–San Joaquin Valley wetlands in concert with other federal, state, and local programs, and interested parties.

(3) To improve cooperative efforts among private, nonprofit, and public entities for the management and protection of wetlands.

(4) To assure that no net loss of either wetland acreage or habitat values results from activities pursuant to this chapter in the Sacramento–San Joaquin Valley that otherwise comply with state and federal law.

(5) To encourage and maintain a predictable, efficient, and timely regulatory framework for environmentally acceptable development.

(6) To assure that the construction or maintenance of wetland mitigation banks in the Sacramento–San Joaquin Valley does not reduce any local tax base, does not create any uncompensated increased requirement for local services, and does not create conditions that have the potential to adversely affect the public health.

(7) To provide an alternative for accomplishing offsite mitigation in the Sacramento–San Joaquin Valley when offsite mitigation is required under a fill permit issued pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.).

(e) This chapter constitutes a nonexclusive alternative to other lawful methods of mitigating project impacts upon wetlands and maintaining and increasing wetlands acreage and habitat values generally. Specifically, this chapter is not intended to, and shall not be interpreted to:

(1) Condone or encourage the removal, loss, or degradation of wetlands.

(2) Condone or encourage the removal, loss, or degradation of habitat for any rare, threatened, or endangered species.

(3) Abrogate any other local, state, or federal law or policy relating to wetlands, nor prohibit any city or county from prohibiting the removal, filling, or other destruction of particular wetlands.

(4) Establish maximum or minimum standards or any other requirements for wetland fill or mitigation, except for mitigation banks established pursuant to this chapter.

(5) Have legal or necessary precedential application to any other area of the state, or to other lands, resources, situations, or circumstances.

(6) Preclude other forms of mitigation banking, including private or for-profit programs, within the Sacramento–San Joaquin Valley.

(7) Be the exclusive method of providing compensation by permittees for the loss of wetlands within the Sacramento–San Joaquin Valley.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1776.5. Legislative intent

It is the intent of the Legislature that the funds necessary to cover the costs of administering this chapter be provided by the purchase of credits in mitigation bank sites.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1777. Definitions as governing construction

Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1777.2. "Bank site" or "mitigation bank site"

"Bank site" or "mitigation bank site" means a publicly or privately owned and operated site on which wetlands have been or will be created in accordance with this chapter to compensate for adverse impacts caused by removal or fill permit activities authorized pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.). "Bank site" or "mitigation bank site" may include land on which rice is grown as long as those lands are managed as ricelands and those lands meet the other requirements of Section 1784.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936). Amended Stats 1994 ch 849 § 4 (SB 2113); Stats 1995 ch 928 § 1 (AB 389).

§ 1777.5. "Credit"

"Credit" means a numerical value that represents the wetland acreage and habitat values of a mitigation bank site.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1778. "Operator"

"Operator" means the department, or a public or private person or entity approved by the department, to administer a wetlands mitigation bank site.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1778.5. "Permittee"

"Permittee" means a public or private person or entity that meets all of the following conditions:

(a) Has received a permit pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.) for the removal or fling of wetlands, subject to a condition that allows the permittee to compensate for the wetland loss through participation in a wetland mitigation bank pursuant to this chapter.

(b) Proposes to compensate for the loss of the wetlands through participation in a wetlands mitigation bank pursuant to this chapter.

(c) Proposes the discharge at a site within a qualifying urban area and not more than 40 miles from a bank site with sufficient acreage of the same types of wetlands that will provide suitable replacement habitat for the values that may be lost from the conversion of the existing wetlands.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1779. "Qualifying urban area"

"Qualifying urban area" means any of the following when they occur within the Sacramento–San Joaquin Valley:

(a) A geographical area having a population of 50,000 or more inhabitants within the jurisdiction of a city, or a town, as defined by Sections 20 and 21 of the Government Code.

(b) A portion of any geographical area within a town, as defined in Section 21 of the Government Code, which has a population density equal to, or exceeding, 1,500 persons per square mile and which has a population of 50,000 or more inhabitants.

(c) A geographical area having a population density equal to, or exceeding, 1,500 persons per square mile, and an adjacent city, as defined in Section 20 of the Government Code, where the combined population of the geographical area and the city equals 50,000 or more inhabitants.

(d) A geographical area within the sphere of influence of a city or community services district for which the projected population of the adopted general plan equals 10,000 or more inhabitants.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1779.5. "Sacramento–San Joaquin Valley"

"Sacramento–San Joaquin Valley" means the central valley region, as defined in subdivision (g) of Section 13200 of the Water Code.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

ARTICLE 2. LEGISLATIVE GOALS

§ 1780. Purpose of chapter

The purpose of this chapter is to ensure that no net loss of wetland acreage or habitat values within the Sacramento–San Joaquin Valley occurs as a result of fill permit activities pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.).

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1781. State's goal

It is the state's goal to increase the total wetlands acreage and values within the Sacramento–San Joaquin Valley.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

ARTICLE 3. WETLANDS MITIGATION BANKS

§ 1784. Criteria for bank site qualification

(a) The department, in cooperation with those agencies specified in Section 1786, shall adopt regulations that establish standards and criteria for the bank site qualification process, for the evaluation of wetland habitat acreage and values created at the bank sites, and for the operation and evaluation of bank sites, and any other regulations that are necessary to implement this chapter.

These criteria shall require, at a minimum, that the newly created wetland provide the hydrologic, vegetative, and wildlife characteristics, including the food web components, of a naturally occurring wetland system that is equal to the site being mitigated.

(b) With respect to bank site standards and operator qualifications, the department shall consider, at a minimum, all of the following criteria:

(1) A requirement that the bank site have a reliable, adequate, and available water supply necessary to provide wetland values. For wetlands dependent only on rainfall, rainfall satisfies this requirement.

(2) The relative ease or difficulty of converting uplands into wetlands at the bank site.

(3) The anticipated maintenance necessary to sustain the recreated and created wetlands at the bank site.

(4) The proximity of the bank site to other established preserves or natural features historically associated with abundant wildlife values.

(5) The proximity of the bank site to urban or populated areas that could reduce the bank site's long-term biological values.

(6) The demonstrated ability of the bank site operator to create, administer, maintain, and protect the bank site in perpetuity in its enhanced state, including financial, technical, and management ability.

(7) The relative abundance or scarcity of the wetland type to be created at the bank site.

(c) A bank site or mitigation bank site may include any lands on which rice is grown as long as those lands are managed as ricelands with the required enhanced wetland values if they otherwise qualify under this chapter and either of the following conditions exist:

(1) The lands are lands on which rice was grown after January 1, 1996. For purposes of this paragraph, to qualify as new wetland values, rice shall not have been grown on the lands for 10 years before the application is submitted pursuant to Section 1785.

(2) The lands are lands on which rice was grown before January 1, 1996. These lands shall qualify only if there is an increase in wetland habitat value that is equal to the site being mitigated. For purposes of this paragraph, a wetland value shall only be provided for lands on which rice was grown that are proposed for wetlands mitigation for the period when that land is flooded between the harvesting of rice and the planting of the next crop. This paragraph shall apply only to lands that were not flooded after harvest between January 1, 1982, and January 1, 1992.

(d) Any mitigation site established pursuant to subdivision (c) may be replaced by a new site of an equal wetland value.

(e) This section shall not be construed to permit waters used to flood rice fields in order to create wetlands mitigation to be credited as beneficial to wildlife under federal law.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936). Amended Stats 1994 ch 849 § 5 (SB 2113); Stats 1995 ch 928 § 2 (AB 389); Stats 1996 ch 37 § 1 (AB 363).

§ 1785. Applications

If any person desires to establish a wetlands mitigation bank site under this chapter, the person shall apply to the department for a determination that the bank site and the operator qualify under the criteria established by the department pursuant to this chapter. The determination that a bank site qualifies under this chapter is a project for purposes of Section 21065 of the Public Resources Code.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1786. Memorandum of understanding

(a) Before any wetlands are created on the bank site qualified pursuant to Section 1785, the department shall coordinate and shall be a signatory to a memorandum of understanding with the operator. The United States Environmental Protection Agency, the United States Army Corps of Engineers, the Fish and Wildlife Service of the United States Department of the Interior, the Central Valley Regional Water Quality Control Board, and the State Department of Health Services or its designee, or any of them, may be signatories by indicating to the department their interest in participating within 90 days of being notified by the department of the department's intent to initiate the procedures described in this section. Any county located in whole or in part in the Sacramento–San Joaquin Valley may, by ordinance, require that it be a signatory to any memorandum of understanding for a bank site to be established within its boundary.

(b) The memorandum of understanding shall include, but is not limited to, all of the following items:

(1) Identification of the mitigation bank site, including the legal property description, acreage, types, and location of existing wetlands within the boundaries of the bank site.

(2) An agreement, by each of the governmental agencies in subdivision (a), that all new, successfully created wetland acreage shall qualify to be credited against the approved removal or fill of wetlands located in the qualifying urban area and within 40 miles of the bank site and is consistent with the procedures set out in this chapter.

(3) An agreement by the operator to do both of the following:

(A) Maintain all wetland habitat within the bank in optimum condition in perpetuity, barring an unforeseen natural catastrophe that precludes the viability of wetlands.

(B) Establish a trust or bond in favor of the department that provides sufficient funds to ensure administration, protection, operation, and maintenance in perpetuity of the wetland habitat acreage and values at the mitigation bank site if the operator defaults in performing the duties required pursuant to subparagraph (A).

(4) In the case of privately owned bank sites, identification of the circumstances that would constitute a major breach of the agreement and that would result in either the replacement of the operator, or the passing of title from the owner to the state, or both, including identification of procedures for adequate notice and opportunity for the operator to be heard and to correct any breach.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1787. Public owner's responsibility for taxes and assessments

(a) If the bank site owner is a public entity, that entity shall pay annually to the county in which the property is located an amount equal to the county taxes levied on the property at the time title to the bank site is transferred to that entity. The public entity

shall also pay the assessments levied upon the property by any irrigation, drainage, or reclamation district.

(b) Payments under this section shall be made on or before December 10 of each year, except for newly acquired bank sites, for which payments shall be made pursuant to subdivision (c).

(c) Payments for newly acquired bank sites shall be made within one year of the date title to the property was transferred to the state, prorated for the balance of the year from the date title was transferred to the 30th day of June following the date title was transferred, and, thereafter, payments shall be made on or before December 10 of each year.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

ARTICLE 4. WETLANDS

§ 1790. Request for determination of amount of credit

Upon the successful creation of any wetlands of at least 20 acres, or in the case of vernal pools, upon successful creation of vernal pools on a site at least 20 acres m size, the operator may request a determination by the department of the number of acres m the mitigation bank site, and the relative habitat value thereof, that qualify for credit against prospective wetland loss in the qualifying urban area. In determining the amount of mitigation bank credit, no credit shall be provided for habitat values or acreage that was in existence prior to the establishment of the bank.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1791. Wetland type classification

(a) Upon receipt of a request pursuant to Section 1790, the department shall determine the number of acres which are wetlands in the bank site based on the criteria established pursuant to Section 1784, and the department shall classify those wetlands according to established biological criteria.

(b) The classifications shall include, but are not limited to, the following wetland types:

(1) Perennial freshwater marsh.
(2) Perennial brackish marsh.
(3) Seasonal freshwater marsh.
(4) Wet meadow.
(5) Vernal pool.
(6) Riparian woodland.
(7) Riparian scrub.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1792. Cost factors

In the interest of assuring that the minimum price for wetland credit is sufficient to ensure the financial integrity of the bank, the department may establish a minimum price for each bank established pursuant to this chapter. The operator may set a higher price to the extent that price is consistent with the terms of the memorandum of understanding executed pursuant to Section 1785. After the department determines the number of wetland acres in the bank site that qualify for credit against wetland loss in a qualifying urban area, the operator shall provide to the department, and the

department shall verify, an accounting of the average cost for each wetland acre created, by wetland type for the purpose of determining credits, using the following factors:

(a) Land costs, including the reasonable interest cost of holding the land.

(b) Wetland creation costs.

(c) Wetland administration, maintenance, and protection costs.

(d) Annual taxes, including all tax increases allowed under applicable state law, and in-lieu payments pursuant to Section 1787, if applicable.

(e) Costs incurred by the department in establishing the bank site, and the direct cost of necessary ongoing monitoring and oversight.

(f) Any other information relevant to a determination of the cost of preserving the wetlands in perpetuity.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1792.5. Reimbursement agreement

The department shall be reimbursed for those expenses of the department identified in Section 1792 according to a schedule contained in an agreement with the person establishing a wetland mitigation bank. The agreement shall be approved by all parties prior to the commencement of planning activities.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

ARTICLE 5. DISCHARGE INTO WETLANDS

§ 1793. Compensation from permittee; Classification by department

A permittee shall provide compensation pursuant to Section 404 of the federal Clean Water Act (33 U.S.C. Sec. 1344 et seq.). The department shall classify the wetlands that the permittee will remove according to wetland type, consistent with Article 4 (commencing with Section 1790).

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1794. Compensation conditions

Compensation pursuant to Section 1793 is subject to the condition that the operator establish the trust or bond required by subparagraph (B) of paragraph (3) of subdivision (b) of Section 1786 and, in addition, is subject to the following conditions:

(a) The full payment shall be used to purchase credits in the mitigation bank site.

(b) The payment shall provide for purchase of bank site wetland acreage required by Section 1793 that has the same hydrologic, vegetative, and other characteristics as the system for which it will serve as mitigation.

(c) A permittee shall not participate in a wetlands mitigation bank if a net loss of wetland habitat values or acreage occurs.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1795. Further obligations of permittee

After payment to the operator pursuant to this article, the permittee has no further obligations with respect to the operation of the bank site to which payment was made, unless the permittee has an equity involvement in the bank.

HISTORY:
Added Stats 1993 ch 1254 § 1 (SB 936).

§ 1796. Terminal date for qualifications

No bank site shall be qualified under Section 1785 on or after January 1, 2015.

HISTORY:

Added Stats 1993 ch 1254 § 1 (SB 936). Amended Stats 2001 ch 745 § 49 (SB 1191), effective October 12, 2001; Stats 2009 ch 294 § 8 (AB 1442), effective January 1, 2010.

CHAPTER 7.9. CONSERVATION BANK AND MITIGATION BANK APPLICATIONS AND FEES

§ 1797. Legislative findings and declarations

The Legislature finds and declares as follows:

(a) Mitigation banks and conservation banks provide for the conservation of important habitats and habitat linkages, take advantage of economies of scale that are often not available to individualized mitigation projects, and simplify the state regulatory compliance process while achieving conservation goals.

(b) The department authorizes the establishment of private and public conservation and mitigation banks that can provide viable consolidated mitigation for adverse impacts caused by projects. Banks sell habitat or species credits to project proponents having mitigation responsibilities that require compensation for impacts to wetlands, threatened or endangered species, and other sensitive resources. The state policy on conservation banks was established in 1995 by the Natural Resources Agency and the California Environmental Protection Agency.

(c) In 2011, the department and other state and federal agencies, including the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Army Corps of Engineers, and the United States Environmental Protection Agency, renewed a memorandum of understanding for the purpose of jointly establishing a framework for developing and using combined or coordinated approaches to mitigation and conservation banking in the state. The memorandum of understanding includes provisions for the development and continuous improvement of standardized banking program documents and guidance. Existing standardized documents identified in the memorandum of understanding include bank enabling instruments, conservation easements, long-term management plans, and bank proposal review checklists, among others.

(d) The department has properly excluded from being eligible as mitigation and conservation banks those lands that are not suitable to become banks, for reasons that include that the lands do not support significant biological resources or are not biologically viable, are subject to potentially inconsistent uses, encumbrances, or requirements, or would not meet requirements of permits or authorizations that require mitigation.

(e) Greater transparency is desired to ensure that mitigation requirements of regulatory programs, permits, and authorizations are fully met when employing conservation and mitigation banks, and that the monitoring of banks to ensure long-term conservation of species and habitats is scientifically valid.

(f) The private and public mitigation and conservation banks and the private and public entities to which bank credits are sold should fully fund the administrative and regulatory costs of the department in providing banking program services, administration and oversight.

(g) The department has found that the establishment and use of conservation and mitigation banks may result in added ecological benefits and reduced administrative costs over the more traditional forms of smaller, single-purpose mitigation projects.

(h) It is the intent of the Legislature that banking and all other forms of mitigation for wildlife species comply with regulatory requirements, are based on the best available scientific information, can be implemented successfully, and have adequate

funding to achieve mitigation measures and be monitored for compliance and effectiveness. The Legislature recognizes that mitigation and conservation banking is important to the state because banks provide regulatory efficiencies, environmental benefits, and economic advantages. Properly developed and monitored banks have demonstrated their value and efficacy and are important tools in mitigating impacts to resources and in conserving a wide range of habitat lands.

HISTORY:
Added Stats 2012 ch 565 § 14 (SB 1148), effective January 1, 2013.

§ 1797.5. Definitions

For the purposes of this chapter, the following terms shall have the following meanings:

(a) "Bank" means a conservation bank, mitigation bank, or conservation and mitigation bank.

(b) "Bank enabling instrument" means a written agreement with the department regarding the establishment, use, operation, and maintenance of the bank.

(c) "Bank sponsor" means the person or entity responsible for establishing and operating a bank.

(d) "Conservation bank" means a publicly or privately owned and operated site that is to be conserved and managed in accordance with a written agreement with the department that includes provisions for the issuance of credits, on which important habitat, including habitat for threatened, endangered, or other special status species, exists, has been, or will be created to do any of the following:

(1) Compensate for take or other adverse impacts of activities authorized pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3.

(2) Reduce adverse impacts to fish or wildlife resources from activities, authorized pursuant to Chapter 6 (commencing with Section 1600) of Division 2, to less than substantial.

(3) Mitigate significant effects on the environment pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and Guidelines for Implementation of the California Environmental Quality Act (Chapter 3 (commencing with Section 15000) of Division 6 of Title 14 of the California Code of Regulations).

(4) Establish mitigation in advance of any impacts or effects.

(5) To the extent feasible and practicable, protect habitat connectivity for fish and wildlife resources for purposes of this section.

(e) "Conservation easement" means a perpetual conservation easement, as defined by Section 815.1 of the Civil Code, covering the real property that comprises the bank site.

(f) "Mitigation bank" means either of the following:

(1) A bank site or mitigation bank site as defined by Section 1777.2.

(2) Any publicly or privately owned and operated site, other than those defined by Section 1777.2, on which wetlands exist, have been, or will be created, and that is to be conserved and managed in accordance with a written agreement with the department for any of the purposes described in paragraphs (1) to (4), inclusive, of subdivision (d).

(g) "Person" has the meaning set forth in subdivision (b) of Section 711.2.

(h) "Prospectus" means a written summary of the proposed bank containing a sufficient level of detail to support informed department review and comment.

HISTORY:
Added Stats 2012 ch 565 § 14 (SB 1148), effective January 1, 2013. Amended Stats 2015 ch 625 § 1 (AB 498), effective January 1, 2016.

§ 1798. Draft prospectus; Bank prospectus; Fees; Determination

(a)(1) Any person interested in establishing any bank with the department may elect

to submit an optional draft prospectus for review by the department. Any draft prospectus shall be accompanied by a draft prospectus review fee of one thousand five hundred dollars ($1,500) to fund the reasonable cost of the department's review services. The draft prospectus review, while optional, is intended to identify potential issues early so that the potential bank sponsor may attempt to address those issues prior to initiating the formal review process. The draft prospectus is a brief proposal submitted when scoping the concept of a bank, contemplating pursuing a bank idea, or for those new to the banking process.

(2) No later than 30 calendar days after the department receives a draft prospectus and review fee, the department shall make an initial evaluation of the proposed concept and notify the person who submitted the draft prospectus of potential issues identified by the department.

(b)(1) Any person seeking to establish a bank with the department shall submit a bank prospectus to the department together with a prospectus review fee of ten thousand dollars ($10,000) to fund the reasonable cost of the department's review services. If a draft prospectus and the review fee have been submitted pursuant to subdivision (a), then the review fee for the bank prospectus shall be eight thousand five hundred dollars ($8,500) so as not to exceed a total fee of ten thousand dollars ($10,000).

(2) The bank prospectus shall contain at least all of the following information:

(A) The proposed bank name.

(B) Contact information, including, but not limited to, the bank sponsor, property owner, and any consultants.

(C) A general location map, address, and the size of the proposed bank in acres.

(D) A 7.5-minute United States Geological Survey map showing proposed boundaries of the bank.

(E) Color aerial photographs that reflect current conditions on the site of the proposed bank and surrounding properties.

(F) Description of how the bank will be established and operated, including, but not limited to, proposed ownership arrangements, long-term management strategy, and any phases.

(G) Qualifications of bank sponsor.

(H) Preliminary natural resources surveys that document biotic and abiotic baseline conditions, including past, current, and adjacent land uses, vegetation types, species information, topography, hydrology, and soil types.

(I) Map of proposed bank service areas.

(J) Map depicting other conserved lands in the vicinity of the proposed bank.

(K) Description of bank objectives that includes how the proposed bank would contribute to connectivity and ecosystem function.

(L) A current preliminary report covering the site of the proposed bank that identifies the owner of the fee simple title and shows all liens, easements, and other encumbrances and depicts all relevant property lines, easements, dedications, and other features.

(M) A declaration of whether or not the proposed bank site has been or is being used as mitigation, is designated or dedicated for park or open space use, or designated for purposes that may be inconsistent with habitat preservation.

(N) Details of any public funding received for acquisition or restoration of, or other purposes related to, the proposed bank site.

(c) No later than 30 calendar days after the department receives a bank prospectus and the prospectus review fee, the department shall determine whether or not the prospectus is complete and provide written notice of its determination to the person who submitted the prospectus. If a prospectus is not complete, it may be made complete and resubmitted.

(d) If the department determines that the prospectus is complete, then within 90 calendar days of that determination, the department shall determine whether or not the

prospectus is acceptable and notify the person who submitted the prospectus of the determination. The department may request clarifying information during the prospectus review process.

(e)(1) If the department determines that a bank prospectus is acceptable then a bank agreement package may be submitted in accordance with Section 1798.5.

(2) If the department determines that a bank prospectus is not acceptable the department shall state the reasons for the determination. The prospectus may be resubmitted in accordance with subdivision (a) if further consideration is desired. Any resubmittal must be accompanied by payment of a new prospectus review fee.

(f) The department may adopt and amend guidelines and criteria for the purposes of this section pursuant to subdivision (b) of Section 1799.1.

HISTORY:
Added Stats 2012 ch 565 § 14 (SB 1148), effective January 1, 2013.

§ 1798.5. Bank agreement package; Required information; Fee; Determination of completeness; Request for clarifying or supplemental information; Review period; Changes

(a)(1) If the department determines that a bank prospectus is acceptable pursuant to Section 1798, the person seeking to establish the bank may submit a bank agreement package to the department. Pursuant to subdivision (b) of Section 1799.1, the department may adopt and amend guidelines and criteria for the bank agreement package, including, but not limited to, recommended standard forms for bank enabling instruments or long-term management plan and conservation easements.

(2) The bank agreement package shall be consistent with the prospectus and contain at least all of the following information:

(A) The draft bank enabling instrument and all exhibits.

(B) Drafts of the interim management plan, long-term management plan, bank closure plan, and, if applicable, a development or construction plan for the bank.

(C) A draft conservation easement, or if potential state ownership is contemplated by the department, a draft grant deed.

(D) A map and written description of the proposed bank service area.

(E) A proposed credit ledger and credit release schedule for the bank.

(F) A property analysis record or other comparable economic analysis of the funding necessary to support bank maintenance activities, such as monitoring and reporting, in perpetuity.

(G) Estimates of financial assurances and proposed forms of security. Proposed forms of security may be either cash or a letter of credit.

(H) A phase I environmental site assessment of the site of the proposed bank dated not more than six months prior to the date the bank agreement package is submitted to the department. This assessment shall be performed in accordance with the American Society of Testing and Materials Standard E1527-05 "Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process" or any successive ASTM standard active at the time of the assessment.

(b) The department shall collect a fee of twenty-five thousand dollars ($25,000) per bank agreement package to fund the cost of the department's review services. The fee shall be collected at the time the bank agreement package is submitted to the department.

(c) Within 30 calendar days following the department's receipt of a bank agreement package and fee pursuant to subdivision (a), the department shall determine whether or not the package is complete and give written notice of the determination to the person who submitted the package.

(1) If the department determines that the bank agreement package is not complete, it may be made complete and resubmitted.

(2) If the department determines that the bank agreement package is complete, within 90 calendar days of that determination, the department shall determine whether or not it is acceptable and notify the person who submitted the package of the determination. If the department determines that the bank agreement package is not acceptable, the department shall state the reasons.

(d) The department may request clarifying information during the bank agreement review process.

(e) If the department needs supplemental information during its review of the bank agreement package in order to fully evaluate the proposed bank, the regional manager or departmental equivalent, or a higher level department employee, shall provide the person seeking to establish the bank a written request for the needed information. Upon the department's receipt of the requested information, a new 90-day period shall begin during which the department shall determine acceptability pursuant to paragraph (2) of subdivision (c). If the department does not receive the requested information within 60 calendar days of the department's request, the bank agreement package will be deemed unacceptable.

(f) If the person seeking to establish the bank proposes changes to the bank agreement package that have not been solicited by the department during its 90-day review period, including, but not limited to, parties, number or type of credits, bank size, number or type of species, credit release schedule, service area, design change, or other changes as identified by the department as necessitating additional review time, the department, acting through the regional manager or department equivalent, or a higher level department employee, shall assess a one-time fee of ten thousand dollars ($10,000) to cover the reasonable cost of the department's services in reviewing the changes. A new 90-day review period shall begin upon the department's receipt of the proposed changes and the associated review fee, during which it will determine acceptability pursuant to paragraph (2) of subdivision (c).

(g) If the department determines that 90 days is insufficient time to complete its review of the bank agreement package for reasons including, but not limited to, the size, location, or complexity of the bank, that the package includes a development or construction plan, complexity of the bank agreement package, or substantial variations from recommended standard forms, the department may extend the 90-day period for reviewing the bank agreement package by an additional 60 calendar days.

(h) If the department determines that a bank agreement package is not acceptable, the package may be resubmitted in accordance with subdivision (a) if further consideration is desired. Any resubmittal shall be accompanied by payment of a new bank agreement package review fee.

HISTORY:
Added Stats 2012 ch 565 § 14 (SB 1148), effective January 1, 2013.

§ 1798.6. Bank amendment package; Fee; Review period; Determination; Request for clarifying or supplemental information; Changes

(a) Any person seeking to amend any bank shall submit to the department a complete bank amendment package containing each of the original bank agreement package documents, including any prior amendments, as well as any documents proposed to be amended or that would be affected by the proposed amendment. The department may adopt and amend guidelines and criteria for the bank amendment package pursuant to subdivision (b) of Section 1799.1.

(b)(1) Within 30 calendar days following its receipt of a draft bank amendment package and any fee required by subdivision (c), the department shall determine whether or not the package is complete and give written notice of that determination to the person who submitted the package.

(2) If the department determines that the bank amendment package is complete, then within 90 calendar days of that determination, the department shall determine

whether or not the package is acceptable and notify the person who submitted the package of that determination. If the bank amendment package is determined not to be acceptable, the determination shall state the reasons. The department may request clarifying information during the bank amendment review process. The department may extend the 90-day period for reviewing the bank amendment package by an additional 60 days if the department determines that 90 days is insufficient time to complete its review of a bank amendment package for reasons that may include, but are not limited to, the size, location, or complexity of the bank or bank amendment documents, that the package includes a development plan, or that there are substantial variations from recommended standard forms.

(c)(1) The department shall collect a fee of either seven thousand five hundred dollars ($7,500) or twenty-five thousand dollars ($25,000) per bank amendment package to fund the reasonable cost of the department's review services. The fee of seven thousand five hundred dollars ($7,500) is intended to cover the reasonable cost of the department's services in reviewing simple amendments, such as a change in bank name, ownership change, address change, or proposed decrease in the number of credits proposed. The fee of twenty-five thousand dollars ($25,000) is intended to cover the reasonable cost of the department's services in reviewing all other amendments, including, but not limited to, requests for increase change in service area, or increase in the number of credits. A regional manager or department equivalent, or a higher level department representative employee, shall determine which of the two fees is appropriate and shall provide notification of that determination to the person who submitted the request for bank amendment package pursuant to paragraph (3).

(2) An initial fee of seven thousand five hundred dollars ($7,500) shall be submitted to the department with the bank amendment package.

(3) Within 30 calendar days following the department's receipt of a bank amendment package and the initial fee, pursuant to paragraph (2), the department shall determine whether or not the package is complete and give written notice of the determination to the person who submitted it and, if applicable, notice pursuant to paragraph (1) that the person shall remit an additional fee of seventeen thousand five hundred dollars ($17,500). If noticed by the department, the additional fee of seventeen thousand five hundred dollars ($17,500) shall be submitted to the department within 30 days of the notice. If the additional fee is not received by this date, the review timelines in this section shall be suspended until the fee is received by the department.

(4) If the department determines that the bank amendment package is not complete, the package may be made complete and resubmitted. If the department determines that the bank amendment package is complete, then within 90 calendar days of that determination and the receipt of the additional fee pursuant to paragraph (3), if applicable, the department shall determine whether or not the bank amendment package is acceptable and notify the person who submitted the package of the determination.

(d)(1) If the department determines that the bank amendment package is not acceptable the determination shall state the reasons.

(2) The department may request clarifying information during the bank amendment review process.

(e) If the department needs supplemental information during its review of the bank amendment package in order to fully evaluate the proposed amendment, the regional manager or department equivalent, or a higher level department employee, shall provide the person seeking to amend the bank, in writing, a written request for the needed information. Upon the department's receipt of the requested information, a new 90-day period shall begin during which the department will determine acceptability pursuant to paragraph (4) of subdivision (c). If the department does not receive the requested information within 60 calendar days of the department's request, the bank amendment package shall be deemed unacceptable.

(f) If the person seeking to amend the bank proposes changes to the bank amendment package that have not been solicited by the department during its the department's 90-day review period, including, but not limited to, parties, number or type of credits, bank size, number or type of species, credit release schedule, service area, design change, or other changes as identified by the department to require additional review time, the department, acting through the regional manager or department equivalent, or a higher level department employee, shall assess a one-time fee of ten thousand dollars ($10,000) to cover the reasonable cost of the department's services in reviewing the changes. A new 90-day review period shall begin upon receipt of the proposed changes and the fee, during which the department shall determine acceptability pursuant to paragraph (4) of subdivision (c).

(g) If the department determines that 90 days is insufficient time to complete its review of the bank amendment package for reasons, including, but not limited to, the size, location, or complexity of the bank or bank amendment package, that the package includes a development or construction plan, or substantial variations from recommended standard forms, the department may extend the 90-day period for reviewing the bank amendment package by an additional 60 calendar days.

(h) If the department determines that a bank amendment package is not acceptable, then the package may be resubmitted in accordance with subdivision (a) if further consideration is desired. Any resubmittal shall be accompanied by payment of all applicable bank amendment package review fees.

HISTORY:
Added Stats 2012 ch 565 § 14 (SB 1148), effective January 1, 2013.

§ 1798.7. Review of bank prospectus, agreement, or amendment package submitted but not approved as of January 1, 2013

A bank prospectus, agreement, or amendment package submitted to the department, but not approved as of January 1, 2013, shall be reviewed for completeness or acceptability in accordance with the timelines provided by this chapter and only after the department has collected all appropriate fees pursuant to this chapter.

HISTORY:
Added Stats 2012 ch 565 § 14 (SB 1148), effective January 1, 2013.

§ 1799. Written approval required; Compliance review activities; Database to add and update information about mitigation and conservation banks; Report; Fees

(a) Until the department has approved a bank, in writing, and, if applicable, a conservation easement has been recorded on the site, no bank shall be operative, vested, or final, nor bank credits issued. No amendment to an approved bank shall be effective without the written approval of the department.

(b) Following approval of a final bank agreement package and establishment of a bank, the department shall conduct compliance review activities as provided in the approved bank enabling instrument.

(c)(1) The department shall establish and maintain a database that allows bank sponsors to accurately update and add information about mitigation and conservation banks. This data shall be available on the department's Internet Web site or accessible by a link from the department's Internet Web site. The available information shall include, but is not limited to, the total number of each type of bank credit, the types of credits sold or obligated, the number of credits sold or obligated, the number of credits applied, the balance of each type of credit remaining, the status of the species and habitat at the bank, links to the bank's long-term management plans, and links to the complete annual monitoring reports required by departmental policy.

(2) Information contained in the database created pursuant to former Chapter 9 (commencing with Section 1850) on January 1, 2011, shall be incorporated into the database established pursuant to paragraph (1).

(d) By January 1, 2014, and annually thereafter, the department shall provide a report to the Legislature. The report shall include the following information based on data from the previous calendar year:

(1) Number of new bank applications, prospectuses, bank agreement packages, and amendments received.

(2) Number of bank applications approved, rejected because not complete, rejected because not acceptable, and withdrawn.

(3) Name of new or existing bank, geographic location, number of acres, number of credits approved for each habitat type or species, and number of credits sold.

(4) An accounting of fees collected pursuant to this chapter.

(5) A statement of whether or not the timelines for bank review in this chapter were met.

(6) Other information determined by the department to be relevant in assessing the effectiveness of the department's mitigation and conservation banking program.

(e)(1) The department shall collect fees to pay for all or a portion of the department's bank implementation and compliance costs.

(2) The department shall collect a total payment of sixty thousand ($60,000) per bank, apportioned by an amount that equals the ratio of the number of credits released to the total number of credits in the bank, and shall be identified in the bank enabling instrument. Payments shall be due following each credit release no later than the due date for the submission of the bank's annual report. The payments shall be submitted following each credit release and no later than the time of the submission of the bank's annual report. The department may require the bank to cease selling credits and may stop credit releases until these fees are paid in full. The department shall assess a penalty of 10 percent of the amount of fees due if there is a failure to remit the amount payable when due.

HISTORY:
Added Stats 2012 ch 565 § 14 (SB 1148), effective January 1, 2013.

§ 1799.1. Adjustment of fees; Dedicated account; Adoption of guidelines; Reimbursement of costs

(a) The department shall annually adjust the fees in this chapter pursuant to Section 713.

(b) Moneys received pursuant to this chapter shall be deposited in a separate dedicated account within the Fish and Game Preservation Fund and expended for the purposes of this chapter.

(c) The department shall adopt and amend guidelines and criteria to implement this chapter. The department shall develop these guidelines and criteria in coordination with interested parties, including, but not limited to, bank sponsors, conservation organizations, and federal and state bank approving agencies. The guidelines shall incorporate all relevant documents and program guidance, including, but not limited to, the 2011 Memorandum of Understanding approved by the United States Fish and Wildlife Service, the United States Army Corps of Engineers, and the United States Environmental Protection Agency, for the purpose of jointly establishing a framework for developing and using combined or coordinated approaches to mitigation and conservation banking in California. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the development, adoption, or amendment, of guidelines or criteria pursuant to this section. The guidelines and criteria shall be posted on the department's Internet Web site.

(d) The costs of a conservation and mitigation banking program, including, but not limited to, costs incurred by the department during its guideline adoption and review,

approval, establishment, monitoring, and oversight of banks, shall be reimbursed from revenues of conservation and mitigation bank application fees imposed pursuant to Sections 1798.5, 1798.6, and 1799.

HISTORY:
Added Stats 2012 ch 565 § 14 (SB 1148), effective January 1, 2013.

CHAPTER 8. CONSERVATION OF WILDLIFE RESOURCES

ARTICLE 1. DEFINITIONS

§ 1800. "Wildlife"

As used in this chapter "wildlife" means birds, mammals, and reptiles not raised in captivity.

HISTORY:
Added Stats 1974 ch 1190 § 1.

ARTICLE 2. POLICY

§ 1801. Declaration of policy

It is hereby declared to be the policy of the state to encourage the preservation, conservation, and maintenance of wildlife resources under the jurisdiction and influence of the state. This policy shall include the following objectives:

(a) To maintain sufficient populations of all species of wildlife and the habitat necessary to achieve the objectives stated in subdivisions (b), (c), and (d).

(b) To provide for the beneficial use and enjoyment of wildlife by all citizens of the state.

(c) To perpetuate all species of wildlife for their intrinsic and ecological values, as well as for their direct benefits to all persons.

(d) To provide for aesthetic, educational, and nonappropriative uses of the various wildlife species.

(e) To maintain diversified recreational uses of wildlife, including the sport of hunting, as proper uses of certain designated species of wildlife, subject to regulations consistent with the maintenance of healthy, viable wildlife resources, the public safety, and a quality outdoor experience.

(f) To provide for economic contributions to the citizens of the state, through the recognition that wildlife is a renewable resource of the land by which economic return can accrue to the citizens of the state, individually and collectively, through regulated management. Such management shall be consistent with the maintenance of healthy and thriving wildlife resources and the public ownership status of the wildlife resources.

(g) To alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively. Such resolution shall be in a manner designed to bring the problem within tolerable limits consistent with economic and public health considerations and the objectives stated in subdivisions (a), (b) and (c).

(h) It is not intended that this policy shall provide any power to regulate natural resources or commercial or other activities connected therewith, except as specifically provided by the Legislature.

HISTORY:
Added Stats 1974 ch 1190 § 1. Amended Stats 1992 ch 279 § 1 (AB 2823).

§ 1802. Jurisdiction; Biological expertise

The department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. The department, as trustee for fish and wildlife resources, shall consult with lead and responsible agencies and shall provide, as available, the requisite biological expertise to review and comment upon environmental documents and impacts arising from project activities, as those terms are used in the California Environmental Protection Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

HISTORY:
Added Stats 1990 ch 1706 § 10 (AB 3158).

CHAPTER 9. ADVANCE MITIGATION AND REGIONAL CONSERVATION INVESTMENT STRATEGIES

§ 1850. Legislative findings and declarations; Purpose; Policy; Legislative intent

(a) The Legislature finds and declares that it would be beneficial to identify species and habitat conservation initiatives at a regional scale, including actions to address the impacts of climate change and other wildlife stressors, in order to guide voluntary investments in conservation, and compensatory mitigation for impacts to ecological resources, including impacts to threatened and endangered species, other sensitive species, natural communities, ecological processes, and wildlife corridors.

(b) The purpose of this chapter is to promote the voluntary conservation of natural resources, including biodiversity and ecological processes, and to enhance resiliency to climate change and other threats. In order to further this goal, it is the policy of the state to encourage voluntary mechanisms to conserve biological and other ecological resources and to identify conservation actions, including actions to promote resiliency to the impacts of climate change and other stressors to species and habitat.

(c) It is further the policy of the state to encourage voluntary mechanisms to identify and implement advance mitigation actions that do all of the following:

(1) Can be used to compensate for project impacts, including, but not limited to, infrastructure and renewable energy projects, more efficiently.

(2) Are effective ecologically.

(3) Will help to conserve regionally important biological and other ecological resources.

(d) In enacting this chapter, it is the intent of the Legislature to promote science-based conservation, including actions to promote resiliency to the impacts of climate change and other stressors. It is further the intent of the Legislature to create nonregulatory mechanisms to guide investments in conservation, infrastructure, and compensatory mitigation for impacts to natural resources, including impacts to threatened and endangered species, other sensitive species, natural communities, ecological processes, and connectivity.

(e) In enacting this chapter, it is not the intent of the Legislature to regulate the use of land, establish land use designations, or to affect, limit, or restrict the land use authority of any public agency.

(f) Further, in enacting this chapter, it is not the intent of the Legislature that an approved regional conservation investment strategy would be binding on independent public agency action within the strategy's geographic scope.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1851. Definitions

For purposes of this chapter:

(a) "Administrative draft natural community conservation plan" means a substantially complete draft of a natural community conservation plan that is released after January 1, 2016, to the general public, plan participants, and the department.

(b) "Areas of Conservation Emphasis" means the biodiversity analysis completed by the department in 2010, or the latest update of that analysis.

(c) "Compensatory mitigation" means actions taken to fulfill, in whole or in part, mitigation requirements under state or federal law or a court mandate.

(d) "Conservation action" means an action to preserve or to restore ecological resources, including habitat, natural communities, ecological processes, and wildlife corridors, to protect those resources permanently, and to provide for their perpetual management, so as to help to achieve one or more biological goals and objectives for one or more focal species. Conservation actions may include, but are not limited to, actions to offset impacts to focal species.

(e) "Conservation easement" means a perpetual conservation easement that complies with Chapter 4 (commencing with Section 815) of Title 2 of Part 2 of Division 2 of the Civil Code.

(f) "Focal species" means sensitive species within a regional conservation investment strategy area that are analyzed in the strategy and will benefit from conservation actions and habitat enhancement actions set forth in the strategy.

(g) "Habitat enhancement action" means an action to improve the quality of wildlife habitat, or to address risks or stressors to wildlife, that has long-term durability but does not involve land acquisition or the permanent protection of habitat, such as improving in-stream flows to benefit fish species, enhancing habitat connectivity, or invasive species control or eradication.

(h) "Performance-based milestones" means specifically identified steps in the implementation of a conservation action or habitat enhancement action, such as site protection, initiating implementation, completing implementation, or achieving performance standards.

(i) "Performance standards" means observable or measurable physical or biological attributes that are used to determine if a conservation action or habitat enhancement action has met its objectives.

(j) "Permanently protect" means doing both of the following:

(1) Recording a conservation easement, in a form approved in advance in writing by the department, or establishing perpetual protection of land in a manner consistent with draft or approved natural community conservation plans within the area of the applicable regional conservation investment strategy and approved in advance in writing by the department, that prevents development, prohibits inconsistent uses, and ensures that habitat for focal species is maintained.

(2) Providing secure, perpetual funding for management of the land, monitoring, and legal enforcement.

(k) "Regional conservation assessment" means information and analyses that document the important species, ecosystems, ecosystem processes, protected areas, and linkages within an ecoregion to provide the appropriate context for nonbinding, voluntary conservation strategies and actions. Those assessments include information for the identification of areas with greatest probability for long-term ecosystem conservation success incorporating cobenefits of ecosystem services, such as carbon, water, and agricultural lands. A regional conservation assessment may be used to provide context at an ecoregional or subecoregional scale to assist with the development of a regional conservation investment strategy. A regional conservation assessment is nonbinding, voluntary, and does not create, modify, or impose regulatory requirements or standards, regulate the use of land, establish land use designations, or affect the land use authority of, or the exercise of discretion by, any public agency. The preparation and use of a regional conservation assessment is voluntary.

(*l*) "Regional conservation investment strategy" means information and analyses prepared pursuant to this chapter to inform nonbinding and voluntary conservation

actions and habitat enhancement actions that would advance the conservation of focal species, habitat, and other natural resources and to provide nonbinding voluntary guidance for the identification of wildlife and habitat conservation priorities, investments in ecological resource conservation, or identification of locations for compensatory mitigation for impacts to species and natural resources. Regional conservation investment strategies are intended to provide scientific information for the consideration of public agencies, are voluntary, and do not create, modify, or impose regulatory requirements or standards, regulate the use of land, establish land use designations, or affect the land use authority of or exercise of discretion by, any public agency. The preparation and use of regional conservation investment strategies for this guidance is voluntary.

(m) "Regional level" means the geographic scale of relevant ecologically defined units such as ecoregions.

(n) "Sensitive species" means any special status species identified by a state or federal agency.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1852. Regional conservation investment strategy; Approval; Purpose; Required inclusions and considerations

(a) The department may approve a regional conservation investment strategy pursuant to this chapter. A regional conservation investment strategy may be proposed by the department or any other public agency, and shall be developed in consultation with local agencies that have land use authority within the geographic area of the regional conservation investment strategy. The department may only approve a regional conservation investment strategy if one or more state agencies request approval of the regional conservation investment strategy through a letter sent to the director indicating that the proposed regional conservation investment strategy would contribute to meeting both of the following state goals:

(1) Conservation.

(2) Public infrastructure or forest management.

(b) The purpose of a regional conservation investment strategy shall be to inform science-based nonbinding and voluntary conservation actions and habitat enhancement actions that would advance the conservation of focal species, including the ecological processes, natural communities, and habitat connectivity upon which those focal species depend, and to provide nonbinding voluntary guidance for one or more of the following:

(1) Identification of wildlife and habitat conservation priorities, including actions to address the impacts of climate change and other wildlife stressors.

(2) Investments in resource conservation.

(3) Infrastructure.

(4) Identification of areas for compensatory mitigation for impacts to species and natural resources.

(c) A regional conservation investment strategy shall include all of the following:

(1) An explanation of the conservation purpose of and need for the strategy.

(2) The geographic area of the strategy and rationale for the selection of the area, together with a description of the surrounding ecoregions and any adjacent protected habitat areas or linkages that provide relevant context for the development of the strategy.

(3) The focal species included in, and their current known or estimated status within, the strategy.

(4) Important resource conservation elements within the strategy area, including, but not limited to, important ecological resources and processes, natural communities, habitat, habitat connectivity, and existing protected areas, and an explanation of the criteria, data, and methods used to identify those important conservation elements.

(5) A summary of historic, current, and projected future stressors and pressures in the strategy area, including climate change vulnerability, on the focal species, habitat, and other natural resources, as identified in the best available scientific information, including, but not limited to, the State Wildlife Action Plan.

(6) Consideration of major water, transportation and transmission infrastructure facilities, urban development areas, and city, county, and city and county general plan designations that accounts for reasonably foreseeable development of major infrastructure facilities, including, but not limited to, renewable energy and housing in the strategy area.

(7) Provisions ensuring that the strategy will be in compliance with all applicable state and local requirements and does not preempt the authority of local agencies to implement infrastructure and urban development in local general plans.

(8) Conservation goals and measurable objectives for the focal species and important conservation elements identified in the strategy that address or respond to the identified stressors and pressures on focal species.

(9) Conservation actions, including a description of the general amounts and types of habitat that, if preserved or restored and permanently protected, could achieve the conservation goals and objectives, and a description of how the conservation actions and habitat enhancement actions were prioritized and selected in relation to the conservation goals and objectives.

(10) Provisions ensuring that the strategy is consistent with and complements any administrative draft natural community conservation plan, approved natural community conservation plan, or federal habitat conservation plan that overlaps with the strategy area.

(11) An explanation of whether and to what extent the strategy is consistent with any previously approved strategy or amended strategy, state or federal recovery plan, or other state or federal approved conservation strategy that overlaps with the strategy area.

(12) A summary of mitigation banks and conservation banks approved by the department or the United States Fish and Wildlife Service that are located within the strategy area or whose service area overlaps with the strategy area.

(13) A description of how the strategy's conservation goals and objectives provide for adaptation opportunities against the effects of climate change for the strategy's focal species.

(14) Incorporation and reliance on, and citation of, the best available scientific information regarding the strategy area and the surrounding ecoregion, including a brief description of gaps in relevant scientific information, and use of standard or prevalent vegetation classifications and standard ecoregional classifications for terrestrial and aquatic data to enable and promote consistency among regional conservation investment strategies throughout California.

(d) A regional conservation investment strategy shall compile input and summary priority data in a consistent format that could be uploaded for interactive use in an Internet Web portal and that would allow stakeholders to generate queries of regional conservation values within the strategy area.

(e) In addition to considering the potential to advance the conservation of focal species, regional conservation investment strategies shall consider all of the following:

(1) The conservation benefits of preserving working lands for agricultural uses.

(2) Reasonably foreseeable development of infrastructure facilities.

(3) Reasonably foreseeable projects in the strategy area, including, but not limited to, housing.

(4) Reasonably foreseeable development for the production of renewable energy.

(5) Draft natural community conservation plans within the area of the applicable regional conservation investment strategy.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1853. Regional conservation assessment; Approval; Requirements

(a) The department may approve a regional conservation assessment only for the purposes of a regional conservation investment strategy pursuant to this chapter. A regional conservation assessment may be proposed by the department or any other public agency. However, a regional conservation assessment is not required for department approval of a regional conservation investment strategy.

(b) If a regional conservation assessment that encompasses the area of a proposed regional conservation investment strategy has already been approved by the department, the strategy shall explain how and to what extent it has incorporated the assessment information and analysis.

(c) A regional conservation assessment shall do all of the following:

(1) Identify and summarize relevant regional pressures and stressors, including climate change vulnerability, conservation areas and habitat connectivity values, included in all of the following:

(A) Conservation plans, such as the State Wildlife Action Plan and approved natural community conservation plans.

(B) Analyses designed to identify areas of high biological diversity, such as the Areas of Conservation Emphasis.

(C) Analyses designed to identify areas for habitat connectivity.

(2) Identify the best available scientific information and analyses, including geospatial information regarding the distribution of species and natural communities.

(3) Use spatial analysis to identify ecological relationships between existing protected areas and conservation areas.

(4) Use standard or prevalent vegetation classifications and standard ecoregional classifications for terrestrial and aquatic data to enable and promote consistency among regional conservation assessments throughout California.

(5) Compile input and summary data in a consistent format that could be uploaded for interactive use in an Internet Web portal and that would allow stakeholders to generate queries of regional conservation values within the strategy area.

(6) Be consistent with administrative draft natural community conservation plans, approved natural community conservation plans, and regional habitat conservation plans, and approved recovery plans within the ecoregion or subecoregion included in the assessment.

(7) Consider existing major water, transportation, and transmission infrastructure facilities in the assessment area and account for reasonably foreseeable development of major infrastructure facilities, including, but not limited to, renewable energy and housing.

(8) Include provisions ensuring that the strategy will be in compliance with all applicable state and local requirements and does not preempt the authority of local agencies to implement infrastructure and urban development in local general plans.

(9) Include provisions ensuring that the assessment is consistent with and complements any approved natural community conservation plan or regional federal habitat conservation plan that overlaps with the assessment area.

(10) Include an explanation of whether, and to what extent, the assessment is consistent with any previously approved assessment or amended assessment, state or federal recovery plan, or other state or federal approved conservation strategy that overlaps with the assessment area.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1854. Duration of approved or amended regional conservation investment strategy; Publication of notice of intent to create regional conservation investment strategy; Approval; Availability of approved strategies on Web site

(a) The department may prepare or approve a regional conservation investment strategy, or approve an amended strategy, for an initial period of up to 10 years after

finding that the strategy meets the requirements of Section 1852. The department may extend the duration of an approved or amended regional conservation investment strategy for additional periods of up to 10 years after updating the strategy for new scientific information and finding that the strategy continues to meet the requirements of Section 1852. For purposes of this section, an amended strategy means a complete regional conservation investment strategy prepared by a public agency to amend substantially and to replace an approved strategy submitted by the public agency.

(b) It is the intent of this chapter to establish requirements that provide sufficient flexibility to develop each regional conservation investment strategy based on the best available information regarding the strategy area.

(c)(1) A public agency shall publish notice of its intent to create a regional conservation investment strategy. This notice shall be filed with the Governor's Office of Planning and Research and the county clerk of each county in which the regional conservation investment strategy is found in part or in whole. If preparation of a regional conservation investment strategy was initiated before January 1, 2017, this notice shall not be required.

(2) After a draft regional conservation investment strategy or an amendment to a strategy is submitted to the department for approval, the department shall have 30 days within which to deem the draft regional conservation investment strategy or an amended strategy complete or to explain in writing to the public agency submitting the strategy or amended strategy what is needed to complete the strategy or amended strategy. Within 30 days of deeming a draft regional conservation investment strategy or amended strategy complete, the department shall make the draft strategy or amended strategy available to the public on its Internet Web site for review and comment for a period of at least 30 days and shall notify any public agency, organization, or individual who has filed a written request to the department for notices regarding draft regional conservation strategies.

(3)(A) A public agency proposing a strategy or amended strategy shall hold a public meeting to allow interested persons and entities to receive information about the draft regional conservation investment strategy or amended strategy early in the process of preparing it and to have an adequate opportunity to provide written and oral comments. The public meeting shall be held at a location within or near the strategy area.

(B) In a draft regional conservation investment strategy or amended strategy submitted to the department for approval, the public agency shall include responses to written public comments submitted during the public comment period.

(C) If preparation of a regional conservation investment strategy was initiated before January 1, 2017, and a public meeting regarding the strategy or amended strategy that is consistent with the requirements of this section was held before January 1, 2017, an additional public meeting shall not be required.

(D) If preparation of a regional conservation investment strategy was initiated before January 1, 2017, and a public meeting regarding the strategy was not held before January 1, 2017, the public meeting required under this section may be held after January 1, 2017, if it is held at least 30 days before the strategy is submitted to the department for approval.

(4) At least 30 days before holding a public meeting to distribute information about the development of a draft regional conservation investment strategy or amended strategy, a public agency proposing a strategy shall provide notice of a regional conservation investment strategy or amended strategy public meeting as follows:

(A) On the public agency's Internet Web site and any relevant LISTSERV.

(B) To each city, county, and city and county within or adjacent to the regional conservation investment strategy area.

(C) To the implementing entity for each natural community conservation plan or federal regional habitat conservation plan that overlaps with the strategy area.

(D) To each public agency, organization, or individual who has filed a written request for the notice, including any agency, organization, or individual who has filed a written request to the department for notices of all regional conservation investment strategy public meetings.

(5) At least 60 days before submitting a final regional conservation investment strategy or amended strategy to the department for approval, the public agency proposing the investment strategy or amended strategy shall notify the board of supervisors and the city councils in each county within the geographical scope of the strategy and provide the board of supervisors and the city councils with an opportunity to submit written comments for a period of at least 30 days.

(6) After a final regional conservation investment strategy or amended strategy is submitted to the department for approval, the department shall have 30 days within which to approve the final regional conservation investment strategy or amended strategy or to explain in writing to the public agency submitting the strategy or amended strategy what is needed to approve the strategy or amended strategy.

(d) The department shall make all approved regional conservation investment strategies, including all updates to scientific information and analyses used in a regional conservation investment strategy and any amendments to the strategy available on its Internet Web site.

(e) The department shall require the use of consistent metrics that incorporate both the area and quality of habitat and other natural resources in relation to a regional conservation investment strategy's conservation objectives to measure the net change resulting from the implementation of conservation actions and habitat enhancement actions.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1855. Limitations

(a) Regional conservation investment strategies shall not affect the authority or discretion of any public agency and shall not be binding upon public agencies other than parties to a mitigation credit agreement. Nothing in this chapter increases or decreases the authority or jurisdiction of the department regarding any land use, species, habitat, area, resource, plan, process, or corridor. Regional conservation investment strategies are intended to provide scientific information for the consideration of public agencies. Nothing in this chapter or any other provision of law requires any public agency, other than a public agency that is party to a mitigation credit agreement, to adopt, implement, or otherwise adhere to a regional conservation investment strategy or a regional conservation assessment.

(b) The approval or existence of a regional conservation investment strategy, mitigation credit agreement, or credit pursuant to this chapter does not do any of the following:

(1) Modify in any way the standards for issuance of incidental take permits or consistency determinations pursuant to Section 2081 or 2080.1, issuance of take authorizations pursuant to Section 2835, the issuance of lake or streambed alteration agreements pursuant to Section 1602, or any other provision of this code or regulations adopted pursuant to this code.

(2) Modify in any way the standards under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), or in any way limit a lead agency's or responsible agency's discretion, in connection with any determination of whether a proposed project may or may not result in significant environmental effects or in any way establish a presumption in connection with any determination of whether a proposed project may or may not result in significant environmental effects or whether a proposed project's impacts would be mitigated.

(3) Prohibit or authorize any project or project impacts.

(4) Create a presumption or guarantee that any proposed project will be approved or permitted, or that any proposed impact will be authorized, by any state or local agency.

(5) Create a presumption that any proposed project will be disapproved or prohibited, or that any proposed impact will be prohibited, by any state or local agency.

(6) Alter or affect, or create additional requirements for, the general plan of the city, county, or city and county, in which it is located.

(7) Constitute any of the following, for the purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code):

(A) A plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

(B) A local policy or ordinance protecting biological resources.

(C) An adopted local, regional, or state habitat conservation plan.

(c) Nothing in this chapter shall require a project proponent seeking to provide compensatory mitigation pursuant to Section 1602, 2080.1, 2081, or 2835 or the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) to undertake conservation actions or habitat enhancement actions identified in a regional conservation investment strategy; implement, contribute to, fund, or otherwise comply with the actions described in a regional conservation investment strategy; require or otherwise compel a project proponent to enter into a mitigation credit agreement; or use or purchase mitigation credits established pursuant to this chapter to satisfy the compensatory mitigation requirements. Nothing in this section shall prevent a project proponent from proposing mitigation consistent with one or more strategies approved pursuant to this chapter.

(d) Mitigation credits provided by this chapter shall not be utilized to fund or offset the costs of the design, construction, or mitigation of new Delta water conveyance facilities.

(e) The department shall not reject biologically appropriate and adequate compensatory mitigation proposed by a project proponent on the basis that the compensatory mitigation is not a conservation action or habitat enhancement identified in a regional conservation investment strategy.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1856. Mitigation credits; Requirements for creation; Use; Mitigation credit agreement; Availability of project mitigation credit and release information on Web site

(a) A conservation action or habitat enhancement action that measurably advances the conservation objectives of an approved regional conservation investment strategy may be used to create mitigation credits that can be used to compensate for impacts to focal species and other species, habitat, and other natural resources, as provided in this section. The requirements of this section apply only to the creation of mitigation credits under mitigation credit agreements pursuant to this section and do not establish requirements for other forms of compensatory mitigation.

(b) For a conservation action or habitat enhancement action identified in a regional conservation investment strategy to be used to create mitigation credits pursuant to this section, the regional conservation investment strategy shall include, in addition to the requirements of Section 1852, all of the following:

(1) An adaptive management and monitoring strategy for conserved habitat and other conserved natural resources.

(2) A process for updating the scientific information used in the strategy, and for tracking the progress of, and evaluating the effectiveness of, conservation actions and habitat enhancement actions identified in the strategy, in offsetting identified threats

to focal species and in achieving the strategy's biological goals and objectives, at least once every 10 years, until all mitigation credits are used.

(3) Identification of a public or private entity that will be responsible for the updates and evaluation required pursuant to paragraph (2).

(c) A mitigation credit created in accordance with this section may be used to fulfill, in whole or in part, compensatory mitigation requirements established under any state or federal environmental law, as determined by the applicable local, state, or federal regulatory agency, including, but not limited to, the following:

(1) To compensate for take or other adverse impacts of activities authorized pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 within the regional conservation investment strategy area.

(2) To reduce adverse impacts to fish or wildlife resources, or both, from activities authorized pursuant to Chapter 6 (commencing with Section 1600) within the regional conservation investment strategy area to less than substantial.

(3) To mitigate significant effects on the environment within the regional conservation investment strategy area pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and Guidelines for Implementation of the California Environmental Quality Act (Chapter 3 (commencing with Section 15000) of Division 6 of Title 14 of the California Code of Regulations).

(d) The department shall ensure the long-term durability of a habitat enhancement action. If a habitat enhancement action is used to create one or more mitigation credits pursuant to this section, the habitat enhancement action shall remain in effect at least until the site of the environmental impact is returned to preimpact ecological conditions.

(e) To create mitigation credits pursuant to this section, a person or entity, including a state or local agency, shall enter into a mitigation credit agreement with the department. The mitigation credit agreement shall identify the type and number of mitigation credits proposed to be created and the terms and conditions under which the mitigation credits may be used. Mitigation credits shall not be created on a site that has already been permanently protected and has been used, or is currently in use, to fulfill compensatory mitigation requirements for one or more projects. The person or entity may create and use, sell, or otherwise transfer the mitigation credits upon department approval that the credits have been created in accordance with the agreement.

(f) To enter into a mitigation credit agreement with the department, a person or entity shall submit a draft mitigation credit agreement to the department for its review, revision, and approval or disapproval. Within five days of deeming a draft agreement complete, the department shall publish notice of the availability of the draft agreement by filing its notice with the Governor's Office of Planning and Research and the city and county clerks of each county in which the agreement is applicable in part or in whole and shall make the draft agreement available to the public on its Internet Web site, and to any public agency, organization, or individual who has filed a written request to the department for notices regarding agreements, for review and comment for a period of at least 45 days, following which the department shall respond to written comments submitted during the public comment period and may approve the agreement, approve it with revisions, or disapprove it. The department may enter into a mitigation credit agreement if it determines that the mitigation credit agreement does all of the following:

(1) Provides contact information for, and establishes the qualifications of, the person or entity entering into the agreement, the entity that will manage the site of the conservation action or habitat enhancement action, and any contractors or consultants.

(2) Fully describes the proposed conservation actions or habitat enhancement actions and explains how, and to what extent, they will measurably advance conservation objectives of the regional conservation investment strategy that have not yet been achieved.

(3) Identifies the location of the conservation actions or habitat enhancement actions, including a location map, address, and size of the site where the proposed conservation action or habitat enhancement action will be implemented.

(4) Provides color aerial and ground-level photographs that reflect current conditions on the site and surrounding properties.

(5) Explains how the mitigation credits will be created, including, but not limited to, information regarding proposed ownership arrangements, long-term management strategy, and any phases of implementation.

(6) Identifies mitigation banks and conservation banks approved by the department as a mitigation alternative and explains how available mitigation credits at those banks will be purchased or used in combination with the mitigation credits created under the mitigation credit agreement or, if those available mitigation credits will not be purchased or used, why they will not be purchased or used.

(7) Includes a natural resources evaluation that documents biotic and abiotic baseline conditions, including past, current, and adjacent land uses, vegetation types, species information, topography, hydrology, and soil types.

(8) Identifies public lands and permanently protected lands in the vicinity of the conservation actions or habitat enhancement actions.

(9) Fully describes the proposed type and quantity of mitigation credits and the supporting rationale. Mitigation credits created pursuant to this section shall directly correlate to the focal species and other species, habitat, and other natural resources protected by the conservation actions or habitat enhancement actions.

(10) Identifies metrics or indicators by which the proposed conservation action or habitat enhancement action's contribution to achieving the strategy's conservation goals and objectives can feasibly be measured with existing technology. The net ecological gain from the implementation of conservation actions and habitat enhancement actions that include habitat restoration shall be reported using consistent metrics that measure the increment of gain in the area and quality of habitat or other natural resource values compared to baseline conditions described in the regional conservation investment strategy, and measures the increment of gain in relation to the regional conservation investment strategy's conservation objectives.

(11) Describes the proposed landownership of the site or sites of the conservation actions or habitat enhancement actions.

(12) Includes a template conservation easement, or other instrument providing for perpetual protection of land in a manner consistent with approved natural community conservation plans within the area of the applicable regional conservation investment strategy, for the sites of any conservation action and an explanation of how the long-term durability of the sites of any habitat enhancement actions will be ensured.

(13) Ensures that the implementation of the conservation action or habitat enhancement action will be adequately funded and that long-term protection and management of the site will be funded in accordance with Chapter 4.6 (commencing with Section 65965) of Division 1 of Title 7 of the Government Code or, if a state agency proposed to enter into a mitigation credit agreement, other comparable funding mechanism approved by the department in accordance with an adopted statewide policy regarding funding for long-term management and operations of mitigation sites.

(14) Includes a template monitoring and long-term adaptive management plan.

(15) Explains the terms and conditions under which the proposed mitigation credits may be sold or otherwise transferred and how the proposed mitigation credits will be accounted for, including the specific methods proposed for reporting and maintaining a record of credit creation, release, and use, sale, or transfer.

(16) Includes enforcement provisions.

(17) Ensures that, for each site on which the conservation actions or habitat enhancement actions will be implemented, information consistent with, pursuant to this chapter, the information required for a mitigation bank in paragraph (2) of subdivision (b) of Section 1798 and subparagraphs (B) to (H), inclusive, of paragraph

(2) of subdivision (a) of Section 1798.5 shall be prepared and submitted to the department for review for adequacy and approval prior to implementation.

(18) Includes a proposed credit ledger and credit release schedule that meets the requirements of subdivision (g).

(g)(1) The release of mitigation credits for use, sale, or transfer under a mitigation credit agreement shall require the department's approval in accordance with this subdivision.

(2) The release of mitigation credits shall be tied to performance-based milestones and achievement of ecological performance standards. The credit release schedule for each mitigation credit agreement shall reserve a substantial share of the total credits for release after those ecological performance standards are fully achieved. Performance-based milestones shall include, but are not be limited to, the following:

(A) Recording a conservation easement consistent with approved natural community conservation plans within the area of the applicable regional conservation investment strategy on the site of a conservation action, or putting into place measures that ensure the long-term durability of a habitat enhancement action in accordance with subdivision (d).

(B) Completing construction of a habitat restoration action.

(C) Achieving temporal ecological performance standards for habitat restoration, such as standards established for one year, three years, or five years following the initiation of habitat restoration.

(D) Fully achieving ecological performance standards.

(3) The terms of the credit release schedule shall be specified in the mitigation credit agreement. When conservation actions and habitat enhancement actions are implemented and meet the performance-based milestones specified in the credit release schedule, credits shall be created in accordance with the credit release schedule. If a conservation action or habitat enhancement action does not meet performance-based milestones, the department may suspend the release of credits, reduce the number of credits, or otherwise modify the credit release schedule accordingly.

(4) In order for mitigation credits to be released, the person or entity that has entered into a mitigation credit agreement shall demonstrate to the department that the appropriate performance-based milestones for credit release have been met. The department shall determine whether the milestones have been met and the credits may be released.

(h)(1) Mitigation credit agreements may be used to establish the terms and conditions under which mitigation credits can be created by projects that improve wildlife habitat, or that address stressors to wildlife, to an extent that quantifiably exceeds compensatory mitigation requirements established by the department for those projects pursuant to Chapter 6 (commencing with Section 1600) or Chapter 1.5 (commencing with Section 2050) of Division 3. Those projects may include, but are not limited to, the construction of setback levees that result in the creation of more floodplain or riparian habitat than is required to compensate for construction impacts or the construction of transportation facility improvements that remove barriers to fish or wildlife movement and thereby improve the quality of habitat or address stressors to wildlife to a greater extent than is required to compensate for construction impacts. For those projects, the project proponent may submit a draft mitigation credit agreement that proposes the terms and conditions under which mitigation credits may be created and used by or in conjunction with those projects to the department for its review, revision, and approval. The submission may occur concurrently with, or after, an application submitted pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 or a notice submitted pursuant to Chapter 6 (commencing with Section 1600) or may occur after the application or notice is submitted. Where a draft mitigation agreement is submitted concurrently with the application or notice, the department shall review the draft mitigation credit agreement concurrently with its

review of the application or notice and shall, to the maximum extent practicable, complete its review of both the notice or application and the draft agreement concurrently.

(2) Mitigation credit agreements submitted to the department pursuant to this subdivision may comply with the requirements of subdivision (g) with a credit release schedule related to construction of the project that will improve wildlife habitat, or will address stressors to wildlife, to an extent that exceeds compensatory mitigation requirements quantifiably. For those projects, construction of the project may be a performance-based milestone required by paragraph (2) of subdivision (g).

(i) Nothing in this chapter is intended to limit or impose additional conditions on the creation or sale of mitigation credits by a conservation bank or mitigation bank approved by the department pursuant to Chapter 7.9 (commencing with Section 1797).

(j) The creation of mitigation credits pursuant to this section from a conservation action or habitat enhancement action implemented within the plan area of an approved natural community conservation plan shall not duplicate or replace mitigation requirements set forth in the natural community conservation plan and shall require the advance written approval of the plan's implementing entity. Mitigation credits created pursuant to this section may be used for covered activities under an approved natural community conservation plan only in accordance with the requirements of the plan. Individuals and entities eligible for coverage as a participating special entity under an approved natural community conservation plan may use mitigation credits created pursuant to this section only if the plan's implementing entity declines to extend coverage to the covered activity proposed by the eligible individual or entity.

(k) The department shall make project mitigation credit and release information, including the demonstration submitted pursuant to paragraph (4) of subdivision (g), publicly available on the department's Internet Web site.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1857. Fees

The department shall collect fees or other compensation from a person or entity that proposes to enter into a mitigation credit agreement, and from a public agency that proposes a regional conservation investment strategy or a regional conservation assessment, to pay for all or a portion of the department's costs relating to the mitigation credit agreement, proposed strategy, or proposed assessment.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1858. Adoption of guidelines and criteria

The department may adopt guidelines and criteria to aid in the implementation of this chapter. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development, adoption, or amendment of guidelines or criteria pursuant to this section. These guidelines and criteria shall be posted on the department's Internet Web site.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1859. Report to Legislature

(a) The department shall submit a report to the Legislature on or before January 1, 2020, regarding the implementation of this chapter.

(b) The report required to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1860. Effect on Sacramento-San Joaquin Delta Reform Act

Nothing in this chapter supersedes, limits, or otherwise modifies the Sacramento-San Joaquin Delta Reform Act of 2009 (Division 35 (commencing with Section 85000) of the Water Code) or Division 22.3 (commencing with Section 32300) of the Public Resources Code.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017.

§ 1861. Limit on number of approved regional conservation investment strategies

The department shall approve no more than eight regional conservation investment strategies.

HISTORY:
Added Stats 2016 ch 455 § 2 (AB 2087), effective January 1, 2017. Amended Stats 2017 ch 95 § 2 (SB 103), effective July 21, 2017.

CHAPTER 10. NATIVE PLANT PROTECTION

§ 1900. Legislative intent

The intent of the Legislature and the purpose of this chapter is to preserve, protect and enhance endangered or rare native plants of this state.

The Legislature finds that many species and subspecies of native plants are endangered because their habitats are threatened with destruction, drastic modification, or severe curtailment, or because of commercial exploitation or by other means, or because of disease or other factors.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1901. Establishment of criteria for determining endangered or rare species

The department shall establish criteria for determining if a species, subspecies, or variety of native plant is endangered or rare. As used in this chapter, "native plant" means a plant growing in a wild uncultivated state which is normally found native to the plantlife of this state. A species, subspecies, or variety is endangered when its prospects of survival and reproduction are in immediate jeopardy from one or more causes. A species, subspecies, or variety is rare when, although not presently threatened with extinction, it is in such small numbers throughout its range that it may become endangered if its present environment worsens.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1904. Designation of endangered and rare native plants; Public hearing

The commission may, after public hearing, designate endangered and rare native plants. To the extent that the location of such plants is known, the department shall notify the owners of such land of the fact that a rare or endangered native plant is growing thereon and provide such information about the protection of such plants as may be appropriate.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1905. Botanical research and field investigations; Statistics and information

The department may undertake botanical research and field investigations and may collect and diffuse such statistics and information as shall pertain to the conservation, protection, and perpetuation of native plants.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1906. Taking for scientific or propagation purposes

Nothing in this code or any other law shall prohibit the department from taking, for scientific or propagation purposes, any species of native plants. The department may import, propagate, and distribute native plants.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1907. Regulations

(a) The commission may adopt regulations governing the taking, possession, propagation, transportation, exportation, importation, or sale of any endangered or rare native plants. Such regulations may include, but shall not be limited to, requirements for persons who perform any of the foregoing activities to maintain written records and to obtain permits which may be issued by the department.

(b) Persons engaged in the production, storage, sale, delivery, or transportation of nursery stock pursuant to the provisions of Part 3 (commencing with Section 6701) of Division 4 of the Food and Agricultural Code shall not be required to obtain a permit pursuant to this chapter unless such activities involve the collection of rare or endangered plants or parts or products thereof growing in a wild, uncultivated state.

(c) Persons who purchase nursery grown stock shall not be required to obtain a permit pursuant to this chapter.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1908. Prohibited importation, sale; Exception

No person shall import into this state, or take, possess, or sell within this state, except as incident to the possession or sale of the real property on which the plant is growing, any native plant, or any part or product thereof, that the commission determines to be an endangered native plant or rare native plant, except as otherwise provided in this chapter.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1909. Exercise of power or authority

When any power or authority is given by any provision of this chapter to any person, it may be exercised by any deputy, inspector, or agent duly authorized by such person. Any person in whom the enforcement of any provision of this chapter is vested has the power of a peace officer as to such enforcement, which shall include state and federal agencies, and the State of Nevada, State of Oregon, or State of Arizona with which cooperative agreements have been made by the department to enforce any provisions of this chapter.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1910. Arrests without warrant for violation; Confiscation of plants

A peace officer or an employee or agent of the department may, in the enforcement of this chapter, make arrests without warrant for a violation of this chapter he may witness, and may confiscate plants or parts thereof when unlawfully taken, transported, possessed, sold, or otherwise, in violation of this chapter. The provisions of this chapter are in addition to the provisions of Section 384a of the Penal Code.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1911. Programs for conservation of endangered or rare native plants

All state departments and agencies shall, in consultation with the department, utilize their authority in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered or rare native plants. Such programs include, but are not limited to, the identification, delineation and protection of habitat critical to the continued survival of endangered or rare native plants.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1912. Inapplicability to emergency work

The provisions of this chapter shall not be applicable to emergency work necessary to protect life or property; however, notification by the person or agency performing such emergency work shall be made to the department within 14 days of the commencement of such work.

HISTORY:
Added Stats 1977 ch 1181 § 8.

§ 1913. Public agency regulation of agricultural operations or management practices not authorized

(a) The provisions of this chapter are not intended and shall not be construed as authorizing any public agency to mandate, prescribe, or otherwise regulate agricultural operations or management practices, including the clearing of land for agricultural practices or fire control measures.

(b) Notwithstanding the provisions of Section 1911, timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg–Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code), or required mining assessment work pursuant to federal or state mining laws, or the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, or other right-of-way by the owner of the land or his agent, or the performance by a public agency or a publicly or privately owned public utility of its obligation to provide service to the public, shall not be restricted by this chapter because of the presence of rare or endangered plants, except as provided in subdivision (c) of this section.

(c) Notwithstanding the provisions of subdivisions (a) and (b) of this section, where the owner of land has been notified by the department pursuant to Section 1903.5 that a rare or endangered native plant is growing on such land, the owner shall notify the department at least 10 days in advance of changing the land use to allow for salvage of such plant. The failure by the department to salvage of such plant within 10 days of notification shall entitle the owner of the land to proceed without regard to this chapter. Submission of a timber harvesting plan pursuant to the Z'berg–Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code) shall constitute notice under this section. Converting from one type of agricultural use, as defined in Section 51201 of the Government Code, to another type of agricultural use shall not constitute a change in land use.

HISTORY:
Added Stats 1977 ch 1181 § 8.

CHAPTER 11. CALIFORNIA DESERT NATIVE PLANTS

§ 1925. Enforcement of protection provisions

The department shall enforce the provisions of the California Desert Native Plants Act Division 23 (commencing with Section 80001) of the Food and Agricultural Code except that permits, tags, seals, and wood receipts shall be issued pursuant to Chapter 4 (commencing with Section 80101) of Division 23 of the Food and Agricultural Code, by the county agricultural commissioner or the sheriff. Nothing in the California Desert Native Plants Act, or any other law, prohibits the department from taking, for scientific or propagation purposes, any species of native plants. The department may import, propagate, and distribute native plants, and the California Desert Native Plants Act does not apply to those activities.

HISTORY:
Added Stats 1979 ch 443 § 3. Amended Stats 1985 ch 106 § 34.

§ 1926. Departmental cooperation

In carrying out the provisions of this chapter, the department shall cooperate fully with the Department of Food and Agriculture.

HISTORY:
Added Stats 1979 ch 443 § 3.

CHAPTER 12. SIGNIFICANT NATURAL AREAS

§ 1930. Legislative findings and declaration

The Legislature finds and declares that:

(a) Areas containing diverse ecological and geological characteristics are vital to the continual health and well-being of the state's natural resources and of its citizens.

(b) Many habitats and ecosystems that constitute the state's natural diversity are in danger of being lost.

(c) Connectivity between wildlife habitats is important to the long-term viability of the state's biodiversity.

(d) Preserving and connecting high-quality habitat for wildlife can create habitat strongholds.

(e) Increasingly fragmented habitats threaten the state's wildlife species.

(f) There is an opportunity to provide incentive for private landowners to maintain and perpetuate significant local natural areas in their natural state.

(g) Efforts to preserve natural areas have been fragmented between federal, state, local, and private sectors.

(h) Analysis of the state's habitat connectivity benefits from the consideration of all relevant data, including information from private and public landowners.

(i) The department's existing mapping activities and products should be developed and sustained.

(j) The importance of wildlife corridors to assist in adapting to climate change has been recognized by such groups as the Western Governors' Association, which unanimously approved a policy to protect wildlife migration corridors and crucial wildlife habitat in 2007. Individual local, state, and federal agencies have also adopted policies aimed at protecting wildlife corridors and habitat connectivity, in order to protect ecosystem health and biodiversity and to improve the resiliency of wildlife and their habitats to climate change. However, these efforts could be enhanced through

establishment of a statewide policy to protect important wildlife corridors and habitat linkages where feasible and practicable.

HISTORY:
Added Stats 1981 ch 776 § 1. Amended Stats 2008 ch 333 § 1 (AB 2785), effective January 1, 2009; Stats 2015 ch 154 § 38 (AB 1527), effective January 1, 2016, ch 625 § 2 (AB 498), effective January 1, 2016.

§ 1930.5. Investigation, study, and identification of areas essential as wildlife corridors and habitat linkages; Funds; Steps to promote state policy of voluntary protection of wildlife corridors and habitat strongholds

(a) Contingent upon funding being provided by the Wildlife Conservation Board from moneys available pursuant to Section 75055 of the Public Resources Code, or from other appropriate bond funds, upon appropriation by the Legislature, the department shall investigate, study, and identify those areas in the state that are most essential as wildlife corridors and habitat linkages, as well as the impacts to those wildlife corridors from climate change, and shall prioritize vegetative data development in these areas.

(b) It is the intent of the Legislature that the Wildlife Conservation Board use various funds to work with the department to complete a statewide analysis of wildlife corridors and connectivity to support conservation planning and climate change adaptation activities.

(c)(1) It is the policy of the state to promote the voluntary protection of wildlife corridors and habitat strongholds in order to enhance the resiliency of wildlife and their habitats to climate change, protect biodiversity, and allow for the migration and movement of species by providing connectivity between habitat lands. In order to further these goals, it is the policy of the state to encourage, wherever feasible and practicable, voluntary steps to protect the functioning of wildlife corridors through various means, as applicable and to the extent feasible and practicable, those means may include, but are not limited to:

(A) Acquisition or protection of wildlife corridors as open space through conservation easements.

(B) Installing of wildlife-friendly or directional fencing.

(C) Siting of mitigation and conservation banks in areas that provide habitat connectivity for affected fish and wildlife resources.

(D) Provision of roadway undercrossings, overpasses, oversized culverts, or bridges to allow for fish passage and the movement of wildlife between habitat areas.

(2) The fact that a project applicant does not take voluntary steps to protect the functioning of a wildlife corridor prior to initiating the application process for a project shall not be grounds for denying a permit or requiring additional mitigation beyond what would be required to mitigate project impacts under other applicable laws, including, but not limited to, the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3) and the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) The Legislature finds and declares that there are a number of existing efforts, including, but not limited to, efforts involving working landscapes, that are already working to achieve the policy described in subdivision (c).

(e) Subdivision (c) shall not be construed to create new regulatory requirements or modify the requirements of subparagraphs (B) and (E) of paragraph (4) of subdivision (a) of Section 2820 of the Fish and Game Code, or the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) For purposes of this section, the following terms have the following meanings:

(1) "Habitat stronghold" means high-quality habitat that supports wildlife in being more resilient to increasing pressures on species due to climate change and land development.

(2) "Wildlife corridor" means a habitat linkage that joins two or more areas of wildlife habitat, allowing for fish passage or the movement of wildlife from one area to another.

HISTORY:
Added Stats 2008 ch 333 § 2 (AB 2785), effective January 1, 2009. Amended Stats 2015 ch 625 § 3 (AB 498), effective January 1, 2016.

§ 1931. Further findings and declarations

The Legislature further finds and declares that it is the policy of this state to encourage the cooperation of federal, state, local, and private sectors, including private organizations and individuals, in efforts to maintain the state's most significant natural areas.

HISTORY:
Added Stats 1981 ch 776 § 1.

§ 1932. Significant Natural Areas Program

There is hereby established the Significant Natural Areas Program which shall be administered by the department. The department, in administering this program, shall do all of the following:

(a) Obtain access to the most recent information with respect to natural resources. In order to accomplish this, the department shall maintain, expand, and keep current a data management system, designated the California Natural Diversity Data Base, designed to document information on these resources. That data shall be made available to interested parties on request.

(b) Develop and maintain a spatial data system that identifies those areas in the state that are most essential for maintaining habitat connectivity, including wildlife corridors and habitat linkages. This data should include information essential for evaluating the needs of wildlife species, as defined in Section 89.5, that require habitat connectivity for their long-term conservation, including distribution and movement patterns.

(c) As appropriate, develop and maintain the database by incorporating mapping products and data developed by other state agencies.

(d) Make all of the data sets, and associated analytical products, available to the public and other government entities.

(e) Ensure cost sharing by all who use the data management system and develop an appropriate schedule of compensation to be paid by individuals using the data management system, not to exceed the actual costs for use of the data management system.

(f) Ensure recognition of the state's most significant natural areas, including those affected by climate change. The department shall, after consultation with federal, state, and local agencies, education institutions, civic and public interest organizations, private organizations, landowners, and other private individuals, identify by means of periodic reports those natural areas deemed to be most significant.

(g) Seek the maintenance and perpetuation of the state's most significant natural areas for present and future generations in the most feasible manner. The department shall consider alternative approaches for that maintenance, including alternatives to fee acquisition such as incentives, leasing, and dedication.

(h) Reduce unnecessary duplication of effort. The department shall provide coordinating services to federal, state, local, and private interests wishing to aid in the maintenance and perpetuation of significant natural areas.

(i) Actively pursue grants and cost-sharing opportunities with local, state, or federal agencies, or private entities that use the data sets and benefit from their creation and maintenance.

HISTORY:
Added Stats 1981 ch 776 § 1. Amended Stats 1995 ch 293 § 2 (AB 1916); Stats 2008 ch 333 § 3 (AB 2785), effective January 1, 2009; Stats 2015 ch 154 § 39 (AB 1527), effective January 1, 2016.

§ 1932.5. Responsibilities of department; Construction; Data and analytical products

(a) In carrying out its responsibilities pursuant to this chapter, the department shall solicit and utilize all relevant results of existing studies and information from local government, state, and federal agencies, academic institutions, nonprofit organizations, certified environmental documents, private and public landowners, and agricultural and rangeland information developed by the Department of Conservation and agriculture associations.

(b) The department shall seek input from representatives of other state agencies, local government, federal agencies, nongovernmental conservation organizations, landowners, agriculture, recreation, scientific entities, and industry in determining essential wildlife corridors and habitat linkages. Private and public landowners shall be given a reasonable opportunity to review and comment on the wildlife characteristics of their land if it is identified pursuant to this chapter. The department shall utilize all relevant information when developing data sets and associated analytical products pursuant to this chapter.

(c) This chapter does not require, mandate, or authorize, under state or federal law, any state or local planning, zoning, or other land use action or decision.

(d) This chapter does not alter any legal rights and privileges, under state or federal law, of ownership or use of privately or publicly owned property.

(e) The Legislature finds and declares that the data sets and associated analytical products required pursuant to this chapter are for inventory and planning purposes and may not be suitable to support regulatory actions without additional specificity or information.

HISTORY:
Added Stats 2008 ch 333 § 4 (AB 2785), effective January 1, 2009.

§ 1933. Use of identified area

No authority or responsibility provided for in this chapter shall, of itself, change or prevent the change of the use of any area identified pursuant to the Significant Natural Areas Program.

HISTORY:
Added Stats 1981 ch 776 § 1.

§ 1940. Development and components of state vegetation mapping standard; Report; Adoption of regulations

(a) The department shall undertake the development of a vegetation mapping standard for the state.

(b) The development of a state vegetation mapping standard by the department shall be done in consultation with interested stakeholders, including, but not limited to, government agencies, nongovernmental conservation organizations, landowners, agriculture, recreation, scientific entities, and industry. Components of the standard shall include the following:

(1) A published classification system for all natural and seminatural vegetation communities present in California with sufficient detail to meet the analytical needs of government and nongovernment entities. The classification shall be consistent with national standards adopted by the Federal Geographic Data Committee.

(2) Methods for field data collection, image interpretation, and digital map production and attribution.

(3) Manuals, training materials, tools, and database structures for use by parties interested in performing vegetation mapping according to the standard.

(4) Documented methods for performing postproject accuracy assessments to quantify the validity of the work. Private and public landowners shall be given reasonable opportunity to review, and comment on the accuracy of, the data collected on their lands.

(5) Mechanisms for integrating new map products that meet the standard into a cohesive database with the intent of eventually completing statewide coverage.

(c) The department shall submit a report to the budget committee of each house of the Legislature no later than January 10, 2008, providing its mapping standard and advising how the department will ensure that its standard will be updated to reflect changing technology and serve as the state's center of expertise on vegetation mapping.

(d) The department may adopt regulations to implement this section.

HISTORY:
Added Stats 2007 ch 178 § 1 (SB 85), effective August 24, 2007. Amended Stats 2015 ch 154 § 40 (AB 1527), effective January 1, 2016.

DIVISION 3. FISH AND GAME GENERALLY

CHAPTER 1. TAKING AND POSSESSING IN GENERAL

§ 2000. Unlawful taking; Possession as prima facie evidence of taking

(a) It is unlawful to take a bird, mammal, fish, reptile, or amphibian except as provided in this code or in a regulation adopted pursuant to this code.

(b) Possession of a bird, mammal, fish, reptile, amphibian, or part of any of those animals, in or on the fields, forests, or waters of this state, or while returning therefrom with fishing or hunting equipment, is prima facie evidence the possessor took the bird, mammal, fish, reptile, or amphibian, or part of that animal.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 974 § 5; Stats 1977 ch 1208 § 4; Stats 2015 ch 154 § 41 (AB 1527), effective January 1, 2016.

§ 2000.3. Definitions

(a) As used in this chapter, "roadway" has the same meaning as defined in Section 530 of the Vehicle Code.

(b) As used in this chapter, "vehicle" has the same meaning as defined in Section 670 of the Vehicle Code.

HISTORY:
Added Stats 2019 ch 869 § 4 (SB 395), effective January 1, 2020.

§ 2000.5. Accidental taking by motor vehicle collision; Application to other provisions

(a) Notwithstanding Section 219, 2000, or any other ***law, and notwithstanding any requirement for a permit or license or other entitlement to take a species, the accidental taking of a bird, mammal, reptile, or amphibian by collision with a ***vehicle while ***_that_ vehicle is being operated on a ***_roadway_ is not a violation of this code or a regulation adopted pursuant to this code. ***Nothing in this section authorizes a person to possess any bird, mammal, reptile, or amphibian accidentally taken by collision with a ***vehicle as provided in this subdivision. ***_Animals accidentally taken on a roadway_ may be removed by the state or local agency having jurisdiction over the ***_roadway_.

(b) This section does not apply to Chapter 1.5 (commencing with Section 2050).

HISTORY:
Added Stats 1995 ch 694 § 1 (SB 1258). Amended Stats 2008 ch 257 § 1 (AB 2999), effective January 1, 2009; Stats 2019 ch 869 § 5 (SB 395), effective January 1, 2020.

§ 2000.6. Pilot program for issuance of wildlife salvage permits [Repealed effective January 1, 2029]

(a)(1) Consistent with Section 91.8 of the Streets and Highways Code, the commission may establish a pilot program for the issuance of wildlife salvage permits through a user-friendly and cell-phone-friendly web-based portal to persons desiring to recover, possess, use, or transport, for purposes of salvaging wild game meat for human consumption of, any deer, elk, pronghorn antelope, or wild pig that has been accidentally killed as a result of a vehicle collision on a roadway within California. This permitting process shall be available at no cost to the public.

(2) In developing the pilot program, the commission shall consult with the department, the Department of Transportation, the Department of the California Highway Patrol, the Office of Environmental Health Hazard Assessment, other relevant public entities, and stakeholders to ensure public health and safety and to ensure the pilot program does not facilitate poaching.

(3) The commission shall prescribe the requirements for applying for and receiving a wildlife salvage permit and set the terms and conditions it deems necessary for the safe recovery, possession, use, and transportation of deer, elk, pronghorn antelope, or wild pig pursuant to a wildlife salvage permit.

(4) The commission shall require a person seeking to obtain a wildlife salvage permit to report through the web-based portal described in paragraph (1), at a minimum, the location, type, and description of the animal salvaged, the date and time of salvage, the basic characteristics of the incident and a description of the vehicle involved, where applicable, and the destination where the carcass will be transported.

(5) The commission may limit the implementation of the pilot program only to certain counties or regions of the state.

(6) The commission may restrict the roadways where wildlife salvage may be conducted and the species subject to salvage, and may regulate any other aspect of the pilot program necessary to ensure the pilot program's success, to minimize risks to public safety, and to prevent poaching.

(7) A person desiring to salvage the carcass of an animal pursuant to this section shall do so in a manner consistent with Section 21718 of the Vehicle Code.

(8) The commission shall consider and recommend to the department public education and outreach for the wildlife salvage pilot program beyond traditional hunting populations to the general public.

(b) Notwithstanding Section 2000.5, if a person unintentionally strikes and kills a deer, elk, pronghorn antelope, or wild pig on a roadway in California with a vehicle, that person may recover, possess, use, or transport the whole animal and salvage the edible portions of the animal pursuant to a wildlife salvage permit.

(c) Subdivision (b) shall also apply to an individual who encounters an unintentionally killed deer, elk, pronghorn antelope, or wild pig that has been struck with a vehicle.

(d) This section does not authorize an individual to kill an injured or wounded animal for the purpose of salvage. An animal that is severely injured in an accidental vehicle collision may only be salvaged pursuant to this section if it is subsequently killed by the department pursuant to Section 1001 or a law enforcement officer authorized by the department to kill injured wildlife.

(e)(1) Upon appropriation by the Legislature, the commission may establish the wildlife salvage pilot program no later than January 1, 2022.

(2) Upon appropriation by the Legislature, the department shall implement the pilot program no later than six months after the commission establishes the pilot program.

(3)(A) To the extent feasible, the department shall develop and make available to the public the web-based portal described in subdivision (a) for the wildlife salvage pilot program to facilitate participation in the pilot program.

(B) To the extent practicable, the web-based portal shall work with the existing harvest reporting system in use by the department, including identification of the person salvaging the animal.

(C) The department shall work to include data collected from the wildlife salvage pilot program in any other wildlife-vehicle collision data collection efforts, including data collection efforts conducted pursuant to Section 1023.

(f) This section does not authorize the take of wildlife species listed pursuant to the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050)) and Section 670.1 of Title 14 of the California Code of Regulations, or other nongame wildlife, fully protected species, migratory birds, including, but not limited to, waterfowl, and other wildlife species not lawfully hunted.

(g) The state is not liable for any harm, injury, loss, or damage arising out of the recovery, possession, use, transport, or consumption of any wild game animal legally salvaged pursuant to this section.

(h) Beginning on the first March 1 after the department implements the pilot program, and each March 1 thereafter, the department shall make available on its internet website data that includes the number of wildlife salvage permits issued, locations of impacts, and species of wildlife.

(i) Subdivisions (b) to (d), inclusive, shall become operative when the department implements the pilot program.

(j) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

HISTORY:
Added Stats 2019 ch 869 § 6 (SB 395), effective January 1, 2020, repealed January 1, 2029.

§ 2001. Unlawful possession; Limitations after close of season

(a) It is unlawful to take a mammal, bird, fish, reptile, or amphibian outside of an established season or to exceed a bag limit or possession limit established in this code or by a regulation adopted by the commission. Violation of an established season, bag limit, or possession limit may be charged as a violation of this section or of the specific code section or regulation that establishes the season or limit.

(b) Unless otherwise provided, it is unlawful to possess a fish, reptile, or amphibian, except during the open season where the fish, reptile, or amphibian was taken or during the 10-day period immediately following that open season. A possession limit applicable during the open season applies during that 10-day period.

(c) Except as provided in Section 3080, it is unlawful to possess a game bird or mammal except during the open season where taken.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 974 § 6; Stats 1998 ch 531 § 2 (AB 2440); Stats 2007 ch 285 § 22 (AB 1729), effective January 1, 2008; Stats 2015 ch 154 § 42 (AB 1527), effective January 1, 2016.

§ 2002. Possession of game unlawfully taken

It is unlawful to possess a bird, mammal, fish, reptile, amphibian, or part of any of those animals, taken in violation of this code or a regulation adopted pursuant to this code.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 974 § 7; Stats 2015 ch 154 § 43 (AB 1527), effective January 1, 2016.

§ 2003. Offering prize for taking

(a) Except as specified in subdivisions (b), (c), ***(d),*** and ****(e)***, it is unlawful to offer a

prize or other inducement as a reward for the taking of a game bird, mammal, fish, reptile, or amphibian in an individual contest, tournament, or derby.

(b) The department may issue a permit to a person authorizing that person to offer a prize or other inducement as a reward for the taking of a game fish, as defined by the commission by regulation, if it finds that there would be no detriment to the resource. The permit is subject to regulations adopted by the commission. The application for the permit shall be accompanied by a fee in the amount determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing the permit. However, the department may waive the permit fee if the contest, tournament, or derby is for persons who are under 16 years of age or have a physical or mental disability, and the primary purpose of the contest, tournament, or derby is to introduce those anglers to or educate them about fishing. All permits for which the fee is waived pursuant to this subdivision shall comply with all other requirements set forth in this section.

(c) This section does not apply to a person conducting what is generally known as a frog-jumping contest, or, in waters of the Pacific Ocean, what is generally known as a fish contest.

(d) This section does not apply to a person conducting an individual contest, tournament, or derby for the taking of a game bird or mammal, if the total value of all prizes or other inducements is less than five hundred dollars ($500) for the individual contest, tournament, or derby.

(e)(1) As used in this subdivision:

(A) "Event" means a competition event on lands managed by the department.

(B) "Prize compensation" includes prize or purse money, other prizes, goods, or other compensation.

(2) The department, for any event that awards prize compensation to competitors in gendered categories, shall require as a condition of a permit pursuant to this section that, for any participant level that receives prize compensation, the prize compensation for each gendered category be identical at each participant level. The department shall not approve a permit for an event that does not comply with this condition.

HISTORY:

Enacted 1957. Amended Stats 1961 ch 953 § 1; Stats 1972 ch 974 § 8; Stats 1974 ch 619 § 1; Stats 1980 ch 1052 § 1; Stats 1984 ch 1098 § 1; Stats 1985 ch 124 § 1; Stats 1986 ch 217 § 1; Stats 1987 ch 13 § 1, effective April 30, 1987, ch 363 § 1; Stats 1989 ch 564 § 3; Stats 1996 ch 870 § 5.5 (AB 3245); Stats 2003 ch 610 § 7 (AB 1770); Stats 2004 ch 431 § 8 (AB 2760); Stats 2015 ch 154 § 44 (AB 1527), effective January 1, 2016; Stats 2019 ch 276 § 1 (AB 467), effective January 1, 2020.

§ 2003.5. Legislative findings and declarations

(a) The Legislature finds and declares that the fish of this state are a vital, renewable resource which provides recreation, outdoor experiences, and food for many of this state's citizens. Therefore, it is in the state's best interests to promote volunteer private rehabilitation and improvement of fisheries, fish habitat, and resources.

(b) The Legislature declares it is the policy of this state to encourage cooperation by local, regional, state, and federal governmental agencies with jurisdiction over inland waters with private groups and associations in order to do fish habitat and restoration work. This policy shall be pursued through the implementation of a program known as the "Adopt a Lake Program."

HISTORY:

Added Stats 1988 ch 850 § 1.

§ 2003.6. Adopt a Lake Program implementation

The department may implement the "Adopt a Lake Program" to facilitate private groups' and associations' undertaking volunteer efforts to rehabilitate and improve

fisheries, fish habitat, and resources. In implementing this program, the department shall prepare and periodically update a plan for the volunteer efforts to be undertaken. The plan shall be prepared cooperatively by the department, the private group or association, and the public agency with jurisdiction over the inland water to be affected by the plan. The plan shall be consistent with the management plan and management objectives of the department and the public agency with jurisdiction over the inland water.

HISTORY:
Added Stats 1988 ch 850 § 2.

§ 2004. Damage to property; Injuring livestock

It is unlawful for any person, while taking any bird, mammal, fish, reptile, or amphibian, to cause damage, or assist in causing damage, to real or personal property, or to leave gates or bars open, or to break down, destroy, or damage fences, or to tear down or scatter piles of rails, posts, stone, or wood, or, through carelessness or negligence, to injure livestock of any kind.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 2.

§ 2005. Use of artificial lights; Infrared light; Night vision equipment; Exceptions

(a) Except as otherwise authorized by this section, it is unlawful to use an artificial light to assist in the taking of a game bird, game mammal, or game fish.

(b) It is unlawful for one or more persons to throw or cast the rays of a spotlight, headlight, or other artificial light on a highway or in a field, woodland, or forest where game mammals, fur-bearing mammals, or nongame mammals are commonly found, or upon a game mammal, fur-bearing mammal, or nongame mammal, while having in his or her possession or under his or her control a firearm or weapon with which that mammal could be killed, even though the mammal is not killed, injured, shot at, or otherwise pursued.

(c) It is unlawful to use or possess night vision equipment to assist in the taking of a bird, mammal, amphibian, reptile, or fish. For purposes of this subdivision, "night vision equipment" includes, but is not limited to, the following:

(1) An infrared or similar light, used in connection with an electronic viewing device.

(2) An optical device, including, but not limited to, binoculars or a scope, that uses electrical or battery powered light amplifying circuits.

(d) This section does not apply to any of the following:

(1) Sport fishing in ocean waters, or other waters where night fishing is permitted, if an artificial light is not used on or as part of the fishing tackle.

(2) Commercial fishing.

(3) The taking of mammals governed by Article 2 (commencing with Section 4180) of Chapter 3 of Part 3 of Division 4.

(4) The use of a hand-held flashlight that is no larger and emits no more light than a two-cell, three-volt flashlight, and is not affixed to a weapon.

(5) The use of a lamp or lantern that does not cast a directional beam of light.

(6) Headlights of a motor vehicle that are operated in a usual manner and without attempt or intent to locate a game mammal, fur-bearing mammal, or nongame mammal.

(7) An owner of land devoted to the agricultural industry, or the owner's employee, while on that land.

(8) An owner of land devoted to the agricultural industry, or the owner's employee, while on land controlled by the owner in connection with the agricultural industry.

(9) Other uses as the commission may authorize by regulation.

(e) A person shall not be arrested for violation of this section except by a peace officer.

HISTORY:
Enacted 1957. Amended Stats 1st Ex Sess 1958 ch 31 § 1; Stats 1959 ch 1088 § 1; Stats 1977 ch 1028 § 1; Stats 2007 ch 285 § 23 (AB 1729), effective January 1, 2008; Stats 2015 ch 154 § 45 (AB 1527), effective January 1, 2016.

§ 2006. Possession of loaded rifle or shotgun in vehicle; Exceptions

(a) It is unlawful to possess a loaded rifle or shotgun in any vehicle or conveyance or its attachments which is standing on or along or is being driven on or along any public highway or other way open to the public.

(b) A rifle or shotgun shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell in the firing chamber but not when the only cartridges or shells are in the magazine.

(c) The provisions of this section shall not apply to peace officers or members of the Armed Forces of this state or the United States, while on duty or going to or returning from duty.

HISTORY:
Enacted 1957. Amended Stats 2010 ch 178 § 28 (SB 1115), effective January 1, 2011, operative January 1, 2012.

§ 2007. Setting trap gun; Definition

It is unlawful to set, cause to be set, or placed any trap gun.

A "trap gun" is a firearm loaded with other than blank cartridges and connected with a string or other contrivance contact with which will cause the firearm to be discharged.

HISTORY:
Enacted 1957.

§ 2009. Willful interference with lawful activity

(a) A person shall not willfully interfere with the participation of any individual in the lawful activity of shooting, hunting, fishing, falconry, hunting dog field trials, hunting dog training, or trapping at the location where that activity is taking place.

(b) A violation of this section is punishable pursuant to subdivision (b) of Section 12000.

(c) Any person convicted for a violation of this section that occurred within two years of a prior violation of this section which resulted in a conviction is guilty of a misdemeanor, punishable by imprisonment in the county jail for a period of not more than one year, by a fine of not less than one hundred dollars ($100) and not to exceed one thousand dollars ($1,000), or by both imprisonment and fine.

(d) This section does not apply to the actions of any peace officer or personnel of the department in the performance of their official duties. This section does not obstruct the rights and normal activities of landowners or tenants, including, but not limited to, farming, ranching, and limiting unlawful trespass.

(e) In order to be liable for a violation of this section, the person is required to have had the specific intent to interfere with the participation of an individual who was engaged in lawful shooting, hunting, fishing, falconry, hunting dog field trials, hunting dog training, or trapping.

(f) For purposes of this section, "interfere with" means any action which physically impedes, hinders, or obstructs the lawful pursuit of any of the above-mentioned activities, including, but not limited to, all of the following:

(1) Actions taken for the purpose of frightening away animals from the location where the lawful activity is taking place.

(2) Placing or maintaining signs, gates, locks, or barricades that prohibit or deny access to lands without authorization from the landowner or lessee or an authorized designee of the landowner or lessee.

(3) Placing food on lands not belonging to the person placing the food for purposes of eliminating the lawful ability to hunt due to the presence of bait, as defined in this code or regulations adopted pursuant to this code.

HISTORY:
Added Stats 1988 ch 1278 § 1. Amended Stats 2009 ch 394 § 5 (AB 1423), effective January 1, 2010.

§ 2010. Use or possession of shotgun

(a) It is unlawful to use or possess a shotgun larger than 10-gauge, or to use or possess a shotgun capable of holding more than six cartridges at one time, to take a mammal or bird.

(b) A shotgun that has been modified with the insertion of a plug is deemed, for the purpose of this section, to have a cartridge capacity equal to the number of cartridges that can be loaded into the weapon as modified.

(c) After a public hearing, the commission may adopt regulations relative to the ammunition capacity of shotguns for taking mammals or birds that are more restrictive than the limits provided in subdivision (a), or that it determines may be needed to conform to federal law.

HISTORY:
Enacted 1957. Amended Stats 1995 ch 321 § 2 (AB 1305); Stats 2015 ch 154 § 46 (AB 1527), effective January 1, 2016.

§ 2011. Taking or destruction of game lawfully in possession of another

(a) It is unlawful for any person to take, mutilate, or destroy any bird or mammal lawfully in the possession of another.

(b) For the purpose of this section, a bird or mammal shall be deemed in possession when it is actually reduced to physical possession or when it is wounded or otherwise maimed and the person who wounded or otherwise maimed it is in hot pursuit.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 25 (AB 1729), effective January 1, 2008.

§ 2011.5. Removing from a hunting dog any collar without possessing written permission from the dog owner

(a) It is unlawful for a person to remove from a hunting dog any collar, including an electronic or radio transmitting device, without possessing written permission from the dog's owner allowing the removal of the collar.

(b) As used in this section, "hunting dog" means a dog in the field actively engaged in the taking of mammals or birds, or a dog actively being trained for the taking of mammals or birds, that is located in an area where mammals or birds can be taken, at that time and place, in accordance with existing law.

(c) This section does not apply to a law enforcement officer or an animal control officer in the performance of his or her duty, or to a person who is assisting an injured dog.

HISTORY:
Added Stats 2009 ch 294 § 9 (AB 1442), effective January 1, 2010.

§ 2012. Exhibition of licenses, tags, game taken, and devices used for taking

All licenses, tags, and the birds, mammals, fish, reptiles, or amphibians taken or otherwise dealt with under this code, and any device or apparatus designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibians shall be exhibited upon demand to any person authorized by the department to enforce this code or any law relating to the protection and conservation of birds, mammals, fish, reptiles, or amphibians.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 3; Stats 2007 ch 285 § 26 (AB 1729), effective January 1, 2008.

§ 2013. Application of provisions

Unless otherwise provided, the provisions of this code relating to the possession of birds, mammals, fish, reptiles, or amphibians apply to birds, mammals, fish, reptiles, or amphibians taken either in or outside of this state.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 974 § 9; Stats 1977 ch 1208 § 5; Stats 2015 ch 154 § 47 (AB 1527), effective January 1, 2016.

§ 2014. Policy of state; Damages for taking or destroying protected game; Exceptions

(a) It is the policy of this state to conserve its natural resources and to prevent the willful or negligent destruction of birds, mammals, fish, reptiles, or amphibia.

The state may recover damages in a civil action against any person or local agency which unlawfully or negligently takes or destroys any bird, mammal, fish, reptile, or amphibian protected by the laws of this state.

(b) The measure of damages is the amount which will compensate for all the detriment proximately caused by the destruction of the birds, mammals, fish, reptiles, or amphibia.

(c) An action to recover damages under this section shall be brought in the name of the people of the state, in a court of competent jurisdiction in the county in which the cause of action arose. The State Water Resources Control Board shall be notified of, and may join in, any action brought under this section when the activities alleged to have caused the destruction of any bird, mammal, fish, reptile, or amphibian may involve either the unlawful discharge of pollutants into the waters of the state or other violation of Division 7 (commencing with Section 13000) of the Water Code.

(d) This section does not apply to persons or local agencies engaged in agricultural pest control, to the destruction of fish in irrigation canals or works or irrigation drainages, or to the destruction of birds or mammals killed while damaging crops as provided by law.

(e) No damages may be recovered against a local agency pursuant to this section if civil penalties are assessed against the local agency for the same detriment pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(f) Any recovery or settlement of money damages, including, but not limited to, civil penalties, arising out of any civil action filed and maintained by the Attorney General in the enforcement of this section shall be deposited by the department in the subaccounts of the Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund as specified in Section 13011.

(g) For purposes of this section, "local agency" includes any city, county, city and county, district, public authority, or other political subdivision.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 974 § 10; Stats 1977 ch 767 § 1; Stats 1986 ch 977 § 1; Stats 1995 ch 720 § 1 (AB 902).

§ 2015. Unlawful possession in restaurant or eating establishment; Exceptions

(a) Except as otherwise provided in this section, it is unlawful to possess a bird, mammal, fish, amphibian, or reptile, that may not be legally sold, in a restaurant or other eating establishment.

(b) This section does not apply to any of the following:

(1) A person who lawfully took or otherwise legally possessed the bird, mammal, fish, amphibian, or reptile.

(2) A person preparing the bird, mammal, fish, amphibian, or reptile for consumption by the person who lawfully took or possessed it, or by that person and others, if the person who took or possessed it is present on the premises.

(3) A bird, mammal, fish, amphibian, or reptile tagged with a signed statement of the person who took the bird, mammal, fish, amphibian, or reptile stating that person's name and address, the date taken, and the total number and kind taken.

HISTORY:
Added Stats 1959 ch 1270 § 1. Amended Stats 2015 ch 154 § 48 (AB 1527), effective January 1, 2016.

§ 2016. Prohibition against entry upon certain lands for purpose of discharging firearm or taking or destroying mammals or birds

It is unlawful to enter land for the purpose of discharging a firearm or taking or destroying a mammal or bird, including waterfowl, on that land, without having first obtained written permission from the owner, the owner's agent, or the person in lawful possession of that land, if either of the following is true:

(a) The land belongs to or is occupied by another person and is either under cultivation or enclosed by a fence.

(b) There are signs of any size and wording forbidding trespass or hunting or both displayed along all exterior boundaries of the land, at intervals not less than three to the mile, and at all roads and trails entering the land, including land temporarily inundated by water flowing outside the established banks of a river, stream, slough, or other waterway, which fairly advise a person about to enter the land that the use of the land is so restricted.

HISTORY:
Added Stats 1967 ch 1187 § 1. Amended Stats 1982 ch 1607 § 1, effective September 30, 1982; Stats 2012 ch 590 § 1 (AB 1162), effective January 1, 2013; Stats 2015 ch 154 § 49 (AB 1527), effective January 1, 2016.

§ 2017. [Section repealed 2013.]

HISTORY:
Added Stats 1967 ch 1187 § 2. Amended Stats 1988 ch 140 § 1. Repealed Stats 2012 ch 590 § 2 (AB 1162), effective January 1, 2013. The repealed section related to the unlawful taking of game or discharge of a firearm on private property.

§ 2018. Unauthorized posting; Destruction of signs

It is unlawful to post any sign indicating an area is a state or federal refuge unless it is established by state or federal law, or to post any sign prohibiting trespass or hunting on any land unless authorized by the owner or the person in lawful possession of such lands.

It is unlawful for any person to maliciously tear down, mutilate, or destroy any sign, signboard or other notice forbidding hunting or trespass on land.

HISTORY:
Added Stats 1967 ch 1187 § 3.

§ 2019. Bounty unlawful

It is unlawful for any person, including state, federal, county, and city officials or their agents, to authorize, offer or pay a bounty for any bird or mammal. This section does not apply to any person with respect to the taking of any bird or mammal on the private property of such person.

HISTORY:
Added Stats 1974 ch 25 § 1.

§ 2020. Punishment for violations

It is unlawful to violate any provision of Division 1 (commencing with Section 1.04) of Title 14 of the California Code of Regulations. Violation of such a provision may be

charged as a violation of this section or of the specific section of Title 14 provision, and shall be punishable as provided in Section 12000.

HISTORY:
Added Stats 2009 ch 294 § 10 (AB 1442), effective January 1, 2010.

§ 2021. Unlawful possession, sale, offer for sale, trade, or distribution of shark fin; Exceptions

(a) As used in this section "shark fin" means the raw, dried, or otherwise processed detached fin, or the raw, dried, or otherwise processed detached tail, of an elasmobranch.

(b) Except as otherwise provided in subdivisions (c), (d), and (e), it shall be unlawful for any person to possess, sell, offer for sale, trade, or distribute a shark fin.

(c) Any person who holds a license or permit pursuant to Section 1002 may possess a shark fin or fins consistent with that license or permit.

(d) Any person who holds a license or permit issued by the department to take or land sharks for recreational or commercial purposes may possess a shark fin or fins consistent with that license or permit.

(e) Before January 1, 2013, any restaurant may possess, sell, offer for sale, trade, or distribute a shark fin possessed by that restaurant, as of January 1, 2012, that is prepared for consumption.

HISTORY:
Added Stats 2011 ch 524 § 2 (AB 376), effective January 1, 2012.

§ 2021.5. Exemptions from shark fin prohibition; Report

(a) Notwithstanding Section 2021, all of the following provisions apply:

(1) Any person who holds a license or permit issued by the department to take or land sharks for recreational or commercial purposes may possess, including for purposes of consumption or taxidermy, or may donate to a person licensed or permitted pursuant to Section 1002, a shark fin or fins consistent with that license or permit.

(2) Before July 1, 2013, any person may possess, sell, offer for sale, trade, or distribute a shark fin possessed by that person, as of January 1, 2012.

(3) Nothing in Section 2021 prohibits the sale or possession of a shark carcass, skin, or fin for taxidermy purposes pursuant to Section 3087.

(b)(1) The Ocean Protection Council shall submit an annual report to the Legislature that lists any shark species that have been independently certified to meet internationally accepted standards for sustainable seafood, as defined in Section 35550 of the Public Resources Code, and adopted by the Ocean Protection Council pursuant to Section 35617 of the Public Resources Code, including chain of custody standards.

(2) A report to be submitted pursuant to paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

HISTORY:
Added Stats 2011 ch 525 § 1 (AB 853), effective January 1, 2012.

§ 2022. Prohibition against purchase, sale, or import of ivory or rhinoceros horn; Criminal penalties; Administrative penalties; Reward

(a) For the purposes of this section, the following terms have the following meanings:

(1) "Bona fide educational or scientific institution" means an institution that establishes through documentation either of the following:

(A) Educational or scientific tax exemption, from the federal Internal Revenue Service or the institution's national, state, or local tax authority.

(B) Accreditation as an educational or scientific institution, from a qualified national, regional, state, or local authority for the institution's location.

(2) "Ivory" means a tooth or tusk from a species of elephant, hippopotamus, mammoth, mastodon, walrus, warthog, whale, or narwhal, or a piece thereof, whether

raw ivory or worked ivory, and includes a product containing, or advertised as containing, ivory.

(3) "Rhinoceros horn" means the horn, or a piece thereof, or a derivative such as powder, of a species of rhinoceros, and includes a product containing, or advertised as containing, a rhinoceros horn.

(4) "Sale" or "sell" means selling, trading, bartering for monetary or nonmonetary consideration, giving away in conjunction with a commercial transaction, or giving away at a location where a commercial transaction occurred at least once during the same or the previous calendar year.

(5) "Total value" means either the fair market value or the actual price paid for ivory or rhinoceros horn, whichever is greater.

(b) Except as provided in subdivision (c), it is unlawful to purchase, sell, offer for sale, possess with intent to sell, or import with intent to sell ivory or rhinoceros horn.

(c) The prohibitions set forth in subdivision (b) do not apply to any of the following:

(1) An employee or agent of the federal or state government undertaking a law enforcement activity pursuant to federal or state law, or a mandatory duty required by federal law.

(2) An activity that is authorized by an exemption or permit under federal law or that is otherwise expressly authorized under federal law.

(3) Ivory or rhinoceros horn that is part of a musical instrument, including, but not limited to, a string or wind instrument or piano, and that is less than 20 percent by volume of the instrument, if the owner or seller provides historical documentation demonstrating provenance and showing the item was manufactured no later than 1975.

(4) Ivory or rhinoceros horn that is part of a bona fide antique and that is less than five percent by volume of the antique, if the antique status is established by the owner or seller of the antique with historical documentation demonstrating provenance and showing the antique to be not less than 100 years old.

(5) The purchase, sale, offer for sale, possession with intent to sell, or importation with intent to sell ivory or rhinoceros horn for educational or scientific purposes by a bona fide educational or scientific institution if both of the following criteria are satisfied:

(A) The purchase, sale, offer for sale, possession with intent to sell, or import with intent to sell the ivory or rhinoceros horn is not prohibited by federal law.

(B) The ivory or rhinoceros horn was legally acquired before January 1, 1991, and was not subsequently transferred from one person to another for financial gain or profit after July 1, 2016.

(d) Possession of ivory or rhinoceros horn in a retail or wholesale outlet commonly used for the buying or selling of similar items is prima facie evidence of possession with intent to sell. This evidence does not preclude a finding of intent to sell based on any other evidence that may serve to establish that intent independently or in conjunction with this evidence.

(e) For a violation of any provision of this section, or any rule, regulation, or order adopted pursuant to this section, the following criminal penalties shall be imposed:

(1) For a first conviction, where the total value of the ivory or rhinoceros horn is two hundred fifty dollars ($250) or less, the offense shall be a misdemeanor punishable by a fine of not less than one thousand dollars ($1,000), or more than ten thousand dollars ($10,000), imprisonment in the county jail for not more than 30 days, or by both the fine and imprisonment.

(2) For a first conviction, where the total value of the ivory or rhinoceros horn is more than two hundred fifty dollars ($250), the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars ($5,000), or more than forty thousand dollars ($40,000), imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(3) For a second or subsequent conviction, where the total value of the ivory or rhinoceros horn is two hundred fifty dollars ($250) or less, the offense shall be a misdemeanor punishable by a fine of not less than five thousand dollars ($5,000), or more than forty thousand dollars ($40,000), imprisonment in county jail for not more than one year, or by both the fine and imprisonment.

(4) For a second or subsequent conviction, where the total value of the ivory or rhinoceros horn is more than two hundred fifty dollars ($250), the offense shall be a misdemeanor punishable by a fine of not less than ten thousand dollars ($10,000), or more than fifty thousand dollars ($50,000) or the amount equal to two times the total value of the ivory or rhinoceros horn involved in the violation, whichever is greater, imprisonment in county jail for not more than one year, or by both the fine and imprisonment.

(f) In addition to, and separate from, any criminal penalty provided for under subdivision (e), an administrative penalty of up to ten thousand dollars ($10,000) may be imposed for a violation of any provision of this section, or any rule, regulation, or order adopted pursuant to this section. Penalties authorized pursuant to this subdivision may be imposed by the department consistent with all of the following:

(1) The chief of enforcement issues a complaint to any person or entity on which an administrative penalty may be imposed pursuant to this section. The complaint shall allege the act or failure to act that constitutes a violation, relevant facts, the provision of law authorizing the administrative penalty to be imposed, and the proposed penalty amount.

(2) The complaint and order is served by personal notice or certified mail and informs the party served that the party may request a hearing no later than 20 days from the date of service. If a hearing is requested, it shall be scheduled before the director or his or her designee, which designee shall not be the chief of enforcement issuing the complaint and order. A request for hearing shall contain a brief statement of the material facts the party claims support his or her contention that an administrative penalty should not be imposed or that an administrative penalty of a lesser amount is warranted. A party served with a complaint pursuant to this subdivision waives the right to a hearing if no hearing is requested within 20 days of service of the complaint, in which case the order imposing the administrative penalty shall become final.

(3) The director, or his or her designee, shall control the nature and order of the hearing proceedings. Hearings shall be informal in nature, and need not be conducted according to the technical rules relating to evidence. The director, or his or her designee, shall issue a final order within 45 days of the close of the hearing. A final copy of the order shall be served by certified mail upon the party served with the complaint.

(4) A party may obtain review of the final order by filing a petition for a writ of mandate with the superior court within 30 days of the date of service of the final order. The administrative penalty shall be due and payable to the department within 60 days after the time to seek judicial review has expired or, where the party has not requested a hearing of the order, within 20 days after the order imposing an administrative penalty becomes final.

(g) For any conviction or other entry of judgment imposed by a court for a violation of this section resulting in a fine, the court may pay one-half of the fine, but not to exceed five hundred dollars ($500), to any person giving information that led to the conviction or other entry of judgment. This reward shall not apply if the informant is a regular salaried law enforcement officer, or officer or agent of the department.

(h) Upon conviction or other entry of judgment for a violation of this section, any seized ivory or rhinoceros horn shall be forfeited and, upon forfeiture, either maintained by the department for educational or training purposes, donated by the department to a bona fide educational or scientific institution, or destroyed.

(i) Administrative penalties collected pursuant to this section shall be deposited in the Fish and Game Preservation Fund and used for law enforcement purposes upon appropriation by the Legislature.

(j) This section does not preclude enforcement under Section 6530 of the Penal Code.

HISTORY:
Added Stats 2015 ch 475 § 2 (AB 96), effective January 1, 2016, operative July 1, 2016. Amended Stats 2016 ch 86 § 135 (SB 1171), effective January 1, 2017.

§ 2023. Unlawful sale or purchase of fur products; Exceptions; Civil liability [Operative January 1, 2023]

(a) For purposes of this section, the following definitions apply:

(1) "Fur" means any animal skin or part thereof with hair, fleece, or fur fibers attached thereto, either in its raw or processed state.

(2)(A) "Fur product" means any article of clothing or covering for any part of the body, or any fashion accessory, including, but not limited to, handbags, shoes, slippers, hats, earmuffs, scarves, shawls, gloves, jewelry, keychains, toys or trinkets, and home accessories and decor, that is made in whole or in part of fur.

(B) "Fur product" does not include any of the following:

(i) A dog or cat fur product, as defined in Section 1308 of Title 19 of the United States Code, as that section read on January 1, 2020.

(ii) An animal skin or part thereof that is to be converted into leather, which in processing will have the hair, fleece, or fur fiber completely removed.

(iii) Cowhide with hair attached thereto.

(iv) Deerskin, sheepskin, or goatskin with hair attached thereto.

(v) The pelt or skin of an animal that is preserved through taxidermy.

(vi) A product made pursuant to Section 3087 or 4303.

(3) "Taxidermy" means the practice of preparing, stuffing, and mounting the skin, in lifelike form, of any fish, reptile, amphibian, bird, or mammal.

(4) "Ultimate consumer" means a person who buys for their own use, or for the use of another, but not for resale or trade.

(5) "Used fur product" means fur in any form that has been worn or used by an ultimate consumer.

(b)(1) It is unlawful to sell, offer for sale, display for sale, trade, or otherwise distribute for monetary or nonmonetary consideration a fur product in the state.

(2) It is unlawful to manufacture a fur product in the state for sale.

(c) The prohibitions set forth in subdivision (b) do not apply to any of the following:

(1) A used fur product.

(2) A fur product used for religious purposes.

(3) A fur product used for traditional tribal, cultural, or spiritual purposes by a member of a federally recognized Native American tribe or a nonfederally recognized California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission.

(4) Any activity expressly authorized by federal law.

(d) A person who sells or trades any used fur product or fur product described in subdivision (c) shall maintain a record of each sale or trade of one of those exempt fur products for at least one year. A person who reports the receipt or purchase of a used fur product or fur product described in subdivision (c) pursuant to Section 21628 of the Business and Professions Code shall be deemed to satisfy this subdivision. A violation of this subdivision is not subject to a criminal or civil penalty.

(e)(1) A person who violates subdivision (b) may be subject to the following civil penalties:

(A) For the first violation and for a violation that does not meet the requirements of subparagraph (B) or (C), a civil penalty of up to five hundred dollars ($500).

(B) For a violation that occurred within one year of a previous violation, a civil penalty of up to seven hundred fifty dollars ($750).

(C) For a violation that occurred within one year of a second or subsequent violation, a civil penalty of up to one thousand dollars ($1,000).

(2) Each fur product that constitutes a violation of subdivision (b) shall be treated as a separate violation in a civil action brought pursuant to this section.

(f)(1) In lieu of seeking prosecution of a violation of subdivision (b) as a misdemeanor, the department, the Attorney General, or the city attorney of the city or the district attorney or county counsel of the county in which a violation of subdivision (b) occurs, may bring a civil action to recover the civil penalty in subdivision (e). The civil action shall be brought in the county in which the violation occurs and any penalty imposed shall be transferred to the Controller for deposit in the Fish and Game Preservation Fund in accordance with Section 13001 and used exclusively for the purposes described in Section 1771 and for the enforcement of this section.

(2) In an action brought under this section, in addition to the penalty specified in subdivision (e), the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness' fees may also be recovered and those amounts shall be credited to the same operating funds as those from which the expenditures for those purposes were derived.

(g) This section shall become operative on January 1, 2023.

(h) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

HISTORY:
Added Stats 2019 ch 764 § 1 (AB 44), effective January 1, 2020, operative January 1, 2023.

CHAPTER 1.5. ENDANGERED SPECIES

ARTICLE 1. GENERAL PROVISIONS

§ 2050. Citation of chapter

This chapter shall be known and may be cited as the California Endangered Species Act.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2051. Legislative findings and declarations

The Legislature hereby finds and declares all of the following:

(a) Certain species of fish, wildlife, and plants have been rendered extinct as a consequence of man's activities, untempered by adequate concern and conservation.

(b) Other species of fish, wildlife, and plants are in danger of, or threatened with, extinction because their habitats are threatened with destruction, adverse modification, or severe curtailment, or because of overexploitation, disease, predation, or other factors.

(c) These species of fish, wildlife, and plants are of ecological, educational, historical, recreational, esthetic, economic, and scientific value to the people of this state, and the conservation, protection, and enhancement of these species and their habitat is of statewide concern.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2052. Protection and enhancement of species; Acquisition of lands

The Legislature further finds and declares that it is the policy of the state to conserve, protect, restore, and enhance any endangered species or any threatened species and its

habitat and that it is the intent of the Legislature, consistent with conserving the species, to acquire lands for habitat for these species.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2052.1. Mitigation measures or alternatives

The Legislature further finds and declares that if any provision of this chapter requires a person to provide mitigation measures or alternatives to address a particular impact on a candidate species, threatened species, or endangered species, the measures or alternatives required shall be roughly proportional in extent to any impact on those species that is caused by that person. Where various measures or alternatives are available to meet this obligation, the measures or alternatives required shall maintain the person's objectives to the greatest extent possible consistent with this section. All required measures or alternatives shall be capable of successful implementation. This section governs the full extent of mitigation measures or alternatives that may be imposed on a person pursuant to this chapter. This section shall not affect the state's obligations set forth in Section 2052.

HISTORY:
Added Stats 1997 ch 567 § 1 (SB 879). Amended Stats 1998 ch 485 § 74 (AB 2803).

§ 2053. Alternative projects consistent with conservation

(a) The Legislature further finds and declares that it is the policy of the state that public agencies should not approve projects as proposed which would jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy.

(b) Furthermore, it is the policy of this state and the intent of the Legislature that reasonable and prudent alternatives shall be developed by the department, together with the project proponent and the state lead agency, consistent with conserving the species, while at the same time maintaining the project purpose to the greatest extent possible.

HISTORY:
Added Stats 1984 ch 1240 § 2. Amended Stats 2018 ch 329 § 1 (SB 473), effective January 1, 2019.

§ 2054. Mitigation and enhancement measures

The Legislature further finds and declares that, in the event specific economic, social, or other conditions make infeasible such alternatives, individual projects may be approved if appropriate mitigation and enhancement measures are provided.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2055. Conservation efforts by state agencies, boards, and commissions

The Legislature further finds and declares that it is the policy of this state that all state agencies, boards, and commissions shall seek to conserve endangered species and threatened species and shall utilize their authority in furtherance of the purposes of this chapter.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2056. Encouragement of cooperation of land owners; Liability for injury to employees or persons under contract with department

The Legislature further finds and declares that the cooperation of the owners of land

which is identified as habitat for endangered species and threatened species is essential for the conservation of those species and that it is the policy of this state to foster and encourage that cooperation in furtherance of the purposes of this chapter. Therefore, a landowner of property on which an endangered, threatened, or candidate species lives shall not be liable for civil damages for injury to employees of, or persons under contract with, the department if the injury occurs while those persons are conducting survey, management, or recovery efforts with respect to those species.

HISTORY:
Added Stats 1984 ch 1240 § 2. Amended Stats 1987 ch 286 § 1.

§ 2060. Construction of chapter

The definitions in this article govern the construction of this chapter.

HISTORY:
Added Stats 1984 ch 1162 § 6, ch 1240 § 2.

§ 2061. "Conserve"; "Conserving"; "Conservation"

"Conserve," "conserving," and "conservation" mean to use, and the use of, all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary. These methods and procedures include, but are not limited to, all activities associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, restoration and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2062. "Endangered species"

"Endangered species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range due to one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, or disease. Any species determined by the commission as "endangered" on or before January 1, 1985, is an "endangered species."

HISTORY:
Added Stats 1984 ch 1162 § 6, ch 1240 § 2.

§ 2063. "Feasible"

"Feasible" means feasible as defined in Section 21061.1 of the Public Resources Code.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2064. "Project"

"Project" means project as defined in Section 21065 of the Public Resources Code.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2064.5. "Recover" and "recovery" defined

"Recover" and "recovery" mean to improve, and improvement in, the status of a species to the point at which listing is no longer appropriate under the criteria set out in this

chapter and any regulations adopted thereunder, and, if the department has approved a recovery plan, satisfaction of the conditions of that plan.

HISTORY:
Added Stats 2018 ch 329 § 2 (SB 473), effective January 1, 2019.

§ 2065. "State lead agency"

"State lead agency" means the state agency, board, or commission which is a lead agency under the California Environmental Quality Act (Division 13 (commencing with Sec. 21000) of the Public Resources Code).

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2067. "Threatened species"

"Threatened species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts required by this chapter. Any animal determined by the commission as "rare" on or before January 1, 1985, is a "threatened species."

HISTORY:
Added Stats 1984 ch 1162 § 6, ch 1240 § 2.

§ 2068. "Candidate species"

"Candidate species" means a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that the commission has formally noticed as being under review by the department for addition to either the list of endangered species or the list of threatened species, or a species for which the commission has published a notice of proposed regulation to add the species to either list.

HISTORY:
Added States 1984 ch 1162 § 6, ch 1240 § 2.

§ 2069. Authorization for mitigating actions by department to mitigate impacts of the take of endangered, threatened, or candidate species resulting from certain solar thermal and photovoltaic powerplants; Requirements for powerplant certification applicants; Criteria for mitigating actions; Interim mitigating strategy [Repealed]

HISTORY:
Added Stats 2009–2010 8th Ex Sess ch 9 § 1 (SB 34XXXXXXXX), effective March 22, 2010. Amended Stats 2011-2012 1st Ex Sess ch 10 § 1 (ABX1 13), effective December 10, 2011; Stats 2015 ch 154 § 50 (AB 1527), effective January 1, 2016; Repealed Stats 2018 ch 329 § 3 (SB 473), effective January 1, 2019.

ARTICLE 2. LISTING OF ENDANGERED SPECIES

§ 2070. Establishment of lists

The commission shall establish a list of endangered species and a list of threatened species. The commission shall add or remove species from either list if it finds, upon the receipt of sufficient scientific information pursuant to this article, and based solely upon the best available scientific information, that the action is warranted.

HISTORY:
Added Stats 1984 ch 1162 § 6, ch 1240§ 2. Amended Stats 2018 ch 329 § 4 (SB 473), effective January 1, 2019.

§ 2071. Guidelines for petitions urging addition to or removal from lists

The commission shall adopt guidelines by which an interested person may petition the commission to add a species to, or to remove a species from either the list of endangered or the list of threatened species.

HISTORY:
Added Stats 1984 ch 1162 § 6.

§ 2071.5. Adoption of criteria for determining endangered or threatened status

The department shall recommend, and the commission shall adopt, criteria for determining if a species is endangered or threatened.

HISTORY:
Added Stats 1984 ch 1162 § 6.

§ 2072. Requirements for petition

The petition shall be written, shall be clearly identified as a petition, and shall clearly indicate the administrative measure recommended.

HISTORY:
Added Stats 1984 ch 1162 § 6.

§ 2072.3. Information to be included in petition

To be accepted, a petition shall, at a minimum, include sufficient scientific information that a petitioned action may be warranted. Petitions shall include information regarding the population trend, range, distribution, abundance, and life history of a species, the factors affecting the ability of the population to survive and reproduce, the degree and immediacy of the threat, the impact of existing management efforts, suggestions for future management, and the availability and sources of information. The petition shall also include information regarding the kind of habitat necessary for species survival, a detailed distribution map, and any other factors that the petitioner deems relevant.

HISTORY:
Added Stats 1984 ch 1162 § 6.

§ 2072.7. Departmental recommendation of addition to or removal from lists in absence of petition

The department may, in the absence of a petition from an interested party, recommended to the commission that it add a species to, or remove a species from, either the list of endangered species or the list of threatened species. If it makes a recommendation under this section, the department shall include the information specified in Section 2072.3. A department recommendation under this section shall be considered by the commission as a petition with a departmental recommendation to accept and consider as described in subdivision (b) of Section 2073.5, and is subject to Section 2074 to 2079, inclusive.

HISTORY:
Added Stats 1984 ch 1162 § 6.

§ 2073. Time period for referral of petition to department

Within 10 days of the receipt of a petition from an interested person under Section 2072.3, the commission shall refer the petition to the department.

HISTORY:
Added Stats 1984 ch 1162 § 6.

§ 2073.3. Notice of receipt of petition; Contents

(a) The commission shall publish a notice in the California Regulatory Notice Register of the receipt of a petition prepared pursuant to Section 2072.3 by the department, or by an interested party and referred to the department, pursuant to Section 2073, or the commencement of an evaluation, to add a species to, remove a species from, or change the status of a species on, the list of endangered species or the list of threatened species pursuant to Section 2072.7. At a minimum, the notice shall include all of the following:

(1) The scientific and common name of the species.

(2) Habitat type, if that information is available in the petition.

(3) The location where interested persons can submit information to the department relating to the petitioned species.

(b) The commission shall notify interested persons pursuant to Section 2078, by mail, of the notices prepared pursuant to subdivision (a), and shall mail a copy of the notice to those persons.

HISTORY:

Added Stats 1991 ch 974 § 1 (SB 403). Amended Stats 1997 ch 515 § 1 (AB 605).

§ 2073.4. Information submitted during petition

(a) A person may submit information to the department relating to the petitioned species during the evaluation of the petition pursuant to Section 2073.5. The information shall relate to the matters identified in Section 2072.3.

(b) Within 30 days after receiving information pursuant to subdivision (a), the department shall notify the petitioner regarding its content.

HISTORY:

Added Stats 1997 ch 515 § 2 (AB 605). Amended Stats 2018 ch 329 § 5 (SB 473), effective January 1, 2019.

§ 2073.5. Evaluation of petition by department; Recommendations to commission

(a) Within 90 days of receipt of the petition, the department shall evaluate the petition on its face and in relation to other relevant information the department possesses or receives, and submit to the commission its written evaluation report with one of the following recommendations to the commission:

(1) Based upon the information contained in the petition, there is not sufficient information to indicate that the petitioned action may be warranted, and the petition should be rejected.

(2) Based upon the information contained in the petition, there is sufficient information to indicate that the petitioned action may be warranted, and the petition should be accepted and considered.

(b) Upon the request of the director, the commission may grant the department an extension of time, not to exceed 30 days, to allow the department additional time to further analyze and evaluate the petition and complete its evaluation report.

(c) The department's evaluation report shall include copies of, or a list of, all information submitted to the department pursuant to subdivision (a) of Section 2073.4 during its evaluation of the petition. If copies are not included, the report shall state where the listed information is available for review.

HISTORY:

Added Stats 1984 ch 1162 § 6. Amended Stats 1997 ch 515 § 3 (AB 605).

§ 2073.7. Amendment of petition

A petitioner may amend a petition at any time prior to the beginning of the meeting held by the commission pursuant to Section 2074.2. However, if the commission determines that the amendment is substantive, the commission shall resubmit the petition to the department for review pursuant to Section 2073.5, publish notice of the

amendment pursuant to Section 2073.3, and renotice or continue any hearing scheduled pursuant to Section 2074 in order to provide adequate opportunity for public comment.

HISTORY:
Added Stats 1997 ch 515 § 4 (AB 605).

§ 2074. Scheduling of petition for consideration by commission

The commission shall schedule the petition for consideration at its next available meeting, but not sooner than 30 days after receipt of the petition and public release of the evaluation report, and distribute its pending agenda to interested persons pursuant to Section 2078. The commission also shall make the petition, evaluation report, and other materials received available for review.

HISTORY:
Added Stats 1984 ch 1162 § 6. Amended Stats 1997 ch 515 § 5 (AB 605).

§ 2074.2. Public hearing; Closing of administrative record; Deliberation; Publications and distribution of commission's findings

(a) At the meeting scheduled pursuant to Section 2074, the commission shall hold a public hearing on the petition and shall receive information, written or otherwise, and oral testimony. After the conclusion of oral testimony from the commission and department staff, the petitioner, or any other persons, the commission may close the public hearing and administrative record for the commission's decision pursuant to this section.

(b) After the commission closes the public hearing, the administrative record for the commission's decision is closed and it shall not be reopened except as provided in subdivision (c). Once the public hearing is closed, no person shall submit further information to the commission for consideration on that petition and the commission shall not accept any further information for consideration on that petition except as provided in subdivision (c).

(c) The administrative record for the commission's decision pursuant to this section shall not be reopened once the commission closes the public hearing unless one of the following occurs prior to the commission's decision:

(1) There is a change in state or federal law or regulation that has a direct and significant impact on the commission's determination as to whether the petition provides sufficient information to indicate that the petitioned action may be warranted.

(2) The commission determines that it requires further information to evaluate whether the petition provides sufficient information to indicate that the petitioned action may be warranted. If the commission makes that determination during its deliberation, the commission may request, on the record at the scheduled meeting or at a continued meeting, further information on any issue relevant to making its determination as to whether the petition provides sufficient information to indicate that the petitioned action may be warranted. Any request by the commission pursuant to this paragraph shall specify a date by which the information must be submitted to the commission and shall serve to reopen the administrative record for the limited purpose of receiving further information relating to the issues specified by the commission in the request. Commission and department staff, the petitioner, or any other person may submit information in response to a request pursuant to this paragraph. If the commission reopens the record pursuant to this paragraph, it shall provide an opportunity for public comment on the submitted information prior to the issuance of its decision.

(d) In its discretion, the commission may either close the public hearing and continue the meeting on the petition for the purpose of deliberation or continue both the public hearing and the meeting on the petition to a subsequent date, which shall be no later

than 90 days after the meeting scheduled pursuant to Section 2074, and subject to applicable notice and agenda requirements. If the commission closes the public hearing but continues the meeting for the purpose of deliberation, a person shall not submit, and the commission shall not receive, further information relating to the petition except as provided in subdivision (c).

(e) At the meeting scheduled pursuant to Section 2074 or at a continued meeting scheduled pursuant to subdivision (d), the commission shall consider the petition, the department's written report, written comments received, and oral testimony provided during the public hearing, and the commission shall make and enter in its record one of the following findings:

(1) If the commission finds that the petition does not provide sufficient information to indicate that the petitioned action may be warranted, the commission shall publish a notice of finding that the petition is rejected, including the reasons why the petition is not sufficient.

(2) If the commission finds that the petition provides sufficient information to indicate that the petitioned action may be warranted, the commission shall publish a notice of finding that the petition is accepted for consideration. If the accepted petition recommends the addition of a species to either the list of endangered species or the list of threatened species, the commission shall include in the notice that the petitioned species is a candidate species. The commission shall maintain a list of species which are candidate species.

(f) The commission shall publish and distribute the findings relating to the petition pursuant to Section 2078.

HISTORY:
Added Stats 1984 ch 1162 § 6. Amended Stats 1991 ch 974 § 2 (SB 403); Stats 2013 ch 387 § 3 (SB 749), effective January 1, 2014, repealed January 1, 2017; Stats 2016 ch 201 § 1 (AB 2549), effective January 1, 2017.

§ 2074.4. Notification of interested parties; Solicitation of data and comments

If a petition is accepted by the commission for consideration, all reasonable attempts shall be made to notify affected and interested parties and to solicit data and comments on the petitioned action from as many persons as is practicable. In addition to commission efforts to provide notification through distribution of the commission agenda and minutes pursuant to Section 2078, the department shall immediately undertake efforts to notify affected and interested parties. Methods of notification may include, but are not limited to, correspondence, newspaper notices, and press releases, and notification shall include notice to owners of that land which may provide habitat essential to the continued existence of the species, unless the director determines that ownership is so widespread, fragmented, or complex as to make individual notice impractical.

HISTORY:
Added Stats 1984 ch 1162 § 6.

§ 2074.6. Departmental review of status of subject species; Report to commission; Draft status review report process

The department shall promptly commence a review of the status of the species concerned in the petition. Within 12 months of the date of publication of a notice of acceptance of a petition for consideration pursuant to paragraph (2) of subdivision (e) of Section 2074.2, the department shall produce and make publicly available on the department's Internet Web site a final written peer reviewed report, based upon the best scientific information available to the department, which indicates whether the petitioned action is warranted, which includes a preliminary identification of the habitat that may be essential to the continued existence of the species, and which recommends management activities and other recommendations for recovery of the species. Prior to

releasing the final written report, the department shall have a draft status review report prepared and independently peer reviewed, and upon receiving the peer reviewers' input, shall evaluate and respond in writing to the independent peer review and shall amend the draft status review report as appropriate. The revised report shall be posted on the department's Internet Web site for a minimum of 30 days for public review prior to the hearing scheduled pursuant to Section 2075. The commission may grant an extension of up to six months if the director determines an extension is necessary to complete independent peer review of the report, and to provide a minimum of 30 days for public review of the peer reviewed report prior to the public hearing specified in Section 2075.

HISTORY:
Added Stats 1984 ch 1162 § 6. Amended Stats 2013 ch 387 § 5 (SB 749), effective January 1, 2014, repealed January 1, 2017; Stats 2016 ch 201 § 3 (AB 2549), effective January 1, 2017.

§ 2074.8. Independent studies not required; Independent scientific peer review required

This article does not impose any duty or obligation for, or otherwise require, the commission or the department to undertake independent studies or other assessments of any species when reviewing a petition and its attendant documents and comments. However, the department shall seek independent scientific peer review of the department's status report. The director may approve an extension of time for completion of the status report if necessary for the purposes of obtaining independent peer review pursuant to Section 2074.6

HISTORY:
Added Stats 1984 ch 1162 § 6. Amended Stats 2013 ch 387 § 7 (SB 749), effective January 1, 2014, repealed January 1, 2017; Stats 2016 ch 201 § 5 (AB 2549), effective January 1, 2017.

§ 2075. Final consideration of petition by commission; Availability of departmental report for review

The commission shall schedule the petition for final consideration at its next available meeting after receipt of the departmental report provided pursuant to Section 2074.6 and shall distribute the pending agenda for that meeting pursuant to Section 2078. The commission shall make the department's report, or copies thereof, which was provided, pursuant to Section 2074.6, available for review upon request.

HISTORY:
Added Stats 1984 ch 1162 § 6.

§ 2075.5. Public hearing; Closing of administrative record; Deliberation; Publications and distribution of commission's findings

(a) At the meeting scheduled pursuant to Section 2075, the commission shall hold a public hearing on the petition and shall receive information, written or otherwise, and oral testimony. After the conclusion of oral testimony from the commission and department staff, the petitioner, or any other person, the commission may close the public hearing and the administrative record for the commission's decision pursuant to this section.

(b) After the commission closes the public hearing, the administrative record for the commission's decision is closed and it shall not be reopened except as provided in subdivision (c). Once the public hearing is closed, a person shall not submit further information to the commission for consideration on that petition and the commission shall not accept any further information for consideration on that petition except as provided in subdivision (c).

(c) The administrative record for the commission's decision pursuant to this section shall not be reopened once the commission closes the public hearing unless one of the following occurs before the commission's decision:

(1) There is a change in state or federal law or regulation that has a direct and significant impact on the commission's determination as to whether the petitioned action is warranted.

(2) The commission determines that it requires further information to evaluate whether the petitioned action is warranted. If the commission makes that determination during its deliberation, the commission may request, on the record at the scheduled meeting or at a continued meeting, further information on any issue relevant to making its determination as to whether the petitioned action is warranted. Any request by the commission pursuant to this paragraph shall specify a date by which the information must be submitted to the commission and shall serve to reopen the administrative record for the limited purpose of receiving further information relating to the issues specified by the commission in the request. Commission and department staff, the petitioner, or any other person may submit information in response to a request pursuant to this paragraph.

(d) The commission, in its discretion, may either close the public hearing and continue the meeting on the petition for the purpose of deliberation or continue both the public hearing and the meeting on the petition to a subsequent date that is no later than 90 days after the meeting scheduled pursuant to Section 2075, and subject to applicable notice and agenda requirements. If the commission closes the public hearing but continues the meeting for the purpose of deliberation, a person shall not submit, and the commission shall not receive, further information relating to the petition except as provided in subdivision (c).

(e) At the meeting scheduled pursuant to Section 2075, or at a continued meeting scheduled pursuant to subdivision (d), the commission shall make one of the following findings based on the best available scientific information:

(1) The petitioned action is not warranted, in which case the finding shall be entered in the public records of the commission and the petitioned species shall be removed from the list of candidate species maintained pursuant to Section 2074.2.

(2) The petitioned action is warranted, or the petitioned action is not warranted but listing the petitioned species at a different status than that requested by the petitioner is warranted, in which case the commission shall, within 30 days of adopting written findings, publish a notice of that finding and shall add the species to, or remove the species from, the list of endangered species or the list of threatened species. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the change in status of a species pursuant to this article. The commission shall submit the change in status to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations. The commission shall use underline or italics to indicate additions to, and strikeout to indicate deletions from, the California Code of Regulations to reflect the change in status.

HISTORY:

Added Stats 1984 ch 1162 § 6. Amended Stats 2013 ch 387 § 9 (SB 749), effective January 1, 2014, repealed January 1, 2017; Stats 2016 ch 201 § 7 (AB 2549), effective January 1, 2017; Stats 2018 ch 329 § 6 (SB 473), effective January 1, 2019.

§ 2076. Judicial review of findings

Any finding pursuant to this section is subject to judicial review under Section 1094.5 of the Code of Civil Procedure.

HISTORY:

Added Stats 1984 ch 1162 § 6.

§ 2076.5. Adoption of emergency regulation

Notwithstanding Sections 2071 to 2075.5, inclusive, the commission may adopt a regulation that adds a species to the list of endangered species or to the list of threatened

species as an emergency regulation pursuant to Chapter 3.5 (commencing with Section 399) of Division 1 if the commission finds that there is any emergency posing a significant threat to the continued existence of the species. The commission shall notify affected or interested persons of the adoption of the emergency regulation pursuant to the methods described in Section 2074.4.

HISTORY:
Added Stats 1984 ch 1162 § 6. Amended Stats 2016 ch 546 § 23 (SB 1473), effective January 1, 2017.

§ 2077. Periodic departmental review of listed species; Report to commission

(a) Upon a specific appropriation of funds by the Legislature, the department shall, or if other funding is available, in the absence of a specific appropriation, may, review species listed as an endangered species or as a threatened species every five years to determine if the conditions that led to the original listing are still present. The review shall be conducted based on information that is consistent with the information specified in Section 2072.3 and that is the best scientific information available to the department. The review shall include a review of the identification of the habitat that may be essential to the continued existence of the species and the department's recommendations for management activities and other recommendations for recovery of the species. The department shall notify any person who has notified the commission, in writing with their address, of their interest, and the department may notify any other person.

(b) Review pursuant to subdivision (a) of species that are listed by both the commission and the United States Department of the Interior shall be conducted in conjunction with the five-year review process of the United States Department of the Interior.

(c) Initial review of those species listed by the commission before January 1, 1982, that are not listed by the federal government shall be undertaken and completed by July 1, 1987. Initial review of those species listed by the commission after January 1, 1982, that are not listed by the federal government shall be undertaken and completed within five years of the date the species was originally listed by the commission.

(d) Notwithstanding any other provision of this section, the commission or the department may review a species at any time based upon a petition or upon other data available to the department and the commission.

(e) The department shall report in writing to the commission the results of its five-year review for each listed species. The commission shall treat any report of the department under this subdivision that contains a recommendation to add a species to, or remove a species from, the list of endangered species or the list of threatened species as a department recommendation submitted pursuant to Section 2072.7.

HISTORY:
Added Stats 1984 ch 1162 § 6. Amended Stats 2018 ch 329 § 7 (SB 473), effective January 1, 2019.

§ 2078. Distribution of agenda

(a) To provide all interested persons access to information and notification of pending listing or delisting actions, the commission shall distribute the related agenda of pending actions and those portions of its minutes of actions taken under this article to any individuals who have notified the commission, in writing with their address, of their interest. This notification shall be published in the California Regulatory Notice Register and shall meet the requirements of public notice as required for commission action under Section 2073.3, 2074, 2074.2, 2075, or 2077.

(b) The commission may impose an annual fee on those persons who request inclusion on the list to be notified in order to offset the cost of establishing and maintaining the list, and preparing and mailing the notices. Fees received pursuant to this section shall be deposited in the Fish and Game Preservation Fund.

HISTORY:
Added Stats 1984 ch 1162 § 6. Amended Stats 1991 ch 974 § 3 (SB 403).

§ 2079. Departmental report; Contents

The department shall, by January 30 of every third year, beginning January 30, 1986, prepare a report summarizing the status of all state listed endangered, threatened, and candidate species, and shall post the report on the commission's Internet Web site. This report shall include, but not be limited to, a listing of those species designated as endangered, threatened, and candidate species, a discussion of the current status of endangered, threatened, or candidate species, and the timeframes for the review of listed species pursuant to this article.

HISTORY:

Added Stats 1984 ch 1162 § 6. Amended Stats 2001 ch 745 § 50 (SB 1191), effective October 12, 2001; Stats 2012 ch 728 § 44 (SB 71), effective January 1, 2013.

§ 2079.1. Recovery plans for conservation and survival of endangered or threatened species

(a) Upon a specific appropriation of funds by the Legislature, or if funding is otherwise available, the department may develop and implement nonregulatory recovery plans for the conservation and survival of species listed as an endangered species or as a threatened species, unless the department finds that the recovery plan will not promote the conservation of the species.

(b) The department, in developing and implementing recovery plans, shall, to the extent practicable, give priority to those endangered or threatened species, without regard to taxonomic classification, that are most likely to benefit from a recovery plan, particularly those species populations that are, or may be, significantly affected by anticipated land use changes, climate change, or changes in aquatic conditions.

(c) Each recovery plan shall be based on the best available scientific information and shall, at a minimum, include all of the following:

(1) A description of site-specific management actions necessary to achieve the recovery plan's goal for the conservation of the species.

(2) Objective, measurable criteria that, when achieved, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list of endangered species or the list of threatened species, as applicable.

(3) Estimates of the time required and the cost to carry out those measures needed to achieve the goal of the recovery plan and to achieve intermediate steps toward that goal.

(d) The department, in developing and implementing a recovery plan, may consider data and appropriate information from public and private agencies and institutions, and other qualified persons, in addition to data and appropriate information derived from the public process required pursuant to subdivision (g).

(e) The department may, in its discretion, adopt, or may adopt with revisions, an existing federal recovery plan for a species described in subdivision (a) that is also listed as an endangered species or a threatened species pursuant to Section 4 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1533) if the department finds that the recovery plan is consistent with the provisions of this section.

(f) Subject to subdivision (a), and pursuant to subdivision (g), the department shall adopt guidelines and criteria to aid in the implementation of this section. Upon adoption, the department shall post the guidelines and criteria on its Internet Web site.

(g) Development of a recovery plan pursuant to subdivision (a), and adoption of guidelines and criteria pursuant to subdivision (f), shall be through a public process including at least one public meeting at which the department provides landowners, local governments, and interested members of the public the opportunity for input. The public meeting may be in conjunction with a meeting of the commission. In the case of a recovery plan, the public meeting shall be held in the recovery planning area.

(h) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development, adoption, or amendment of guidelines, criteria, or recovery plans pursuant to this section.

HISTORY:
Added Stats 2018 ch 329 § 8 (SB 473), effective January 1, 2019.

ARTICLE 3. TAKING, IMPORTATION, OR SALE

§ 2080. Prohibition

No person or public agency shall import into this state, export out of this state, or take, possess, purchase, or sell within this state, any species, or any part or product thereof, that the commission determines to be an endangered species or a threatened species, or attempt any of those acts, except as otherwise provided in this chapter, the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of this code), or the California Desert Native Plants Act (Division 23 (commencing with Section 80001) of the Food and Agricultural Code).

HISTORY:
Added Stats 1984 ch 1240 § 2. Amended Stats 1994 ch 1148 § 1 (AB 2874); Stats 2018 ch 329 § 9 (SB 473), effective January 1, 2019.

§ 2080.1. Notice and determination as to incidental take [Operative date contingent]

(a) Notwithstanding any other provision of this chapter, or Chapter 10 (commencing with Section 1900) or Chapter 11 (commencing with Section 1925) of Division 2, but subject to subdivision (c), if any person obtains from the United States Secretary of the Interior or the United States Secretary of Commerce an incidental take statement pursuant to Section 7 of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1536) or an incidental take permit pursuant to Section 10 of that federal act (16 U.S.C. Sec. 1539) that authorizes the taking of an endangered species or a threatened species that is listed pursuant to Section 4 of that federal act (16 U.S.C. Sec. 1533) and that is an endangered species, threatened species, or a candidate species pursuant to this chapter, no further authorization or approval is necessary under this chapter for that person to take that endangered species, threatened species, or candidate species identified in, and in accordance with, the incidental take statement or incidental take permit, if that person does all of the following:

(1) Notifies the director in writing that the person has received an incidental take statement or an incidental take permit issued pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.).

(2) Includes in the notice to the director a copy of the incidental take statement or incidental take permit.

(3) Includes with the notice payment of the permit application fee required pursuant to Section 2081.2.

(b) Upon receipt of the notice specified in paragraph (1) of subdivision (a), the director shall immediately have published in the General Public Interest section of the California Regulatory Notice Register the receipt of that notice.

(c) Within 30 days after the director has received the notice described in subdivision (a) that an incidental take statement or an incidental take permit has been issued pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the director shall determine whether the incidental take statement or incidental take permit is consistent with this chapter. If the director determines within that 30-day period, based upon substantial evidence, that the incidental take statement or incidental take permit is not consistent with this chapter, then the taking of that species may only be authorized pursuant to this chapter.

(d) The director shall immediately publish the determination pursuant to subdivision (c) in the General Public Interest section of the California Regulatory Notice Register.

(e) Unless deleted or extended by a later enacted statute that is chaptered before the date this section is repealed, this section shall remain in effect only until, and is repealed

on, the effective date of an amendment to Section 7 or Section 10 of the federal Endangered Species Act of 1973 (16 U.S.C. Secs. 1536 and 1539) that alters the requirements for issuing an incidental take statement or an incidental take permit, as applicable.

HISTORY:
Added Stats 1997 ch 508 § 1 (AB 21). Stats 2018 ch 92 § 71 (SB 1289), effective January 1, 2019, operative term contingent; Stats 2018 ch 329 § 10 (SB 473), effective January 1, 2019, operative term contingent (ch 329 prevails).

§ 2080.2. Restoring spring run Chinook salmon to the San Joaquin River

The Legislature finds and declares the following:

(a) The historic settlement approved by Congress in the San Joaquin River Restoration Settlement Act (Part I of Subtitle A of Title X of Public Law 111-11) directs the federal government to reintroduce spring run Chinook salmon to the San Joaquin River. In approving the settlement and the new statutory provisions governing the reintroduction of California central valley spring run Chinook salmon, Congress found that the implementation of the settlement, to resolve 18 years of contentious litigation regarding restoration of the San Joaquin River and the reintroduction of the salmon, was a unique and unprecedented circumstance. The settlement also provides that nothing in the settlement diminishes the statutory or regulatory protections under the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) nor does it establish a precedent with respect to any other application of the federal act.

(b) Central valley spring run Chinook salmon have been listed since 1999 as a threatened species under this chapter and were still listed as of January 1, 2011.

(c) Restoring spring run Chinook salmon to the San Joaquin River is intended to further the conservation and recovery of the species.

(d) Consistent with the unique and historic circumstances that led to the settlement, nothing in Section 2080.2, 2080.3, or 2080.4 is intended to create any precedent as to future application of this chapter, nor do Sections 2080.2, 2080.3, or 2080.4 otherwise modify other existing statutes or legal obligations.

HISTORY:
Added Stats 2010 ch 291 § 1 (SB 1349), effective January 1, 2011.

§ 2080.3. Enhancement of survival permit authorizing the taking of spring run Chinook salmon to establish or maintain an experimental population (Operative term contingent)

(a) Notwithstanding any other provision of this chapter, if any person obtains from the Secretary of Commerce an enhancement of survival permit pursuant to Section 1539(a)(1)(A) of Title 16 of the United States Code that authorizes the taking of spring run Chinook salmon (Oncorhynchus tshawytscha) in order to establish or maintain an experimental population in the San Joaquin River pursuant to subsection (j) of that section and the San Joaquin River Restoration Settlement Act (Part I of Subtitle A of Title X of Public Law 111-11), no further authorization or approval is necessary under this chapter for that person to take that species as identified in, and in accordance with, the enhancement of survival permit, if all of the following requirements are met:

(1) That person shall notify the director in writing that the person has received an enhancement of survival permit and include in the notification a copy of the permit.

(2) Upon receipt of the notice specified in paragraph (1) of subdivision (c), the director shall immediately have the notice published in the General Public Interest section of the California Regulatory Notice Register.

(3) Within 30 days after the director has received the notice specified in paragraph (1), the director shall determine whether the enhancement of survival permit will further the conservation of the species. As used in this paragraph, “conservation” has the same meaning as defined in Section 2061.

(4) The director shall immediately have the determination pursuant to paragraph (3) published in the General Public Interest section of the California Regulatory Notice Register.

(b) The timing and extent of a take authorization under this section shall be limited to the terms in the federal enhancement of survival permit and shall expire upon the expiration of the federal permit.

(c) This section shall remain in effect only until the effective date of an amendment to Section 1539 of Title 16 of the United States Code that alters the requirements for issuing an enhancement of survival permit, as applicable, and as of that date is repealed, unless a later enacted statute, that is chaptered before the date this section is repealed, deletes or extends that date.

HISTORY:
Added Stats 2010 ch 291 § 2 (SB 1349), effective January 1, 2011, operative term contingent.

§ 2080.4. Incidental taking of members from experimental population; Requirements; Federal regulations

(a) If a population of spring run Chinook salmon in the San Joaquin River is designated as an experimental population under subsection (j) of Section 1539 of Title 16 of the United States Code, no further authorization or approval is necessary under this chapter for any person to incidentally take members of that experimental population, if all of the following requirements are met:

(1) The Secretary of Commerce has published regulations in the Federal Register specifying management restrictions, protective measures, prohibitions, and exceptions to the prohibitions for the designated experimental population of spring run Chinook salmon in the San Joaquin River.

(2) The director has determined, in writing, that the management restrictions, protective measures, prohibitions and exceptions to prohibitions contained in the regulations specified in paragraph (1) meet the requirements in subdivision (b).

(3) The action or activity that results in incidental take of the designated experimental population is authorized by the regulations published in the Federal Register.

(b) The director shall issue the determination described in paragraph (2) of subdivision (a), if the director finds that the federal regulations described in paragraph (1) of subdivision (a) meet all of the following criteria:

(1) The federal regulations will further the conservation of the spring run Chinook salmon. As used in this paragraph, "conservation" has the same meaning as defined in Section 2061.

(2) The federal regulations contain all reasonably feasible measures to avoid and minimize the impacts of any taking allowed by the regulation.

(3) The federal regulations will not jeopardize the continued existence or recovery of spring run Chinook salmon, and will not jeopardize the restoration of spring run Chinook salmon in the San Joaquin River.

(c) If the director determines that the federal regulations described in paragraph (1) of subdivision (a) are not consistent with this chapter, or if the action or activity that results in incidental take is not authorized in those federal regulations, then the incidental take of members of the designated experimental population may only be authorized pursuant to this chapter.

(d) The director shall publish the determination, pursuant to paragraph (2) of subdivision (a), and subdivision (b), in the General Public Interest section of the California Regulatory Notice Register.

HISTORY:
Added Stats 2010 ch 291 § 3 (SB 1349), effective January 1, 2011.

§ 2080.5. Enhancement of survival permit authorizing take of endangered, threatened, or candidate species in order to establish or maintain experimental population (Repeal contingent)

(a) Notwithstanding any other provision of this chapter, if any person obtains from the

Secretary of Commerce or the Secretary of the Interior an enhancement of survival permit pursuant to Section 1539(a)(1)(A) of Title 16 of the United States Code that authorizes the taking of an endangered species or a threatened species that is listed pursuant to Section 1533 of Title 16 of the United States Code and that is an endangered species, threatened species, or candidate species pursuant to this chapter in order to establish or maintain an experimental population, no further authorization or approval is necessary under this chapter for that person to take that endangered species, threatened species, or candidate species identified in, and in accordance with, the enhancement of survival permit, if all of the following requirements are met:

(1) That person shall notify the director in writing that the person has received an enhancement of survival permit and include in the notification a copy of the permit.

(2) Upon receipt of the notice specified in paragraph (1), the director shall immediately have the notice published in the General Public Interest section of the California Regulatory Notice Register.

(3) Within 30 days after the director has received the notice specified in paragraph (1), the director determines the enhancement of survival permit will further the conservation of the species. As used in this paragraph, "conservation" has the same meaning as defined in Section 2061.

(4) The director shall immediately have the determination pursuant to paragraph (3) published in the General Public Interest section of the California Regulatory Notice Register.

(b) The timing and extent of a take authorization under this section shall be limited to the terms in the federal enhancement of survival permit and shall expire upon the expiration of the federal permit.

(c)(1) This section shall remain in effect only until the effective date of an amendment to Section 1539 of Title 16 of the United States Code that alters the requirements for issuing an enhancement of survival permit, as applicable, and as of that date is repealed.

(2) If the director becomes aware that this section has been repealed pursuant to this subdivision, the director shall notify the Legislature of that fact pursuant to Section 9795 of the Government Code.

HISTORY:
Added Stats 2017 ch 276 § 1 (AB 1133), effective January 1, 2018, repeal contingent.

§ 2080.6. Incidental take of endangered, threatened, or candidate species designated as experimental population

(a) For purposes of this chapter, "experimental population" means any population nonessential to the continued existence of an endangered, threatened, or candidate species, including any eggs, propagules, individuals, or offspring arising solely therefrom, that the Secretary of the Interior or the Secretary of Commerce designates as an experimental population pursuant to Section 1539(j) of Title 16 of the United States Code.

(b) If a population of a species is an experimental population, no further authorization or approval is necessary under this chapter for any person to incidentally take members of that experimental population, if all of the following requirements are met:

(1) The Secretary of the Interior or the Secretary of Commerce has published regulations in the Federal Register for the designated experimental population as required by Section 1539(j) of Title 16 of the United States Code.

(2) The director has determined, in writing, that the regulations specified in paragraph (1) meet the requirements in subdivision (c).

(3) The action or activity that results in incidental take of the designated experimental population is authorized by the regulations published in the Federal Register.

(c) The director shall issue the determination described in paragraph (2) of subdivision (b), if the director finds that the federal regulations described in paragraph (1) of subdivision (b) meet all of the following criteria:

(1) The federal regulations will further the conservation of the species. As used in this paragraph, "conservation" has the same meaning as defined in Section 2061.

(2) The federal regulations contain measures to avoid and minimize the impacts of any taking allowed by the regulation.

(3) The federal regulations will not jeopardize the continued existence or recovery of the species.

(d) If the director determines that the federal regulations described in paragraph (1) of subdivision (b) are not consistent with this chapter, or if the action or activity that results in incidental take is not authorized in those federal regulations, the incidental take of members of the designated experimental population may only be authorized pursuant to the other provisions of this chapter.

(e) The director shall publish the determination, pursuant to paragraph (2) of subdivision (b), and subdivision (d), in the General Public Interest section of the California Regulatory Notice Register.

HISTORY:
Added Stats 2017 ch 276 § 2 (AB 1133), effective January 1, 2018.

§ 2080.7. Legislative intent regarding public outreach before introduction of endangered, threatened, or candidate species designated as experimental population

It is the intent of the Legislature that, before the introduction of an experimental population, as defined in Section 2080.6, onto land or into waters of this state, the department should undertake appropriate public outreach, including public meetings, in an effort to inform the public about the proposed introduction of the experimental population and its potential effects, if any, on ongoing human activities. To the extent practicable, this public outreach should include inviting other public boards, departments, or agencies that may have a regulatory or other role regarding the experimental population to collaborate with the department. Nothing in this section shall be construed to modify any other law or legal obligation.

HISTORY:
Added Stats 2017 ch 276 § 3 (AB 1133), effective January 1, 2018.

§ 2081. Exceptions for scientific, educational, or management purposes

The department may authorize acts that are otherwise prohibited pursuant to Section 2080, as follows:

(a) Through permits or memorandums of understanding, the department may authorize individuals, public agencies, universities, zoological gardens, and scientific or educational institutions, to import, export, take, or possess any endangered species, threatened species, or candidate species for scientific, educational, or management purposes.

(b) The department may authorize, by permit, the take of endangered species, threatened species, and candidate species if all of the following conditions are met:

(1) The take is incidental to an otherwise lawful activity.

(2) The impacts of the authorized take shall be minimized and fully mitigated. The measures required to meet this obligation shall be roughly proportional in extent to the impact of the authorized taking on the species. Where various measures are available to meet this obligation, the measures required shall maintain the applicant's objectives to the greatest extent possible. All required measures shall be capable of successful implementation. For purposes of this section only, impacts of taking include all impacts on the species that result from any act that would cause the proposed taking.

(3) The applicant shall ensure adequate funding to implement the measures required by paragraph (2), and for monitoring compliance with, and effectiveness of, those measures.

(c) No permit may be issued pursuant to subdivision (b) if issuance of the permit would jeopardize the continued existence of the species. The department shall make this determination based on the best scientific and other information that is reasonably available, and shall include consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities.

(d) The department shall adopt regulations to aid in the implementation of subdivision (b) and the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code, with respect to authorization of take. The department may seek certification pursuant to Section 21080.5 of the Public Resources Code to implement subdivision (b).

(e) Commencing January 1, 2019, the department shall post each new permit issued pursuant to subdivision (b) on its Internet Web site within 15 days of the effective date of the permit.

HISTORY:
Added Stats 1984 ch 1240 § 2. Amended Stats 1997 ch 567 § 2 (SB 879); Stats 2018 ch 224 § 1 (SB 495), effective August 27, 2018; Stats 2018 ch 329 § 11.5 (SB 473), effective January 1, 2019 (ch 329 prevails).

§ 2081.1. Conditions for taking threatened species

Nothing in this chapter or in any other provision of law prohibits the taking or the incidental taking of any endangered, threatened, or candidate species if the taking was authorized by the department through a permit or memorandum of understanding, or in a natural communities conservation plan, habitat conservation plan, habitat management plan, or other plan or agreement approved by or entered into by the department, or in an amendment to such a permit, memorandum of understanding, plan, or agreement and all of the following conditions are met:

(a) The application process commenced on or before April 10, 1997.

(b) The department approved the permit, memorandum of understanding, plan, agreement, or amendment thereto within either of the following timeframes:

(A) On or before April 10, 1997.

(B) Between April 10, 1997, and January 1, 1998, and the department also certifies that the permit, memorandum of understanding, plan, agreement, or amendment thereto meets the substantive criteria of subdivision (b) of Section 2081.

The permits, memoranda of understanding, plan, agreements, and amendments thereto described in this section are deemed to be in full force and effect, as of the date approved or entered into by the parties insofar as they authorize the take of species. This section does not apply to the "Emergency Management Measures Permit" issued by the department on March 15, 1995.

HISTORY:
Added Stats 1997 ch 567 § 3 (SB 879).

§ 2081.2. Permit application fee for take of listed species; Amendment application fee; Deposit and use of fees

(a) For purposes of this section, the following terms have the following meanings:

(1) "Permit" means any authorization issued by the department pursuant to this article to take a species listed by this chapter as candidate, threatened, or endangered. The term includes a consistency determination pursuant to Section 2080.1 and a concurrence determination pursuant to Section 2080.3 or 2080.4.

(2) "Permit application" means an application for a permit, an amendment to a permit, or a renewal of a permit. The term includes a consistency determination request pursuant to Section 2080.1 and a concurrence determination request pursuant to Section 2080.3 or 2080.4.

(3) "Permittee" includes any individual, firm, association, organization, partnership, business, trust, corporation, limited liability company, district, city, county, city and county, town, federal agency, and the state who applies for or who has received a permit pursuant to this article.

(4) "Project" has the same meaning as defined in Section 21065 of the Public Resources Code.

(5) "Project cost" means the total direct and indirect project expenses that include, but are not limited to, labor, equipment, permanent materials and supplies, subcontracts, overhead, and miscellaneous costs. The term shall not include permit or license expenses or mitigation costs. For purposes of this paragraph, the term "permit" includes, but is not limited to, a permit as defined in paragraph (1).

(6) "Voluntary habitat restoration project" means a project that meets both of the following requirements:

(A) The project's primary purpose is voluntary habitat restoration and the project may have other environmental benefits, and the project is not required as mitigation due to a regulatory action.

(B) The project is not part of a regulatory settlement, a regulatory enforcement action, or a court order.

(b)(1) The department shall collect a permit application fee for processing a permit application submitted pursuant to this article at the time the permit application is submitted to the department. Notwithstanding Section 2098, upon appropriation to the department from the Endangered Species Permitting Account, the department shall use the permit application fee to pay for all or a portion of the department's cost of processing permit applications, permit development, and compliance monitoring pursuant to this article.

(2) This subdivision does not apply to any of the following:

(A) Activities or costs associated with the review of projects, inspection and oversight of projects, and permits necessary to conduct timber operations, as defined in Section 4527 of the Public Resources Code, in accordance with Article 9.5 (commencing with Section 4629) of Chapter 8 of Part 2 of Division 4 of the Public Resources Code.

(B) Permits or memoranda of understanding authorized by subdivision (a) of Section 2081.

(C) Permits for voluntary habitat restoration projects.

(c) The department shall assess the permit application fee as follows, subject to subdivision (f):

(1) For a project, regardless of estimated project cost, that is subject only to Section 2080.1, 2080.3, or 2080.4, the department shall assess either of the following amounts:

(A) Seven thousand five hundred dollars ($7,500).

(B) Six thousand dollars ($6,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this article.

(2) For a project where the estimated project cost is less than one hundred thousand dollars ($100,000), the department shall assess either of the following amounts:

(A) Seven thousand five hundred dollars ($7,500).

(B) Six thousand dollars ($6,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this article.

(3) For a project where the estimated project cost is one hundred thousand dollars ($100,000) or more but less than five hundred thousand dollars ($500,000), the department shall assess either of the following amounts:

(A) Fifteen thousand dollars ($15,000).

(B) Twelve thousand dollars ($12,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this article.

(4) For a project where the estimated project cost is five hundred thousand dollars ($500,000) or more, the department shall assess either of the following amounts:

(A) Thirty thousand dollars ($30,000).

(B) Twenty-four thousand dollars ($24,000), if the project uses a department-approved conservation or mitigation bank to fulfill mitigation obligations pursuant to this article.

(5) The department shall collect a fee of seven thousand five hundred dollars ($7,500) for processing permit amendments that the department has determined are minor as defined in regulation or fifteen thousand dollars ($15,000) for processing permit amendments that the department has determined are major as defined in regulation.

(d)(1) If the permit application fee paid pursuant to subdivision (c) is determined by the department to be insufficient to complete permitting work due to the complexity of a project or the potential effects of a project, the department shall collect an additional fee of up to ten thousand dollars ($10,000) from the permittee to pay for its estimated costs. Upon its determination, the department shall notify the permittee of the reasons why an additional fee is necessary and the estimated amount of the additional fee.

(2) The additional fee collected pursuant to paragraph (1) shall not exceed an amount that, when added to the fee paid pursuant to subdivision (c), equals thirty-five thousand dollars ($35,000). The department shall collect the additional fee before a final decision on the permit application by the department.

(e)(1) For a permit application submitted to the department pursuant to this article on or after the effective date of this section, the department shall collect the permit application fee at the time the permit application is submitted. The department shall not deem the permit application complete until it has collected the permit application fee. A permit application submitted or deemed complete before the effective date of this section shall not be subject to fees established pursuant to this section.

(2) If a permit application is withdrawn within 30 days after paying the permit application fee, the department shall refund any unused portion of the fee to the permittee.

(3) If a permit application is withdrawn after 30 days of paying the permit application fee, the department shall not refund any portion of the fee to the permittee.

(f)(1) The department shall adjust the fees in this section pursuant to Section 713.

(2) The Legislature finds that all revenues generated under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(3) The department, at least every five years, shall analyze permit application fees pursuant to Section 713 to ensure the appropriate fee amounts are charged.

(g) Fees paid to the department pursuant to this section shall be deposited in the Endangered Species Permitting Account, which is hereby established in the Fish and Game Preservation Fund. Notwithstanding Section 2098, funds in the account shall be available to the department, upon appropriation by the Legislature, for the purposes of administering and implementing this chapter, except that fee moneys collected pursuant to this section shall only be used for the purposes of this article.

HISTORY:

Added Stats 2016 ch 340 § 6 (SB 839), effective September 13, 2016. Amended Stats 2018 ch 329 § 12 (SB 473), effective January 1, 2019.

§ 2081.4. Authorization of take of rough sculpin resulting from impacts attributable to replacing Spring Creek Bridge in Shasta County

(a) The department may authorize, under this chapter, the take of the rough sculpin (Cottus asperrimus) resulting from impacts attributable to replacing the Spring Creek Bridge in the County of Shasta, if all of the following conditions are satisfied:

(1) The requirements of subdivisions (b) and (c) of Section 2081 are satisfied for the take of the rough sculpin.

(2) The department ensures that all further measures necessary to satisfy the conservation standard of subdivision (d) of Section 2805 are incorporated into the project.

(3) The take authorization provides for the development and implementation, in cooperation with federal and state agencies, of a monitoring program and an adaptive management process until the department determines that any impacts resulting from the replacement of the Spring Creek Bridge have been fully mitigated.

(b) This section shall not be construed to exempt the project described in subdivision (a) from any other law.

HISTORY:
Added Stats 2016 ch 293 § 2 (AB 1845), effective January 1, 2017.

§ 2081.5. Surface mining operations; Liability for take of threatened or endangered plants [Repealed]

HISTORY:
Added Stats 1994 ch 1148 § 2 (AB 2874). Repealed Stats 2018 ch 329 § 13 (SB 473), effective January 1, 2019.

§ 2081.6. Authorization of take of unarmored threespine stickleback resulting from impacts attributable to specified projects in Bouquet Creek

(a) The department may authorize, under this chapter, the take of the unarmored threespine stickleback (Gasterosteus aculeatus williamsoni) resulting from impacts attributable to the habitat restoration project to restore, maintain, and improve riparian habitat on public lands in the geographic area defined in paragraph (1) and projects to restore the flow capacity to Bouquet Creek in Bouquet Canyon on public lands, undertaken by the Los Angeles County Department of Public Works, the Los Angeles Department of Water and Power, and the United States Department of Agriculture, Forest Service, if all of the following conditions are satisfied:

(1) The take authorization is limited to the portion of Bouquet Creek located from a position normal to mile marker 8.3 on Bouquet Canyon Road to a position normal to mile marker 16.3 on Bouquet Canyon Road, inclusive.

(2) The department has determined that the appropriate agreements have been executed to address environmental impacts at the Bouquet Canyon area, including, but not limited to, Bouquet Creek.

(3) The requirements of subdivisions (b) and (c) of Section 2081 are satisfied for the take of the unarmored threespine stickleback.

(4) The department ensures that all further measures necessary to satisfy the conservation standard of subdivision (d) of Section 2805 are incorporated into the projects.

(5) A biologist will be on duty whenever an activity is conducted that may affect the unarmored threespine stickleback.

(6) The take authorization provides for the development and implementation, in cooperation with federal and state agencies, of a monitoring program and an adaptive management process that satisfy the conservation standard of subdivision (d) of Section 2805 for monitoring the effectiveness of, and adjusting, as necessary, the measures to minimize and fully mitigate the impacts of the authorized take.

(7) The take authorization provides for the development and implementation, in cooperation with state and federal agencies, of an adaptive management process that substantially contributes to the long-term conservation of the unarmored threespine stickleback.

(b) This section shall not be construed to exempt the projects described in subdivision (a) from any other law.

(c) This section shall not be construed to affect the contractual obligations of the Los Angeles Department of Water and Power to provide water from Bouquet Reservoir.

HISTORY:
Added Stats 2015 ch 620 § 2 (AB 353), effective October 8, 2015.

§ 2081.7. The take of species resulting from impacts attributable to implementation of Quantification Settlement Agreement

(a) Notwithstanding Sections 3511, 4700, 5050, and 5515, and contingent upon the fulfillment of the conditions listed in subdivisions (b), (c), and (d), the department may authorize, under Chapter 1.5 (commencing with Section 2050) or Chapter 10 (commencing with Section 2800), the take of species resulting from impacts attributable to the implementation of the Quantification Settlement Agreement, as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002, on all of the following:

(1) The salinity, elevation, shoreline habitat, or water quality of the Salton Sea.

(2) The quantity and quality of water flowing in the All American Canal, the Coachella Canal, the Imperial Valley and Coachella Valley drains, the New and Alamo Rivers, the Coachella Valley Stormwater Channel, and the habitat sustained by those flows.

(3) Agricultural lands in the Imperial Valley.

(4) The quantity and quality of water flowing in the Colorado River, the habitat sustained by those flows, and the collection of that water for delivery to authorized users.

(b) The Quantification Settlement Agreement is executed by the appropriate parties on or before October 12, 2003.

(c) The department has determined that the appropriate agreements have been executed to address environmental impacts at the Salton Sea that include enforceable commitments requiring all of the following:

(1) Imperial Irrigation District to transfer 800,000 acre-feet of conserved water, by conservation methods selected by the Imperial Irrigation District, to the Department of Water Resources on a mutually agreed-upon schedule in exchange for payment of one hundred seventy-five dollars ($175) per acre-foot. The price shall be adjusted for inflation on an annual basis.

(2) Imperial Irrigation District to transfer up to 800,000 additional acre-feet of conserved water, by conservation methods selected by the Imperial Irrigation District, to the Department of Water Resources during the first 15 years of the Quantification Settlement Agreement on the schedule established for the mitigation water that was previously to be transferred to the San Diego Water Authority, or on a mutually agreed-upon schedule, at no cost for the water in addition to the payment for the water from the mitigation fund described in paragraph (1) of subdivision (b) of Section 3 of Chapter 613 of the Statutes of 2003.

(3) As a condition to acquisition of the water described in paragraph (1), the Department of Water Resources shall be responsible for any environmental impacts, including Salton Sea salinity, related to use or transfer of that water. As a condition to acquisition of the water described in paragraph (2), the Department of Water Resources shall be responsible for environmental impacts related to Salton Sea salinity that are related to the use or transfer of that water.

(4) The Metropolitan Water District of Southern California (MWD) to purchase up to 1.6 million acre-feet of the water provided in accordance with paragraphs (1) and (2) from the Department of Water Resources at a price of not less than two hundred fifty dollars ($250) per acre-foot on a mutually agreed-upon schedule. The price shall be adjusted for inflation on an annual basis. The Department of Water Resources shall deposit all proceeds from the sale of water pursuant to this paragraph, after deducting costs and reasonable administrative expenses, into the Salton Sea Restoration Fund established in Section 2932.

(5) The Metropolitan Water District of Southern California to pay not less than twenty dollars ($20) per acre-foot for all special surplus water received by MWD as a result of reinstatement of access to that water under the Interim Surplus Guidelines by the United States Department of Interior subtracting any water delivered to Arizona as a result of a shortage. The money shall be paid into the Salton Sea Restoration Fund. The price shall be adjusted for inflation on an annual basis. Metropolitan Water District of Southern California shall receive a credit against future mitigation obligations under the Lower Colorado River Multi-Species Conservation Plan for any funds provided under this paragraph to the extent that those funds are spent on projects that contribute to the conservation or mitigation for species identified in the Lower Colorado River Multi-Species Conservation Plan and that are consistent with the preferred alternative for Salton Sea restoration.

(6) Coachella Valley Water District, Imperial Irrigation District, and San Diego County Water Authority to pay a total of thirty million dollars ($30,000,000) to the Salton Sea Restoration Fund as provided in paragraph (2) of subdivision (b) of Section 3 of Chapter 613 of the Statutes of 2003.

(d) All of the following conditions are met:

(1) The requirements of subdivision (b) and (c) of Section 2081 are satisfied as to the species for which take is authorized.

(2) The take authorization provides for the development and implementation, in cooperation with federal and state agencies, of an adaptive management process for monitoring the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take. The adjusted measures are subject to Section 2052.1.

(3) The take authorization provides for the development and implementation in cooperation with state and federal agencies of an adaptive management process that substantially contributes to the long-term conservation of the species for which take is authorized. Preparation of the adaptive management program and implementation of the program is the responsibility of the department. The department's obligation to prepare and implement the adaptive management program is conditioned upon the availability of funds pursuant to the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, if it is approved by the voters at the statewide general election to be held November 5, 2002 (Proposition 50), or other funds that may be appropriated by the Legislature or approved by the voters for that purpose. The failure to appropriate funds does not relieve the applicant of the obligations of paragraphs (1) and (2). However, the applicant shall not be required to fund any program pursuant to this paragraph.

(4) The requirements of paragraph (1) may be satisfied if the take is authorized under Chapter 10 (commencing with Section 2800).

(e)(1) The Secretary of the Resources Agency, in consultation with the department, the Department of Water Resources, the Salton Sea Authority, appropriate air quality districts, and the Salton Sea Advisory Committee, shall undertake a restoration study to determine a preferred alternative for the restoration of the Salton Sea ecosystem and the protection of wildlife dependent on that ecosystem. The Secretary of the Resources Agency shall extend an invitation to the United States Geological Survey Salton Sea Science Office to also participate in the restoration study, and the office may participate if it accepts the invitation. The restoration study shall be conducted pursuant to a process with deadlines for release of the report and programmatic environmental documents established by the secretary, in consultation with the department, the Department of Water Resources, the Salton Sea Authority, and the Salton Sea Advisory Committee, and the United States Geological Survey Salton Sea Science Office, if it is a participant. The secretary shall use all available authority to enter into a memorandum of understanding (MOU) with the Secretary of the Interior, as provided in Section 101(b)(1)(B)(i) of the Salton Sea Reclamation Act of 1998 (P.L.

105-372) for the purpose of obtaining federal participation in the restoration of the Salton Sea.

(2) The restoration study shall establish all of the following:

(A) An evaluation of alternatives for the restoration of the Salton Sea that includes consideration of strategies for salinity control, habitation creation and restoration, and different shoreline elevations and surface area configurations. The alternatives shall consider the range of possible inflow conditions. The evaluation established pursuant to this subparagraph shall also include suggested criteria for selecting and evaluating alternatives consistent with Chapter 13 (commencing with Section 2930), including, but not limited to, at least one most cost-effective, technically feasible, alternative.

(B) An evaluation of the magnitude and practicability of costs of construction, operation, and maintenance of each alternative evaluated.

(C) A recommended plan for the use or transfer of water provided by paragraph (2) of subdivision (c). No water may be transferred pursuant to that subdivision unless the secretary finds that transfer is consistent with the preferred alternative for Salton Sea restoration.

(D) The selection of a preferred alternative consistent with Section 2931, including a proposed funding plan to implement the preferred alternative. The proposed funding plan shall include a determination of the moneys that are, or may be, available to construct and operate the preferred project, including, but not limited to, all of the following moneys:

(i) Moneys in the Salton Sea Restoration Fund established by Section 2932.

(ii) State water and environmental bond moneys.

(iii) Federal authorizations and appropriations.

(iv) Moneys available through a Salton Sea Infrastructure Financing District established pursuant to Section 53395.9 of the Government Code and local assessments by the Salton Sea Authority or its member agencies.

(v) Moneys derived from user or other fees.

(3) The study identifying the preferred alternative shall be submitted to the Legislature on or before December 31, 2006.

(4) The Secretary of the Resources Agency shall establish an advisory committee for purposes of this subdivision as follows:

(A) The advisory committee shall be selected to provide balanced representation of the following interests:

(i) Agriculture.

(ii) Local governments.

(iii) Conservation groups.

(iv) Tribal governments.

(v) Recreational users.

(vi) Water agencies.

(vii) Air pollution control districts.

(viii) Geothermal energy development.

(B) Appropriate federal agency representatives may be asked to serve in an ex officio capacity.

(C) The Resources Agency shall consult with the advisory committee throughout all stages of the alternative selection process.

(D) The advisory committee shall meet no fewer than six times annually.

(E) The secretary shall appoint a vice chair of the advisory committee from the committee membership. The vice chair shall work with the secretary to develop advisory committee agendas and to schedule meetings of the committee. The secretary and vice chair shall appoint an agenda subcommittee to assist in the preparation of advisory committee agendas.

(F) The advisory committee shall submit to the Resources Agency recommendations to assist the agency in preparation of its restoration plan. The Resources

Agency shall develop a schedule for the completion of these recommendations to ensure that these recommendations will be considered by the agency in a timely and meaningful manner as the restoration plan is developed. These recommendations may include, but are not limited to:

(i) The specific goals and objectives of the restoration plan.

(ii) The range of alternative restoration actions that must be developed and analyzed.

(iii) The no action alternative.

(iv) The criteria for determining economic and technical feasibility of the alternatives.

(v) The range of options for funding the restoration plan.

(vi) The selection of a preferred alternative for a restoration plan.

(G) The Resources Agency shall periodically provide an update to the advisory committee of the current work plan and schedule for the development of the restoration plan.

(f) This section shall not be construed to exempt from any other provision of law the Quantification Settlement Agreement and the Agreement for Transfer of Conserved Water by and between the Imperial Irrigation District and the San Diego County Water Authority, dated April 29, 1998.

HISTORY:
Added Stats 2002 ch 617 § 2 (SB 482). Amended Stats 2003 ch 62 § 95 (SB 600), ch 612 § 1 (SB 317) (ch 612 prevails); Stats 2004 ch 614 § 1 (SB 1214).

§ 2081.8. Assessment of recreational opportunities

The Resources Agency shall undertake the necessary activities to assess the protection of recreational opportunities, including, but not limited to, hunting, fishing, boating, and birdwatching, and the creation of opportunities for improved local economic conditions, surrounding the Salton Sea. The Resources Agency shall not undertake any of those activities if the agency determines they would constitute a project purpose for environmental documentation that is prepared pursuant to Section 2081.7.

HISTORY:
Added Stats 2004 ch 614 § 2 (SB 1214).

§ 2081.9. Incidental take of limestone salamander resulting from implementation of Ferguson Slide Permanent Restoration Project

(a) Notwithstanding Section 5050, the department may authorize, under this chapter, the incidental take of limestone salamander (Hydromantes brunus) resulting from impacts attributable to the Department of Transportation's implementation of the Ferguson Slide Permanent Restoration Project on State Route 140 from 8 miles east of Briceburg to 7.6 miles west of El Portal in Mariposa County, contingent upon the fulfillment of the following conditions:

(1) The Department of Transportation begins construction of the Ferguson Slide Permanent Restoration Project on or before January 1, 2016.

(2) The department has determined that the Department of Transportation will adopt appropriate avoidance and mitigation measures to protect the limestone salamander through enforceable commitments that, at a minimum, include the following:

(A) A construction work window that prevents initial ground-disturbing construction activities from occurring on the southern slope during the salamander's active season of December to March, inclusive.

(B) Environmentally sensitive area fencing in the form of five-foot orange plastic mesh, as well as salamander protection exclusionary fencing in the form of 24-inch sheet metal, will be erected if construction-related activities will occur adjacent to limestone salamander habitat during their active season.

(C) A biological monitor will be onsite during active building to inspect the worksite and all exclusionary fencing.

(D) All ground-disturbing activities within 100 feet will cease if a limestone salamander is detected in an active construction site until the animal can be safely removed from the area according to an agreed-upon salvage plan.

(3) The requirements of subdivisions (b) and (c) of Section 2081 are satisfied for the take of the limestone salamander.

(4) The department ensures that all further measures necessary to satisfy the conservation standard of subdivision (d) of Section 2805 are incorporated into the project.

(5) The take authorization provides for the development and implementation, in cooperation with the department, of an adaptive management process for monitoring the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take. The adjusted measures are subject to Section 2052.1.

(6) The failure to appropriate funds does not relieve the applicant of the obligations of paragraphs (1) and (2).

(7) Any observations of the species in the worksite and any accidental injury or mortality from vehicle strikes or other means will be reported to the department immediately and the onsite biological monitor will notify the resident engineer who will halt the work immediately.

(b) This section shall not be construed to exempt the Ferguson Slide Permanent Restoration Project on State Route 140 from 8 miles east of Briceburg to 7.6 miles west of El Portal in Mariposa County from any other law.

HISTORY:

Added Stats 2012 ch 121 § 1 (AB 1973), effective January 1, 2013.

§ 2081.10. Authorization of incidental take of unarmored threespine stickleback attributable to periodic dewatering, inspection, maintenance, modification, or repair of Foothill Feeder water supply facility below Castaic Dam in Los Angeles County

(a) The department may authorize, under this chapter, the incidental take of unarmored threespine stickleback (Gasterosteus aculeatus williamsoni) attributable to the periodic dewatering, inspection, maintenance, modification, or repair, including emergency repair, of the Metropolitan Water District of Southern California's Foothill Feeder water supply facility from Castaic Dam to the Joseph Jensen Treatment Plant in the County of Los Angeles, contingent upon the fulfillment of the following conditions:

(1) The department determines that the requirements of subdivisions (b) and (c) of Section 2081 are satisfied for the take of the unarmored threespine stickleback.

(2) The department ensures that all further measures necessary to satisfy the conservation standard of subdivision (d) of Section 2805 are incorporated into the project.

(3) The take authorization provides for the development and implementation, in cooperation with the department, of an adaptive management plan for monitoring the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take and to satisfy the conservation standard of subdivision (d) of Section 2805.

(4) A biologist who has substantial relevant experience evaluating impacts to inland fisheries is on duty whenever an activity is conducted that may affect the unarmored threespine stickleback.

(5) The Metropolitan Water District of Southern California consults with the department to consider feasible measures to avoid and minimize incidental take of unarmored threespine stickleback. For purposes of this paragraph, "feasible" has the

same meaning as defined in Section 15364 of Title 14 of the California Code of Regulations.

(b) The take authorization shall cover any incidental take of unarmored threespine stickleback attributable to the periodic dewatering, inspection, maintenance, modification, or repair, including emergency repair, of the Foothill Feeder that may occur in the following locations:

(1) Within the Santa Clara River, from the Bouquet Canyon Road Bridge to a point located 4,000 feet downstream of where Commerce Center Drive, as of January 1, 2016, dead-ends adjacent to the Santa Clara River.

(2) From the confluence with the Santa Clara River upstream to the following locations:

(A) In Charlie Canyon to a point 1,000 feet upstream of the Foothill Feeder facility dewatering structure.

(B) In San Francisquito Creek to the Copper Hill Drive bridge.

(C) In Placerita Creek to the Hacienda Lane crossing.

(D) In Bouquet Creek to the Newhall Ranch Road Bridge.

(c) The take authorization shall also cover any incidental take of unarmored threespine stickleback that may occur in the course of implementing mitigation or conservation actions required in the permit issued pursuant to subdivision (a) as may be modified through an adaptive management plan adopted pursuant to paragraph (3) of subdivision (a).

(d) The permit issued pursuant to subdivision (a) shall include conditions that cover biological and scientific considerations including, but not limited to, criteria for the handling of stranded fish and their relocation into suitable habitat, the dewatering of the Foothill Feeder, and the reasonable and feasible mimicking of streamflows. The permit conditions shall be in compliance with the project description, mitigation measures, and release plan set forth in the certified environmental impact report known as the "Foothill Feeder Repair and Future Inspections Project Environmental Impact Report, January 2005, State Clearinghouse Number 2005071082." The permit conditions are subject to amendment when required by the adaptive management plan or when modified by a subsequent final environmental document pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(e) This section shall not be construed to exempt from any other law the periodic dewatering, inspection, maintenance, modification, or repair of the Foothill Feeder.

(f) If the Metropolitan Water District of Southern California receives a permit under this section, the permit shall require the district to report to the department within six months after every dewatering of the Foothill Feeder. The report shall address compliance with the permit conditions and the effectiveness of the adaptive management plan in contributing to the conservation of the unarmored threespine stickleback. The Metropolitan Water District of Southern California shall ensure that each report is made available to the public.

(g) As used in this section, "modification" does not include alterations to expand the maximum physical capacity of the Foothill Feeder to deliver water.

HISTORY:
Added Stats 2016 ch 387 § 2 (AB 2488), effective January 1, 2017.

§ 2081.11. Authorization of take of Lost River sucker and shortnose sucker resulting from impacts attributable to decommissioning and removal of specified dams on the Klamath River

(a) The department may authorize, under this chapter, the take or possession of the Lost River sucker (Deltistes luxatus and Catostomus luxatus) and shortnose sucker (Chasmistes brevirostris) resulting from impacts attributable to or otherwise related to the decommissioning and removal of the Iron Gate Dam, the Copco 1 Dam, the Copco 2

Dam, or the J.C. Boyle Dam, each located on the Klamath River, consistent with the Klamath Hydroelectric Settlement Agreement, if all of the following conditions are met:

(1) The department finds the authorized take will not jeopardize the continued existence of the Lost River sucker or shortnose sucker.

(2) The impacts of the authorized take are minimized.

(3) The take authorization requires department approval of a sampling, salvage, and relocation plan to be implemented and that describes the measures necessary to minimize the take of adult Lost River sucker and shortnose sucker associated with the department's authorization. The plan shall provide for a sampling effort, the results of which will provide information used to make decisions and to implement the plan while utilizing the principles of adaptive management.

(b) This section shall not be construed to exempt the project described in subdivision (a) from any other law.

HISTORY:
Added Stats 2018 ch 586 § 1 (AB 2640), effective January 1, 2019.

§ 2081.12. Authorization of take or possession of blunt-nosed leopard lizard from impacts attributable to Allensworth Community Services District's drilling, construction, and connection of water well and construction of water storage tank

(a) The department may authorize, under this chapter, by permit, the take or possession of the blunt-nosed leopard lizard (Gambelia sila) resulting from impacts attributable to or otherwise related to the Allensworth Community Services District's drilling and construction of a new water well, connection of the new water well to the existing distribution system, and construction of a new water storage tank, if both of the following conditions are met:

(1) The requirements of subdivisions (b) and (c) of Section 2081 are satisfied for the take of the blunt-nosed leopard lizard.

(2) The take authorization provides for the development and implementation of a monitoring program and an adaptive management plan, approved by the department, for monitoring the effectiveness of, and adjusting as necessary, the measures to minimize and fully mitigate the impacts of the authorized take.

(b) The permit issued pursuant to subdivision (a) shall cover any incidental take of a blunt-nosed leopard lizard that may occur in the course of implementing mitigation or conservation actions required in the permit.

(c) The permit conditions are subject to amendment when required by the monitoring program and adaptive management plan adopted pursuant to paragraph (2) of subdivision (a).

(d) This section shall not be construed to exempt the projects described in subdivision (a) from any other law.

HISTORY:
Added Stats 2018 ch 224 § 2 (SB 495), effective August 27, 2018.

§ 2082. Exemption for species possessed before being listed

This chapter does not prohibit the sale of any endangered species or threatened species, or any part or product thereof, when the owner can demonstrate that the species, or part or product thereof, was in the person's possession before the date upon which the commission listed the species as an endangered species or threatened species or as an endangered animal or rare animal prior to January 1, 1985, and shall not prohibit the sale of that part or product by an individual not normally engaged in that sale if it was originally possessed by the seller for the seller's own use and so used by that seller. However, it shall be unlawful to sell any species, or part or product thereof, if that sale would have been unlawful prior to the date upon which the commission added the

species to the listing of endangered species or threatened species or to the listing of endangered animals or rare animals prior to January 1, 1985.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2083. Inapplicability of chapter to authorized taking of fish or to lawfully possessed animals

This chapter does not apply to the taking of fish otherwise authorized pursuant to Part 3 (commencing with Section 7600) of Division 6 or to the possession of individual animals which were lawfully possessed before the commission listed the species as an endangered species or as a threatened species or as an endangered animal or rare animal prior to January 1, 1985.

HISTORY:
Added Stats 1984 ch 1240 § 2.

§ 2084. Conditional taking of candidate species; Sport fishing

(a) The commission may authorize, subject to terms and conditions it prescribes, and based on the best available scientific information, (1) the taking of any candidate species, or (2) the taking of any fish by hook and line for sport that is listed as an endangered, threatened, or candidate species, provided that in either case the take is consistent with this chapter.

(b) The department may recommend to the commission that the commission authorize, or not authorize, the taking of an endangered, threatened, or candidate species pursuant to this section.

HISTORY:
Added Stats 1984 ch 1240 § 2. Amended Stats 2018 ch 329 § 14 (SB 473), effective January 1, 2019.

§ 2085. Applicability of article to candidate species

The provisions of this article shall apply to any species designated as a candidate species under Section 2074.2 if notice has been given pursuant to Section 2074.4.

HISTORY:
Added Stats 1984 ch 1162 § 6.

ARTICLE 3.5. INCIDENTAL TAKE ASSOCIATED WITH ROUTINE AND ONGOING ACTIVITIES

§ 2086. Authorized programs

(a) The department, in cooperation with the Department of Food and Agriculture, agricultural commissioners, extension agents, farmers, ranchers, and other agricultural experts, shall adopt regulations that authorize locally designed voluntary programs for routine and ongoing agricultural activities on farms or ranches that encourage habitat for candidate, threatened, and endangered species, and wildlife generally. Agricultural commissioners, extension agents, farmers, ranchers, or other agricultural experts, in cooperation with conservation groups, may propose those programs to the department. The department shall propose regulations for those programs not later than July 1, 1998.

(b) Programs authorized under subdivision (a) shall do all of the following:

(1) Include management practices that will, to the maximum extent practicable, avoid and minimize take of candidate, endangered, and threatened species, while encouraging the enhancement of habitat.

(2) Be supported by the best available scientific information for both agricultural and conservation practices.

(3) Be consistent with the policies and goals of this chapter.

(4) Be designed to provide sufficient flexibility to maximize participation and to gain the maximum wildlife benefits without compromising the economics of agricultural operations.

(5) Include terms and conditions to allow farmers or ranchers to cease participation in a program without penalty. The terms and conditions shall include reasonable measures to minimize take during withdrawal from the program.

(c) Any taking of candidate, threatened, or endangered species incidental to routine and ongoing agricultural activities that occurs while the management practices specified by paragraph (1) of subdivision (b) are followed, is not prohibited by this chapter.

(d)(1) The department shall automatically renew the authorization for these voluntary programs every five years, unless the Legislature amends or repeals this section in which case the program shall be revised to conform to this section.

(2) Commencing in 2000, and every five years thereafter, the department shall post a report regarding the effect of the programs on its Internet Web site. The department shall consult with the Department of Food and Agriculture in evaluating the programs and preparing the report. The report shall address factors such as the temporary and permanent acreage benefiting from the programs, include an estimate of the amount of land upon which routine and ongoing agricultural activities are conducted, provide examples of farmer and rancher cooperation, and include recommendations to improve the voluntary participation by farmers and ranchers.

(e) If the authorization for these programs is not renewed or is modified under subdivision (d), persons participating in the program shall be allowed to cease participating in the program in accordance with the terms and conditions specified in paragraph (5) of subdivision (b), without penalty.

(f)(1) The department may approve an application submitted by an agricultural-based nonprofit organization or other entity registered as a California nonprofit organization to initiate and undertake public education and outreach activities that promote the achievement of the objectives of this chapter. An application submitted pursuant to this subdivision shall include the following:

(A) The name and contact information of the participating organization.

(B) A brief description of the planned outreach activities.

(C) An end date for the outreach activities.

(2) The department may require a participating organization to submit, for approval by the department, educational materials and outreach materials that are disseminated to the public in furtherance of this subdivision.

(3) A participating organization shall file an annual report with the department before the end of each calendar year during the time period specified in the application. The report shall include, but is not limited to, the following:

(A) Complete information on the activities conducted by the participating organization in the prior year, including a description of all means of communicating to the public and agricultural community, including personal visits, electronic communications, organized meetings, or other means.

(B) A compilation of responses from the public and members of the agricultural community that will assist the participating organization and the department to modify or improve public education and outreach activities on an ongoing basis.

(C) An assessment of the existing knowledge within the agricultural community of programs and prohibitions under this chapter and a review of outreach activities that could be used to adapt and improve future outreach efforts.

(D) Information on a farm or ranch that has expressed interest in participating in a voluntary program pursuant to this section or the safe harbor agreement program contained in Article 3.7 (commencing with Section 2089.2). This provision does not require the annual report to include the identification to the department of an individual, farm, or ranch.

HISTORY:
Added Stats 1997 ch 528 § 1 (SB 231). Amended Stats 2003 ch 62 § 96 (SB 600); Stats 2010 ch 290 § 2 (SB 1303), effective January 1, 2011; Stats 2012 ch 728 § 45 (SB 71), effective January 1, 2013.

§ 2087. Accidental take on farm or ranch [Repealed effective January 1, 2024]

(a) ***An*** accidental take of ***a*** candidate, threatened, or endangered species resulting from an act ***by a person acting as a farmer or rancher, a bona fide employee of a farmer or rancher, or an individual otherwise contracted by a farmer or rancher*** that occurs on a farm or a ranch in the course of otherwise lawful routine and ongoing agricultural activities is not prohibited by this chapter.

(b) When an accidental take is known to occur under subdivision (a), the person shall report the take to the department within 10 days.

******(c)*** For purposes of this section, "accidental" means unintended or unforeseen.

******(d)*** This section shall remain in effect only until January 1, ******2024***, and as of that date is repealed, unless a later enacted statute***that is enacted before January 1, ******2024***, deletes or extends that date.

HISTORY:
Added Stats 2002 ch 32 § 2 (SB 550), repealed January 1, 2009. Amended Stats 2008 ch 82 § 1 (SB 1436), effective January 1, 2009, repealed January 1, 2011. Stats 2010 ch 290 § 3 (SB 1303), effective January 1, 2011, repealed January 1, 2014; Stats 2013 ch 387 § 11 (SB 749), effective January 1, 2014, repealed January 1, 2020. Amended Stats 2019 ch 137 § 1 (SB 62), effective January 1, 2020, repealed January 1, 2024.

§ 2088. Statutory construction

This article does not authorize the take of fish species and does not apply to timber harvesting governed by the State Board of Forestry. "Fish species" as used in this section means a member of the class Osteichthyes.

HISTORY:
Added Stats 1997 ch 528 § 1 (SB 231).

§ 2089. Routine activities

Routine and ongoing agricultural activities shall be defined by the department by regulation and shall not include the conversion of agricultural land to a nonagricultural use.

HISTORY:
Added Stats 1997 ch 528 § 1 (SB 231).

ARTICLE 3.7. CALIFORNIA STATE SAFE HARBOR AGREEMENT PROGRAM ACT

§ 2089.2. Citation of article; Legislative findings and purpose

(a) This article shall be known and may be cited as the California State Safe Harbor Agreement Program Act.

(b) The Legislature finds that a key to the goals set forth in this article of conserving, protecting, restoring, and enhancing endangered, threatened, and candidate species, is their habitat. A significant portion of the state's current and potential habitat for these species exists on property owned by private citizens, municipalities, tribes, and other nonfederal entities. Conservation efforts on these lands and waters are critical to help these declining species. Using a collaborative stewardship approach to these lands and waters will help ensure the success of these efforts.

(c) The purpose of this article is to establish a program that will encourage landowners to manage their lands voluntarily to benefit endangered, threatened, or candidate

species, or declining or vulnerable species, and not be subject to additional regulatory restrictions as a result of their conservation efforts.

(d) This article does not relieve landowners of any legal obligation with respect to endangered, threatened, or candidate species existing on their land. The program established by this article is designed to increase species populations, create new habitats, and enhance existing habitats. Although this increase may be temporary or long term, California state safe harbor agreements shall not reduce the existing populations of species present at the time the baseline is established by the department.

HISTORY:

Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2018 ch 329 § 15 (SB 473), effective January 1, 2019, repealed January 1, 2020; Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.4. Definitions

As used in this article, the following definitions apply:

(a) "Agreement" means a state safe harbor agreement approved by the department pursuant to this article. "Agreement" includes an agreement with an individual landowner and a programmatic agreement.

(b) "Baseline conditions" means the existing estimated population size, the extent and quality of habitat, or both population size and the extent and quality of habitat, for the species on the land to be enrolled in the agreement that sustain seasonal or permanent use by the covered species. Baseline conditions shall be determined by the department, in consultation with the applicant, and shall be based on the best available science and objective scientific methodologies. For purposes of establishing baseline conditions, a qualified person that is not employed by the department may conduct habitat surveys, if that person has appropriate species expertise and has been approved by the department.

(c) "Declining or vulnerable species" include candidate species, species proposed for listing as an endangered or threatened species pursuant to this chapter, or species that the department determines may, in the near future, be candidate species or proposed for listing as an endangered or threatened species pursuant to this chapter.

(d) "Department" means the Department of Fish and Wildlife, acting through its director or his or her designee.

(e) "Landowner" means any person or nonstate or federal entity or entities that lawfully hold any interest in land or water to which they are committing to implement the requirements of this article.

(f) "Management actions" means activities on the enrolled land or water that are reasonably expected by the department to provide a net benefit to the species or their habitat, or both.

(g) "Monitoring program" means a program established or approved by the department in accordance with subdivision (f) of Section 2089.6.

(h) "Net conservation benefit" means the cumulative benefits of the management activities identified in the agreement that provide for an increase in a species' population or the enhancement, restoration, or maintenance of covered species' suitable habitats within the enrolled property. Net conservation benefit shall take into account the length of the agreement, any offsetting adverse effects attributable to the incidental taking allowed by the agreement, and other mutually agreed upon factors. Net conservation benefits shall be sufficient to contribute either directly or indirectly to the recovery of the covered species. These benefits include, but are not limited to, reducing fragmentation and increasing the connectivity of habitats, maintaining or increasing populations, enhancing and restoring habitats, and buffering protected areas.

(i) "Programmatic agreement" means a state safe harbor agreement issued to a governmental or nongovernmental program administrator. The program administra-

tor for a programmatic agreement shall work with landowners and the department to implement the agreement. The program administrator and the department shall be responsible for ensuring compliance with the terms of the agreement.

(j) "Qualified person" means a person with species expertise who has been approved by the department.

(k) "Return to baseline" means, at the termination of an agreement, activities undertaken by the landowner to return the species population or extent or quality of habitat to baseline, excluding catastrophic events such as floods, unplanned fires, or earthquakes, and other factors mutually agreed upon before permit issuance and that are beyond the control of the landowner.

HISTORY:

Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2012 ch 559 § 17 (AB 2402), effective January 1, 2013; Stats 2018 ch 329 § 16 (SB 473), effective January 1, 2019, repealed January 1, 2020; Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.5. Property encumbered by conservation easement; Priority of review and decision to approve agreement

(a) The department shall, to the maximum extent practicable, prioritize the review of, and decision to approve, an agreement if the property proposed to be enrolled in the agreement is encumbered by a conservation easement that requires a permanent commitment to protect, restore, and maintain habitat conditions, provided that the department finds that practices consistent with the conservation easement can reasonably be expected to provide a net conservation benefit to the species listed in the application.

(b) If the property proposed to be enrolled in an agreement is subject to a conservation easement, the department, to the maximum extent practicable, shall rely on the conservation easement to fulfill the requirements of Section 2089.8.

(c) This section only applies to agreements where a majority of the property is forestland.

HISTORY:

Added Stats 2018 ch 329 § 17 (SB 473), effective January 1, 2019, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.6. Authority of department

(a) In addition to the other provisions of this article, the department may authorize acts that are or may become otherwise prohibited pursuant to Section 2000, 2080, or 2085 through an agreement, including a programmatic agreement, if all the following conditions are met:

(1) The department receives a complete application containing all of the information described in Section 2089.8.

(2) The take is incidental to an otherwise lawful activity.

(3) The department finds that the implementation of the agreement is reasonably expected to provide a net conservation benefit to the species listed in the application. This finding shall be based, at a minimum, upon the determination that the agreement is of sufficient duration and has appropriate assurances to realize these benefits.

(4) The take authorized by the agreement will not jeopardize the continued existence of the species. This determination shall be made based on the provisions of subdivision (c) of Section 2081.

(5) The department finds that the landowner has agreed, to the maximum extent practicable, to avoid or minimize any incidental take authorized in the agreement, including returning to baseline.

(6) The department has established or approved a monitoring program, based upon objective scientific methodologies, to provide information for the department to evaluate the effectiveness and efficiency of the agreement program, including whether

the net conservation benefits set forth in the agreement are being achieved and whether the participating landowner is implementing the provisions of the agreement.

(7) The department has determined that sufficient funding is ensured, for it or its contractors or agents, to determine baseline conditions on the property, and that there is sufficient funding for the landowner to carry out management actions and for monitoring for the duration of the agreement.

(8) Implementation of the agreement will not be in conflict with any existing department-approved conservation or recovery programs for the species covered by the agreement.

(b) If the species covered by an agreement is a declining or vulnerable species, and the species is subsequently listed as an endangered, threatened, or candidate species pursuant to this chapter, no further authorization or approval shall be required for take of the species in accordance with the agreement, regardless of the species' change in status.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2018 ch 329 § 18 (SB 473), effective January 1, 2019, repealed January 1, 2020; Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.7. Authorization of take of Owens pupfish in Owens River watershed

The department may authorize the taking of the Owens pupfish in the Owens River watershed if the take is authorized under an agreement pursuant to this article.

HISTORY:
Added Stats 2016 ch 515 § 1 (AB 2001), effective January 1, 2017, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.8. Landowner submissions

The landowner shall submit all of the following:

(a) A detailed map depicting the land proposed to be enrolled in the agreement.

(b) The common and scientific names of the species for which the landowner requests incidental take authorization.

(c) A detailed description of the landowner's current land and water use and management practices that affect the covered species, and the habitat of the covered species, for which the landowner requests incidental take authorization.

(d) A detailed description of the landowner's future land and water use and management practices that may affect the covered species, and the habitat of the covered species, for which the landowner requests incidental take authorization. This description shall be used only for informational and planning purposes.

(e) The proposed duration of the agreement that is sufficient to provide a net conservation benefit to the species covered in the permit and an explanation of the basis for this conclusion.

(f) A detailed description of the proposed management actions and the timeframe for implementing them.

(g) A description of the possible incidental take that may be caused by the management actions and of the anticipated species populations and habitat changes over the duration of the permit.

(h) A detailed description of the proposed monitoring program.

(i) Any other information that the department may reasonably require in order to evaluate the application.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.9. Disclosure of proprietary information

(a) As used in this section, "proprietary information" means information that is all of the following:

(1) Related to an agricultural operation or land that is a part of an agricultural operation.

(2) A trade secret, or commercial or financial information, that is privileged or confidential, and is identified as such by the person providing the information to the department.

(3) Not required to be disclosed under any other provision of law or any regulation affecting the land or the agricultural operation on the land.

(b) Proprietary information received by the department pursuant to Section 2089.8 is not public information, and the department shall not release or disclose the proprietary information to any person, including any federal, state, or local governmental agency, outside of the department.

(c) Notwithstanding subdivision (b), the department may release or disclose proprietary information received pursuant to Section 2089.8 to the following entities under the following circumstances:

(1) Any person or federal, state, or local governmental agency, to enforce this article.

(2) Any person or federal, state, or local governmental agency working in cooperation with the department to provide technical or financial assistance for the purposes of implementing the program established by this article.

(3) Any entity, to the extent that the owner, operator, or producer has consented to the release or disclosure.

(4) The general public, if the information has been transformed into a statistical or aggregate form without identifying any individual owner, operator, or producer, or the specific location from which the information was gathered.

HISTORY:

Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.10. Alteration or modification of enrolled property

If an agreement has been approved and the department finds that the agreement is being properly implemented, the department shall allow the landowner to alter or modify the enrolled property, even if that alteration or modification will result in the incidental take of a listed species, to the extent that the alteration or modification returns the species to baseline conditions.

HISTORY:

Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.12. Notice requirements

(a) Unless the department determines that it is inappropriate to do so based on the nature of the management actions being proposed, the species listed in the permit, or other factors, the agreement shall require that the landowner provide the department with at least 60 days' advance notice of any of the following:

(1) Any incidental take that is anticipated to occur under the agreement.

(2) The landowner's plan to return to baseline at the end of the agreement.

(3) Any plan to transfer or alienate the landowner's interest in the land or water.

(b)(1) If the department receives any notice described in subdivision (a), the landowner shall provide the department, its contractors, or agents with access to the land or water for purposes of safely removing or salvaging the species.

(2) The department shall provide notice to the landowner at least seven days prior to accessing the land or water for the purposes of paragraph (1). The notice shall

identify each person selected by the department, its contractors, or agents to access the land or water.

(3) Notwithstanding paragraph (1), during the seven-day notice period, a landowner may object, in writing, to a person selected to access the land or water. If a landowner objects, another person shall be selected by the department, its contractors, or agents, and notification shall be provided to the landowner pursuant to paragraph (2). However, if a landowner objects to a selection on two successive occasions, the landowner shall be deemed to consent to access to the land or water by a person selected by the department, its contractors, or agents. Failure by a landowner to object to the selection within the seven-day notice period shall be deemed consent to access the land or water by a person selected by the department, its contractors, or agents.

(4) If the landowner objects to a person selected to access the land or water pursuant to paragraph (3), the 60-day notice period described in subdivision (a) shall be tolled for the period between the landowner's objection to a person selected for access to the land or water and the landowner's consent to a person selected for access to the land or water.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2010 ch 328 § 66 (SB 1330), effective January 1, 2011, repealed January 1, 2020; Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.14. Amendment of agreement

An agreement may be amended with the mutual consent of the landowner and the department.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.16. Disposition of subject land or water

If a landowner seeks to sell, transfer, or otherwise alienate the land or water enrolled in the agreement during the term of the agreement, the person or entity assuming that interest in the property shall (a) assume the existing landowner's duties under the agreement, (b) enter into a new agreement with the department, or (c) withdraw from an existing agreement under the terms provided in the agreement, as approved by the department.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.18. Suspension or revocation

The suspension and revocation of the agreement shall be governed by suspension and revocation regulations adopted by the department.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.20. Access to property

(a) This section does not provide the public a right of entry onto the enrolled land or water. The landowner shall provide the department, its contractors, or agents with access to the land or water proposed to be enrolled in the agreement to develop the agreement, determine the baseline conditions, monitor the effectiveness of management actions, or safely remove or salvage species proposed to be taken.

(b) The department shall provide notice to the landowner at least seven days before accessing the land or water for the purposes of subdivision (a). The notice shall identify each person selected by the department, its contractors, or agents to access the land or water.

(c) Notwithstanding subdivision (a), during the seven-day notice period, a landowner may object, in writing, to a person selected to access the land or water. If a landowner objects, another person shall be selected by the department, its contractors, or agents, and notification shall be provided to the landowner pursuant to subdivision (b). However, if a landowner objects to a selection on two successive occasions, the landowner shall be deemed to consent to access to the land or water by a person selected by the department, its contractors, or agents. Failure by a landowner to object to the selection within the seven-day notice period shall be deemed consent to access the land or water by a person selected by the department, its contractors, or agents.

(d)(1) Notwithstanding any other law, the landowner is not required to do either of the following:

(A) Maintain enrolled land or water, or land or water proposed to be enrolled in an agreement, in a condition that is safe for access, entry, or use by the department, its contractors, or agents for purposes of providing access pursuant to subdivision (a).

(B) Provide to the department, its contractors, or agents, any warning of a hazardous condition, use, structure, or activity on enrolled land or water, or land or water proposed to be enrolled in an agreement, for purposes of providing access pursuant to subdivision (a).

(2) Notwithstanding any other law, the landowner shall not be liable for any injury, and does not owe a duty of care, to the department, its contractors, or agents resulting from any act or omission described in subparagraph (A) or (B) of paragraph (1).

(3) The provision of access to land pursuant to subdivision (a) shall not be construed as any of the following:

(A) An assurance that the land or water is safe.

(B) A grant to the person accessing the land or water of a legal status for which the landowner would owe a duty of care.

(C) An assumption of responsibility or liability for any injury to a person or property caused by any act of the person to whom access to the land or water is provided.

(4) Notwithstanding paragraphs (1) to (3), inclusive, this subdivision shall not be construed to limit a landowner's liability for an injury under either of the following circumstances:

(A) Willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity on the land or water.

(B) Express invitation to a person by the landowner to access the land or water, in a manner that is beyond the access required to be provided pursuant to subdivision (a).

(e) Nothing in this section creates a duty of care or a ground of liability for injury to person or property.

HISTORY:

Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.22. Federal safe harbor agreement or federal candidate conservation agreement with assurances; Termination

(a) If a federal safe harbor agreement, or a federal candidate conservation agreement with assurances, has been approved pursuant to applicable provisions of federal law and the federal agreement contains species that are endangered, threatened, candidate, or declining or vulnerable species pursuant to this chapter, no further authorization or

approval is necessary under this article for any person authorized by that federal agreement to take the species identified in and in accordance with the federal agreement, if that person and the department follow all of the procedures specified in Section 2080.1, except that the determination of consistency shall be made by the department based only on the issuance criteria contained in this article.

(b) Any authority pursuant to subdivision (a) to take species identified in a federal agreement shall terminate immediately upon the expiration or termination of the federal agreement.

HISTORY:

Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2018 ch 329 § 19 (SB 473), effective January 1, 2019, repealed January 1, 2020; Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.23. Provisions pertaining to neighboring landowners

(a) A landowner that owns land that abuts a property enrolled in a state safe harbor agreement shall not be required, for purposes of an incidental take permit, to undertake the management activities set forth in the state safe harbor agreement, if all of the following conditions are met:

(1) The neighboring landowner allows the department to determine baseline conditions on the property.

(2) The neighboring landowner agrees to maintain the baseline conditions for the duration specified in the safe harbor agreement.

(3) The department determines that allowing the neighboring landowner to receive an incidental take permit for the abutting property does not undermine the net conservation benefit determination made by the department in the approval of the safe harbor agreement.

(4) The take authorized by the department will not jeopardize the continued existence of the species. This determination shall be made in accordance with subdivision (c) of Section 2081.

(b)(1) Unless the department determines that it is inappropriate to do so based on the species listed in the permit, or any other factors, the neighboring landowner shall provide the department with at least 60 days' advance notice of any of the following:

(A) Any incidental take that is anticipated to occur under the permit.

(B) The neighboring landowner's plan to return to baseline conditions.

(C) Any plan to transfer or alienate the neighboring landowner's interest in the land or water.

(2)(A) If the department receives any notice described in paragraph (1), the neighboring landowner shall provide the department, its contractors, or agents with access to the land or water for purposes of safely removing or salvaging the species.

(B) The department shall provide notice to the neighboring landowner at least seven days before accessing the land or water for the purposes of subparagraph (A). The notice shall identify each person selected by the department, its contractors, or agents to access the land or water.

(C) Notwithstanding subparagraph (B), during the seven-day notice period, the neighboring landowner may object, in writing, to a person selected to access the land or water. If the neighboring landowner objects, another person shall be selected by the department, its contractors, or agents, and notification shall be provided to the neighboring landowner pursuant to subparagraph (B). However, if the neighboring landowner objects to a selection on two successive occasions, the neighboring landowner shall be deemed to consent to access to the land or water by a person selected by the department, its contractors, or agents. Failure by the neighboring landowner to object to the selection within the seven-day notice period shall be deemed consent to access the land or water by the person selected by the department, its contractors, or agents.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2010 ch 328 § 67 (SB 1330), effective January 1, 2011, repealed January 1, 2020; Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.24. Qualified persons; Program administrators

The department, for informational purposes, shall maintain a list of qualified persons who have worked with the department on an approved agreement, and persons, entities, and organizations serving as program administrators for approved agreements.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.25. Regulations

The department may promulgate regulations to implement this article.

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Amended Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020 (repealer repealed).

§ 2089.26. Repeal [Repealed]

HISTORY:
Added Stats 2009 ch 184 § 1 (SB 448), effective January 1, 2010, repealed January 1, 2020. Repealed Stats 2019 ch 137 § 2 (SB 62), effective January 1, 2020.

ARTICLE 5. FUNDING [REPEALED]

HISTORY: Division 3, Fish and Game Generally—Chapter 1.5, Endangered Species—Article 5, Funding; Added Stats 1984 ch 1162 § 6, ch 1240 § 2. Repealed Stats 2018 ch 329 § 20 (SB 473), effective January 1, 2019.

§ 2098. Costs of administration [Repealed]

HISTORY:
Added Stats 1984 ch 1162 § 6, ch 1240 § 2. Repealed Stats 2018 ch 329 § 20 (SB 473), effective January 1, 2019.

§ 2099. Renewable Energy Resources Development Fee Trust Fund established; Deposit and use of fees from eligible projects electing to use department mitigation actions [Repealed]

HISTORY:
Added Stats 2009–2010 8th Ex Sess ch 9 § 2 (SB 34XXXXXXXX), effective March 22, 2010. Amended Stats 2011-2012 1st Ex Sess ch 10 § 2 (ABX1 13), effective December 10, 2011; Stats 2012 ch 559 § 18 (AB 2402), effective January 1, 2013; Repealed Stats 2018 ch 329 § 20 (SB 473), effective January 1, 2019.

§ 2099.5. Collection of permit application fee; Deposit and use of fees; Time limit for withdrawal and refund [Repealed]

HISTORY:
Added Stats 2009–2010 8th Ex Sess ch 9 § 3 (SBX8 34), effective March 22, 2010. Repealed Stats 2018 ch 329 § 20 (SB 473), effective January 1, 2019.

§ 2099.10. [Section repealed 2016.]

HISTORY:
Added Stats 2011-2012 1st Ex Sess ch 10 § 3 (ABX1 13), effective December 10, 2011, repealed January 1, 2016. Amended Stats 2015 ch 24 § 2 (SB 83), effective June 24, 2015. Repealed January 1, 2016, by its own terms. The repealed section related to the collection, deposit, and use of permit application fees from renewable energy developers.

§ 2099.20. Project application; Department determination process; Department accounting and reports to Legislature [Repealed]

HISTORY:
Added Stats 2011 ch 311 § 2 (SB 16), effective September 22, 2011. Repealed Stats 2018 ch 329 § 20 (SB 473), effective January 1, 2019.

§ 2100. Viewpoints [Repealed]

HISTORY:
Added Stats 1996 ch 972 § 2 (AB 137). Repealed Stats 2018 ch 329 § 20 (SB 473), effective January 1, 2019.

ARTICLE 7. RECOVERY STRATEGY PILOT PROGRAM [REPEALED]

HISTORY: Article 7, consisting of §§ 2105–2115.5, added Stats 1996 ch 974 § 1 (AB 350), effective January 1, 1997. Repealed January 1, 2017, by the terms of former F & G C § 2115.5.

CHAPTER 2. IMPORTATION, TRANSPORTATION, AND SHELTERING OF RESTRICTED LIVE WILD ANIMALS

ARTICLE 1. GENERALLY

§ 2116. "Wild animal"

As used in this chapter, "wild animal" means any animal of the class Aves (birds), class Mammalia (mammals), class Amphibia (frogs, toads, salamanders), class Osteichtyes (bony fishes), class Monorhina (lampreys), class Reptilia (reptiles), class Crustacea (crayfish), or class Gastropoda (slugs, snails) which is not normally domesticated in this state as determined by the commission.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 617 § 2; Stats 1974 ch 1503 § 1.

§ 2116.5. Legislative finding and declaration; Legislative intent

The Legislature finds and declares that wild animals are being captured for importation and resale in California; that some populations of wild animals are being depleted; that many animals die in captivity or transit; that some keepers of wild animals lack sufficient knowledge or facilities for the proper care of wild animals; that some wild animals are a threat to the native wildlife or agricultural interests of this state; and that some wild animals are a threat to public health and safety. It is the intention of the Legislature that the importation, transportation, and possession of wild animals shall be regulated to protect the health and welfare of wild animals captured, imported, transported, or possessed, to reduce the depletion of wildlife populations, to protect the native wildlife and agricultural interests of this state against damage from the existence at large of certain wild animals, and to protect the public health and safety in this state.

HISTORY:
Added Stats 1974 ch 1503 § 1.5.

§ 2117. "Enforcing officers"

As used in this chapter, "enforcing officers" means the department, the state plant quarantine officers, the local law enforcement agents, the county sheriffs, and the county agricultural commissioners. These enforcing officers are authorized and empowered to enforce the provisions of this chapter or any regulation implementing this chapter.

HISTORY:
Enacted 1957. Amended Stats 2005 ch 698 § 2 (AB 820), effective January 1, 2006.

§ 2118. Prohibited importation or release into state of live wild animals of listed species, except under revocable, nontransferable permit

It is unlawful to import, transport, possess, or release alive into this state, except under a revocable, nontransferable permit as provided in this chapter and the regulations pertaining thereto, any wild animal of the following species:

(a) Class Aves: (birds)
- Family Cuculidae (cuckoos)
  - All Species.
- Family Alaudidae (larks)
  - Skylark, Alauda arvensis
- Family Corvidae (crows, jays, magpies)
  - All species.
- Family Turdidae (thrushes)
  - European blackbird, Turdus merula
  - Missel (or mistle), thrush, Turdus viscivorus
- Family Sturnidae (starlings and mynas or mynahs)
  - All species of the family, except hill myna (or hill mynah),
  - Gracula religiosa (sometimes referred to as Eulabes religiosa)
- Family Ploceidae (weavers)
  - The following species:
    - Spanish sparrow, Passer hispaniolensis
    - Italian sparrow, Passer italiae
    - European tree sparrow, Passer montanus
    - Cape sparrow, Passer capensis
    - Madagascar weaver, Foudia madagascariensis
    - Baya weaver, Ploceus baya
    - Hawaiian rice bird, Munia nisoria
    - Red-billed quelea, Quelea quelea
    - Red-headed quelea, Quelea erythrops
- Family Fringillidae (sparrows, finches, buntings)
  - Yellowhammer, Emberiza citrinella

(b) Class Mammalia (mammals)
- Order Primates
  - All species except those in family Hominidae
- Order Edentata (sloths, anteaters, armadillos, etc.)
  - All species.
- Order Marsupialia (marsupials or pouched mammals)
  - All species.
- Order Insectivora (shrews, moles, hedgehogs, etc.)
  - All species.
- Order Dermoptera (gliding lemurs)
  - All species.
- Order Chiroptera (bats)
  - All species.
- Order Monotremata (spiny anteaters, platypuses)
  - All species.
- Order Pholidota (pangolins, scaly anteaters)
  - All species.
- Order Lagomorpha (pikas, rabbits, hares)

All species, except domesticated races of rabbits.
Order Rodentia (rodents)
All species, except domesticated golden hamsters, also known as Syrian hamster, Mesocricetus auratus; domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory-reared); and domestic strains of guinea pig (Cavia porcellus).
Order Carnivora (carnivores)
All species, except domestic dogs (Canis familiaris) and domestic cats (Felis catus).
Order Tubulidentata (aardvarks)
All species.
Order Proboscidea (elephants)
All species.
Order Hyracoidea (hyraxes)
All species.
Order Sirenia (dugongs, manatees)
All species.
Order Perissodactyla (horses, zebras, tapirs, rhinoceroses, etc.)
All species except those of the family Equidae.
Order Artiodactyla (swine, peccaries, camels, deer, elk, except elk (genus Cervus) which are subject to Section 2118.2, moose, antelopes, cattle, goats, sheep, etc.)
All species except: domestic swine of the family Suidae; American bison, and domestic cattle, sheep and goats of the family Bovidae; races of big-horned sheep (Ovis canadensis) now or formerly indigenous to this state.
Mammals of the orders Primates, Edentata, Dermoptera, Monotremata, Pholidota, Tubulidentata, Proboscidea, Perissodactyla, Hyracoidea, Sirenia and Carnivora are restricted for the welfare of the animals, except animals of the families Viverridae and Mustelidae in the order Carnivora are restricted because such animals are undesirable and a menace to native wildlife, the agricultural interests of the state, or to the public health or safety.
(c) Class amphibia (frogs, toads, salamanders)
Family Bufonidae (toads)
Giant toad or marine toad, Bufo marinus
(d) Class Monorhina (lampreys)
All species.
(e) Class Osteichthyes (bony fishes)
Family Serranidae (bass)
White perch, Morone or Roccus americana
Family Clupeidae (herring)
Gizzard shad, Dorosoma cepedianum
Family Sciaenidae (croakers)
Freshwater sheepshead, Aplodinotus grunniens
Family Characidae (characins)

Banded tetra, Astyanax fasciatus
All species of piranhas
Family Lepisosteidae (gars)
All species.
Family Amiidae (bowfins)
All species.
(f) Class Reptilia (snakes, lizards, turtles, alligators)
Family Crocodilidae
All species.
(g) Class Crustacea (crustaceans)
Genus Cambarus (crayfishes)
All species.
Genus Astacus (crayfishes)
All species.
Genus Astacopsis (crayfishes)
All species.
(h) Class Gastropoda (slugs, snails, clams)
All species of slugs.
All species of land snails.
(i) Other classes, orders, families, genera, and species of wild animals which may be designated by the commission in cooperation with the Department of Food and Agriculture, (1) when the class, order, family, genus, or species is proven to be undesirable and a menace to native wildlife or the agricultural interests of the state, or (2) to provide for the welfare of wild animals.
(j) Except as expressly authorized in this code, any live nonindigenous Atlantic salmon or the roe thereof into the Smith River watershed.
(k) Classes, families, genera, and species in addition to those listed in this section may be added to or deleted from the above lists from time to time by commission regulations in cooperation with the Department of Food and Agriculture.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 617 § 3; Stats 1970 ch 302 § 1; Stats 1974 ch 1503 § 2; Stats 1977 ch 436 § 2; Stats 1979 ch 1074 § 1, effective September 28, 1979; Stats 1988 ch 1467 § 1, effective September 27, 1988; Stats 2003 ch 62 § 97 (SB 600).

§ 2118.2. Importation of elk into state

Except as provided in Section 1007, it is unlawful to import any elk (genus Cervus) into this state. The department may import elk pursuant to Section 1007, if prior to such importation, the department issues written findings justifying the need for and explaining the purpose of the importation.

This section shall not apply to zoos certified by the United States Department of Agriculture.

HISTORY:
Added Stats 1979 ch 1074 § 2, effective September 28, 1979.

§ 2118.3. Removal of horn or antler from live elk prohibited

No part of any elk horn or antler shall be removed from any live elk for commercial purposes.

HISTORY:
Added Stats 1979 ch 1074 § 3, effective September 28, 1979.

§ 2118.4. Seizure of imported elk

The department shall seize any elk imported in violation of Section 2118.2.

HISTORY:

Added Stats 1979 ch 1074 § 4, effective September 28, 1979.

§ 2118.5. Designation of wild animals that may be possessed without permit

The commission may designate wild animals which may be possessed without a permit.

HISTORY:

Added Stats 1970 ch 1510 § 1.

§ 2119. Publication of list of prohibited animals

The department shall publish from time to time as changes arise, a list of animals that may not be imported or transported into this state.

HISTORY:

Enacted 1957. Amended Stats 1961 ch 67 § 4; Stats 2015 ch 154 § 51 (AB 1527), effective January 1, 2016.

§ 2120. Regulations governing entry, transportation or keeping of wild animals

(a) The commission, in cooperation with the Department of Food and Agriculture, shall adopt regulations governing both (1) the entry, importation, possession, transportation, keeping, confinement, or release of any and all wild animals that will be or that have been imported into this state pursuant to this chapter, and (2) the possession of all other wild animals. The regulations shall be designed to prevent damage to the native wildlife or agricultural interests of this state resulting from the existence at large of these wild animals, and to provide for the welfare of wild animals and the safety of the public.

(b) The regulations shall also include criteria for all of the following:

(1) The receiving, processing, and issuing of a permit and conducting inspections.

(2) Contracting out inspection activities.

(3) Responding to public reports and complaints.

(4) The notification of the revocation, termination, or denial of permits, and related appeals.

(5) The method by which the department determines that the breeding of wild animals pursuant to a single event breeding permit for exhibitor or a breeding permit is necessary and will not result in unneeded or uncared for animals, and the means by which the criteria will be implemented and enforced.

(6) How a responding agency will respond to an escape of a wild animal. This shall include, but not be limited to, the establishment of guidelines for the safe recapture of the wild animal and procedures outlining when lethal force would be used to recapture the wild animal.

(c) These regulations shall be developed and adopted by the commission on or before January 1, 2007.

HISTORY:

Enacted 1957. Amended Stats 1961 ch 617 § 5; Stats 1970 ch 1510 § 2; Stats 1974 ch 1503 § 5; Stats 2005 ch 698 § 3 (AB 820), effective January 1, 2006; Stats 2006 ch 538 § 179 (SB 1852), effective January 1, 2007; Stats 2007 ch 285 § 30 (AB 1729), effective January 1, 2008.

§ 2121. Escape or release of animals

No person having possession or control over any wild animal under this chapter shall intentionally free, or knowingly permit the escape, or release of such an animal, except in accordance with the regulations of the commission.

HISTORY:
Added Stats 1961 ch 617 § 6. Amended Stats 2007 ch 285 § 31 (AB 1729), effective January 1, 2008.

§ 2122. Regulations for guidance of enforcing officers

The commission shall promulgate regulations in cooperation with the State Department of Food and Agriculture for the guidance of enforcing officers. Such regulations shall include a list of the wild animals for which permits that may be issued under this chapter will be refused, and the disposition of such wild animals illegally imported into this state.

HISTORY:
Enacted 1957, as F &G C § 2121. Amended and renumbered by Stats 1961 ch 617 § 7; Amended Stats 1974 ch 1503 § 6.

§ 2123. Descriptions of forbidden wild animals

The department in cooperation with the State Department of Food and Agriculture shall furnish descriptive and illustrative material concerning the wild animals enumerated in or designated pursuant to Section 2118, as well as explanatory material setting forth the reasons for designating such animals as undesirable and a menace to native wildlife or to the agricultural interests of this state for the information and guidance of the enforcing officers.

HISTORY:
Enacted 1957, as F & G C § 2122. Amended and renumbered by Stats 1961 ch 617 § 8; Amended Stats 1974 ch 1503 § 7.

§ 2124. Possession, purchase or sale of live mammal for injuring or killing for gain, amusement or sport

(a) Except as otherwise authorized by this code or regulations adopted pursuant thereto, including, but not limited to, those provisions that authorize raising deer to produce venison for market it is unlawful for any person to possess, transport, import, export, propagate, purchase, sell, or transfer any live mammal listed under Section 2118 for the purposes of maiming, injuring, or killing the mammal for gain, amusement, or sport. Except as otherwise authorized by this code or regulations adopted pursuant thereto, the buyer of a live mammal listed in Section 2118 shall not resell the live mammal to another buyer who has the intent to maim, injure, or kill that mammal for purposes of gain, amusement, or sport.

(b) This section does not apply to the meat, hide, or parts of a dead mammal.

HISTORY:
Added Stats 1992 ch 888 § 1 (SB 1332).

§ 2125. Civil penalty for violation of article; Payment of reasonable expenses for caring for confiscated animal

(a) In addition to any other penalty provided by law, any person who violates this chapter or any regulations implementing this chapter, is subject to a civil penalty of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000) for each violation. Except as otherwise provided, any violation of this chapter or of any regulations implementing this chapter is a misdemeanor punishable by imprisonment in a county jail for not more than six months, or by a fine of not more than one thousand dollars ($1,000).

(b) The Attorney General, or the city attorney of the city or the district attorney or county counsel of the county in which a violation of this article occurs, may bring a civil action to recover the civil penalty in subdivision (a) and the costs of seizing and holding the animal listed in Section 2118, except to the extent that those costs have already been collected as provided by subdivision (d). The civil action shall be brought in the county

in which the violation occurs and any penalty imposed shall be transferred to the Controller for deposit in the Fish and Game Preservation Fund in accordance with Section 13001.

(c) In an action brought under this section, in addition to the penalty specified in subdivision (a), the reasonable costs of investigation, reasonable attorney's fees, and reasonable expert witness' fees may also be recovered and those amounts shall be credited to the same operating funds as those from which the expenditures for those purposes were derived.

(d)(1) If an animal is confiscated because the animal was kept in contravention of this chapter or any implementing regulations, the person claiming the animal shall pay to the department or the new custodian of the animal an amount sufficient to cover all reasonable expenses expected to be incurred in caring for and providing for the animal for at least 30 days, including, but not limited to, the estimated cost of food, medical care, and housing.

(2) If the person claiming the animal fails to comply with the terms of his or her permit and to regain possession of the animal by the expiration of the first 30-day period, the department may euthanize the animal or place the animal with an appropriate wild animal facility at the end of the 30 days, unless the person claiming the animal pays all reasonable costs of caring for the animal for a second 30-day period before the expiration of the first 30-day period. If the permittee is still not in compliance with the terms of the permit at the end of the second 30-day period, the department may euthanize the animal or place the animal in an appropriate wild animal facility.

(3) The amount of the payments described in paragraphs (1) and (2) shall be determined by the department, and shall be based on the current reasonable costs to feed, provide medical care for, and house the animal. If the person claiming the animal complies with the terms of his or her permit and regains possession of the animal, any unused portion of the payments required pursuant to paragraphs (1) and (2) shall be returned to the person claiming the animal no later than 90 days after the date on which the person regains possession of the animal.

HISTORY:
Added Stats 1992 ch 888 § 2 (SB 1332). Amended Stats 2005 ch 698 § 4 (AB 820), effective January 1, 2006; Stats 2006 ch 538 § 180 (SB 1852), effective January 1, 2007.

§ 2126. Unlawful taking of mammals

(a) Except as otherwise authorized by this code or regulations made pursuant thereto, it is unlawful for any person to take any mammal as identified by Section 2118.

(b) This section does not prohibit the euthanasia of a mammal as appropriately directed by a licensed veterinarian or animal health technician.

HISTORY:
Added Stats 1992 ch 888 § 3 (SB 1332).

§ 2127. Reimbursement for costs pursuant to memorandum of understanding; Criteria for qualifying as "eligible local entity"; Definition

(a) The department may reimburse eligible local entities, pursuant to a memorandum of understanding entered into pursuant to this section, for costs incurred by the eligible local entities in the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118.

(b) The department may enter into memorandums of understanding with eligible local entities for the administration and enforcement of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118.

(c) The commission shall adopt regulations that establish specific criteria an eligible local entity shall meet in order to qualify as an eligible local entity.

(d) For the purposes of this division, "eligible local entity" means a county, local animal control officer, local humane society official, educational institution, or trained private individual that enters into a memorandum of understanding with the department pursuant to this section.

HISTORY:
Added Stats 2005 ch 698 § 5 (AB 820), effective January 1, 2006. Amended Stats 2006 ch 538 § 181 (SB 1852), effective January 1, 2007; Stats 2007 ch 285 § 32 (AB 1729), effective January 1, 2008.

§ 2128. Prohibited treatment of elephants; Penalties for violation; Limitations

(a)(1) Any person who houses, possesses, manages, or is in direct contact with an elephant shall not do either of the following:

(A) Use a bullhook, ankus, baseball bat, axe handle, pitchfork, or other device designed to inflict pain for the purpose of training or controlling the behavior of an elephant.

(B) Authorize or allow an employee, agent, or contractor to use a bullhook, ankus, baseball bat, axe handle, pitchfork, or other device designed to inflict pain for the purpose of training or controlling the behavior of an elephant.

(2) Use prohibited by this subdivision includes brandishing, exhibiting, or displaying the devices in the presence of an elephant.

(b) Any person who violates this section is subject to the civil penalty set forth in Section 2125 for each violation, and the restricted species permit for the elephant is subject to immediate suspension or revocation by the department. A person whose restricted species permit is suspended or revoked pursuant to this section may appeal the suspension or revocation to the commission by filing a written request for an appeal with the commission within 30 days of the suspension or revocation. A person who violates this section is not subject to the criminal penalties set forth in this code.

(c) The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section shall not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

(d) This section shall become operative on January 1, 2018.

HISTORY:
Added Stats 2016 ch 234 § 1 (SB 1062), effective January 1, 2017, operative January 1, 2018.

ARTICLE 2. PERMITS

§ 2150. Permit for importation, possession, or transportation of animals; Application and fees; Revocation and denial; Exemptions

(a)(1) The department, in cooperation with the Department of Food and Agriculture, may, upon application, issue a written permit to import into, possess, or transport within this state any wild animal enumerated in, or designated pursuant to, Section 671 of Title 14 of the California Code of Regulations, upon a determination that the animal is not detrimental or that no damage or detriment can be caused to agriculture, native wildlife, the public health or safety, or the welfare of the animal, as a result of the importation, transportation, or possession.

(2) A permit may be issued to any person only upon application and payment of a nonrefundable application fee in an amount determined by the department pursuant to Section 2150.2. Application forms shall be provided by the department and shall be designed to ascertain the applicant's ability to properly care for the wild animal or animals the applicant seeks to import, transport, or possess. Proper care includes

providing adequate food, shelter, and veterinary care, and other requirements the commission may designate.

(b) The commission or the department shall deny a permit and the commission shall revoke a permit if it finds that a permittee or applicant has failed to meet, or is unable to meet, the requirements for importing, transporting, possessing, or confining any wild animal as established pursuant to Section 2120.

(c) A zoo is exempt from any permit requirement pursuant to this chapter except for animals whose importation, transportation, or possession is determined by the department, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, native wildlife, or the public health or safety. For purposes of this section, "zoo" means any organization which is accredited as meeting the standards and requirements of the American Zoo and Aquarium Association (AZA). Any California organization which is not accredited by the AZA may apply to the department for a waiver of specified permit requirements of this chapter. The department may grant or deny the request for a waiver for justified reasons. Foreign zoos outside this state are not subject to the permit requirements of this chapter beyond those specific permit requirements affecting California zoos or organizations with which they are collaborating. Any organization may appeal the determination of the department to the commission.

(d) An exhibitor licensed by the United States Department of Agriculture or a dealer who is so licensed who buys any animal specified in subdivision (c) from a zoo within the state, may sell or transfer it only to a private individual who has a permit issued pursuant to this section prior to the receipt of the animal or to a public or private organization that has a permit issued pursuant to this section prior to the receipt of the animal. The exhibitor or dealer who sells or transfers that animal shall pay a fee pursuant to Section 2150.2 to the department.

(e) Any university, college, governmental research agency, or other bona fide scientific institution, as defined in regulations adopted by the commission, engaging in scientific or public health research is exempt from any permit requirement pursuant to this chapter except for animals whose importation, transportation, or possession is determined by the department, in cooperation with the Department of Food and Agriculture, to be detrimental or cause damage to agriculture, native wildlife, or the public health or safety.

(f) Notwithstanding the provisions of this section, every zoo, university, college, governmental research agency, or other bona fide scientific institution shall comply with the requirements of subdivision (a) of Section 2193 for all animals the zoo, university, college, governmental research agency, or other bona fide scientific institution possesses that are enumerated in, or designated pursuant to, Section 671 of Title 14 of the California Code of Regulations.

HISTORY:

Enacted 1957. Amended Stats 1961 ch 617 § 9; Stats 1974 ch 1503 § 8; Stats 1976 ch 796 § 1; Stats 1985 ch 1019 § 2; Stats 1990 ch 789 § 2 (SB 2043); Stats 2005 ch 698 § 6 (AB 820), effective January 1, 2006, ch 698 § 6 (AB 820), effective January 1, 2006.

§ 2150.1. Deposit of fees

Fees collected pursuant to this chapter for permits, permit applications, and facility inspections shall be deposited in the Fish and Game Preservation Fund. The department shall annually identify the amount collected for each type of permit, permit application, or inspection for which a fee is collected.

HISTORY:

Added Stats 1990 ch 789 § 4 (SB 2043).

§ 2150.2. Establishment of fees

The department shall establish fees for permits, permit applications, and facility

inspections in amounts sufficient to cover the costs of administering, implementing, and enforcing this chapter.

HISTORY:
Added Stats 1990 ch 789 § 6 (SB 2043).

§ 2150.3. Appointment of committee to advise director on care and treatment of wild animals

(a) The director shall appoint a committee to advise the director on the humane care and treatment of wild animals.

(b) The committee shall make recommendations to the director for the establishment of standards of performance for administration and enforcement, which shall include, but are not limited to, requiring that the eligible local entity possess a knowledge of humane wild animal training methods.

(c) The committee shall make recommendations to the director as to the frequency of inspections necessary for the enforcement and administration of any provision concerning the possession of, handling of, care for, or holding facilities provided for, a wild animal designated pursuant to Section 2118.

(d) The committee shall advise and assist the director in entering into memorandums of understanding with eligible local entities and in determining whether the memorandums of understanding meet the requirements of this chapter.

HISTORY:
Added Stats 1985 ch 1019 § 5. Amended Stats 2007 ch 285 § 33 (AB 1729), effective January 1, 2008.

§ 2150.4. Inspection of wild animal facilities

(a) The department or an eligible local entity shall inspect the wild animal facilities, as determined by the director's advisory committee, of each person holding a permit issued pursuant to Section 2150 authorizing the possession of a wild animal.

(b) In addition to the inspections specified in subdivision (a), the department or an eligible local entity, pursuant to the regulations of the commission, may inspect the facilities and care provided for the wild animal of any person holding a permit issued pursuant to Section 2150 for the purpose of determining whether the animal is being cared for in accordance with all applicable statutes and regulations. The department shall collect an inspection fee, in an amount determined by the department pursuant to Section 2150.2.

(c) No later than January 1, 2009, the department, in cooperation with the committee created pursuant to Section 2150.3, shall develop, implement, and enter into memorandums of understanding with eligible local entities if the department elects not to inspect every wild animal facility pursuant to subdivisions (a) and (b). Eligible local entities shall meet the criteria established in regulations adopted pursuant to subdivision (b) of Section 2157.

HISTORY:
Added Stats 1985 ch 1019 § 6. Amended Stats 1990 ch 789 § 7 (SB 2043); Stats 2005 ch 698 § 7 (AB 820), effective January 1, 2006; Stats 2006 ch 538 § 182 (SB 1852), effective January 1, 2007; Stats 2007 ch 285 § 34 (AB 1729), effective January 1, 2008.

§ 2150.5. Possession under permit of animals previously acquired and possessed; Identification; Transfer

Classes, orders, families, genera, and species which may not be imported, transported, possessed, or released alive in this state solely because of concern for the welfare of the animal may be possessed under permit when the owner can demonstrate that such animal was legally acquired and possessed in California before the effective date of this section. The department may require the owner of an animal which may be possessed under this section to mark or otherwise identify such animal and progeny, so as not to

endanger the welfare of that animal, to the satisfaction of the department. The owner shall not transfer such animal or progeny to any other person without prior approval of the department.

HISTORY:
Added Stats 1974 ch 1503 § 9.

§ 2151. Application for permit; Contents

A permit shall be issued only upon written application from the person desiring to import or transport the species, enumerating all of the following:

(a) The approximate number and true scientific name of each species of wild animal for which a permit is requested.

(b) The carrier and probable point of first arrival in this State of each shipment of such species.

(c) The purpose for which they are to be imported or transported.

(d) The name and address of the consignee.

(e) The name and address of the consignor.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 617 § 10.

§ 2152. Contents of permit

Each permit issued shall set forth all of the following:

(a) The number and true scientific name of the species of wild animal for which the permit is granted.

(b) A statement of the manner and conditions under which the entry of such species is permitted.

(c) A statement of the conditions under which the species shall be kept after importation or during transportation.

HISTORY:
Enacted 1957.

§ 2153. Copies of permit

Whenever any permit is issued under the provisions of this article, one copy shall be sent by the department to the State Department of Food and Agriculture, one copy to the county agricultural commissioner or to the state plant quarantine officer having jurisdiction at the place designated in the application as the probable point of first arrival in the state of such species, and one copy shall accompany each shipment of wild animals involved.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 617 § 11; Stats 1974 ch 1503 § 10.

§ 2155. Applicability of chapter and regulations to progeny

The provisions of this chapter and regulations adopted pursuant thereto shall apply to the progeny of any wild animal imported or possessed under such laws and regulations, except that no permit shall be required for the possession of progeny if a permit has already been obtained by the owner for the parent, and the progeny are kept at the same site.

HISTORY:
Added Stats 1974 ch 1503 § 12.

§ 2156. Right of city or county to enact ordinances

Neither the provisions of this chapter nor the regulations of the commission shall prevent any city or county from enacting ordinances relating to the possession or care of wild animals provided such ordinances are more restrictive.

HISTORY:
Added Stats 1974 ch 1503 § 13.

§ 2157. Permitee to uniquely identify and report wild mammals that pose risk to public; Department to establish registry of mammals covered by permit

(a) Every person holding a permit issued pursuant to Section 2150 shall uniquely identify each wild mammal that poses a risk to the health and safety of the public and report this identification to the department to maintain in a registry.

(b) The commission shall adopt regulations that address the following:

(1) Identify the mammals that pose a risk to the health and safety of the public and are subject to subdivision (a). This identification shall include the following species of mammals: wild cats, elephants, nonhuman primates, bears, and wolves.

(2) Acceptable forms of identification.

(3) How and when a permittee must notify the department of the unique identifier required in subdivision (a).

(c) The department shall establish a registry listing the permit number, type, expiration date, the name and address of the permittee, and an inventory of each mammal and to the identification assigned or affixed to the mammal pursuant to subdivision (a) that is covered by the permit.

(d) These regulations shall be developed and adopted by the commission, on or before January 1, 2007.

HISTORY:
Added Stats 2005 ch 698 § 8 (AB 820), effective January 1, 2006.

ARTICLE 3. REGULATION AND ENFORCEMENT

§ 2185. Confinement and inspection of imported wild animals; "Enforcing officer"

(a) Any person who transports, receives, or imports into the State, or transports within the State, any live wild animal enumerated in or designated pursuant to Section 2118, shall hold said animal in confinement for inspection and immediately notify the nearest enforcing officer of the arrival thereof. If there is found in any shipment any species not specified in the permit issued under this chapter, or more than the number of any species specified, said animals shall be refused admittance as provided in Section 2188 of this chapter.

(b) Notwithstanding Section 2117, for the purposes of this section, "enforcing officer" means the enforcement personnel of the department, the state plant quarantine officers, and county agricultural commissioners.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 617 § 12; Stats 2005 ch 698 § 9 (AB 820), effective January 1, 2006.

§ 2186. Destruction, quarantine or return of diseased imported wild animals; "Enforcing officer"

(a) If during inspection upon arrival any wild animal is found to be diseased, or there is reason to suspect the presence of disease, or there is reason to suspect the presence of disease that is or may be detrimental to agriculture, to native wildlife, or to the public health or safety, the diseased animal, and if necessary, the entire shipment shall be destroyed by, or under the supervision of, the enforcing officer, unless no detriment can be caused by its detention in quarantine for a time and under conditions satisfactory to the enforcing officer for disinfection, treatment, or diagnosis, or no detriment can be caused by its return to its point of origin at the option and expense of the owner or possessor.

(b) Notwithstanding Section 2117, for the purposes of this section, "enforcing officer" means the enforcement personnel of the department, the state plant quarantine officers, and county agricultural commissioners.

HISTORY:
Added Stats 1961 ch 617 § 13. Amended Stats 2005 ch 698 § 10 (AB 820), effective January 1, 2006; Stats 2007 ch 285 § 36 (AB 1729), effective January 1, 2008.

§ 2187. Examination of conditions under which wild animals kept; Report of disease or violations; Transfer of animal or correction of conditions; Destruction of animal; "Enforcing officer"

(a) Whenever any wild animal is brought into this state under permit, as provided in this chapter, the enforcing officers may, from time to time, examine the conditions under which that species is kept, and report to the department any suspicion or knowledge of any disease or violations of the conditions of the permit or of the regulations promulgated under this chapter. The enforcing officer may order the transfer of the animal to new owners or the correction of the conditions under which the species is being kept if not in conformance with the terms of the permit, at the expense of the owner or possessor. If neither transfer or improvement of conditions is accomplished, the officer may order destruction of the animal.

(b) Notwithstanding Section 2117, for the purposes of this section, "enforcing officer" means the enforcement personnel of the department, the state plant quarantine officers, and county agricultural commissioners.

HISTORY:
Enacted 1957, as F & G C § 2186. Amended and renumbered Stats 1961 ch 617 § 14; Amended Stats 1974 ch 1503 § 14; Stats 2005 ch 698 § 11 (AB 820), effective January 1, 2006; Stats 2007 ch 285 § 37 (AB 1729), effective January 1, 2008.

§ 2189. Confinement and destruction of live nonnative wild animals unlawfully imported into state

(a) As used in this section "nonnative wild animal" means any nonnative animal species, or hybrid thereof, that is not normally domesticated pursuant to this code or regulations adopted pursuant thereto and that is not designated as a furbearing, game, nongame, threatened, or endangered animal.

(b) No person shall import into this state any live nonnative wild animal except pursuant to this chapter or regulations adopted pursuant thereto.

(c) Any live nonnative wild animal that is possessed or transported within this state in violation of this chapter or regulations adopted pursuant thereto shall be disposed of in accordance with regulations adopted pursuant to Section 2122, at the expense of the owner or possessor. The owner or possessor shall pay the costs associated with the seizure, care, holding, transfer, and destruction of the animal.

(d) Any live, nonnative wild animal found at large within this state shall be either summarily destroyed or, if captured, shall be confined for not less than 72 hours following notification of the local humane society. Any local, state, or federal governmental agency that has public safety responsibilities is authorized to implement this subdivision.

(e) If, during the 72-hour holding period, any person claims ownership of the animal, that person shall only be allowed to dispose of the animal pursuant to subdivision (c).

(f) After the 72-hour holding period, if the animal is unclaimed, it shall be disposed of in accordance with regulations adopted pursuant to Section 2122 unless the animal is listed as a threatened or endangered species by either state or federal regulation. Notwithstanding subdivision (c), if the animal is listed as a threatened or endangered species in either regulation, the department shall be notified of the animal's location and the department shall be responsible for proper disposition.

HISTORY:
Added Stats 1989 ch 431 § 3. Amended Stats 2007 ch 285 § 38 (AB 1729), effective January 1, 2008.

§ 2190. Liberation, shipment, or transportation of confined wild animals

It is unlawful for any person who keeps in confinement, with or without a permit, any wild animal of a species enumerated in or designated pursuant to Section 2118, to liberate, ship, or transport the animal except in accordance with the conditions of a permit first obtained from the department.

HISTORY:
Enacted 1957 as § 2189. Amended and renumbered Stats 1961 ch 617 § 18.

§ 2192. Construction of regulations regarding standards for caging of wild animals

Notwithstanding Part 2.5 (commencing with Section 18900) of Division 13 of the Health and Safety Code, Section 11356 of the Government Code, or any other provision of law, regulations of the commission relating to the construction, fixtures, and other minimum caging standards adopted by the commission for the confinement of live wild animals pursuant to this chapter are not building standards subject to the approval of the State Building Standards Commission.

HISTORY:
Added Stats 1990 ch 743 § 1 (AB 3675), effective September 10, 1990. Amended Stats 2007 ch 285 § 39 (AB 1729), effective January 1, 2008.

§ 2193. Permitholder to report escape or release of wild animal; Liability for recapture expenses; Adoption of regulations establishing specified notification criteria

(a) Every person who holds a permit issued pursuant to Section 2150 shall immediately report by telephone the intentional or unintentional escape or release of the wild animal, to the department and the nearest enforcing officer of the city or county in which the wild animal was released or escaped. The permitholder shall be liable for all expenses associated with efforts to recapture the wild animal. For the purposes of this subdivision, the exhibition of a wild animal on a movie set, film set, television set, still photography set, or any other professional activity allowable under a permit issued pursuant to Section 2150, does not constitute an intentional or unintentional escape or release of the wild animal unless the person exhibiting the wild animal has lost control of the wild animal.

(b) The commission shall promulgate regulations establishing the criteria for permitholders to notify the department prior to taking possession of or transferring an animal and upon the death of an animal.

(c) These regulations shall be developed and adopted by the commission on or before January 1, 2007.

HISTORY:
Added Stats 2005 ch 698 § 12 (AB 820), effective January 1, 2006.

§ 2195. Civil action by new custodian of confiscated wild animal; Liability of prior owner

When a wild animal enumerated in, or designated pursuant to, Section 671 of Title 14 of the California Code of Regulations is properly confiscated by the department, the new custodian with whom the animal is placed by the department may bring a civil action to recover the reasonable costs incurred by the custodian for any necessary relocation of the animal to a new facility, any actual and necessary costs to construct new caging to house the animal, and any actual and necessary costs to return the animal to a healthy state, to the extent that the department or new custodian has not already collected the costs

pursuant to paragraphs (1) and (2) of subdivision (d) of Section 2125. The prior owner or possessor from whom the animal was confiscated shall be liable for these costs only if the conditions that led to the animal's confiscation were the result of acts or omissions of the prior owner or possessor.

HISTORY:
Added Stats 2005 ch 698 § 13 (AB 820), effective January 1, 2006.

ARTICLE 4. MAMMALS USED FOR HIRE

§ 2200. "Mammal"

For purposes of this article, "mammal" means any wild animal of the class Mammalia as specified in Article 1 (commencing with Section 2116) or regulations adopted pursuant thereto which affects commerce.

HISTORY:
Added Stats 1987 ch 1231 § 2.

§ 2201. Animal Trust Fund

The Animal Trust Fund is hereby established in the State Treasury. Upon appropriation by the Legislature, the money in the fund is available to the department for the administration of this article and to make grants pursuant to Section 2203. The department may use not more than 5 percent of the money in the fund for the costs of administering this article.

HISTORY:
Added Stats 1987 ch 1231 § 2.

§ 2202. Grants and donations

The department may seek grants and accept donations from private and public organizations and agencies for the purposes of this article for deposit in the Animal Trust Fund.

HISTORY:
Added Stats 1987 ch 1231 § 2.

§ 2203. Adoption of regulations to establish and administer grant program

(a) The director, with the advice of the committee established pursuant to Section 2150.3, shall adopt regulations to establish and administer a grant program, including eligibility criteria, by which persons or governmental agencies who operate facilities to care and shelter mammals may apply for grants for maintenance, operations, and capital improvements. The program shall include provisions for emergency grants with an expedited review process.

(b) Each member of the committee who is eligible to receive per diem and mileage shall be allowed per diem and mileage in accordance with the rules of the Department of Human Resources for attending any meeting of the committee involving this article.

HISTORY:
Added Stats 1987 ch 1231 § 2. See this section as modified in Governor's Reorganization Plan No. 1 § 32 of 2011. Amended Stats 2012 ch 665 § 14 (SB 1308), effective January 1, 2013.

ARTICLE 5. CIRCUS CRUELTY PREVENTION ACT

§ 2207. Citation of article

This article shall be known, and may be cited, as the Circus Cruelty Prevention Act.

HISTORY:
Added Stats 2019 ch 768 § 1 (SB 313), effective January 1, 2020.

§ 2208. Definition

(a) For purposes of this article, except as provided in subdivision (b), the term "circus" means a performance before a live audience in which entertainment consisting of a variety of acts, such as acrobats, aerialists, clowns, jugglers, or stunts, is the primary attraction or principal business.

(b) The term "circus" does not include a rodeo, as defined in Section 596.7 of the Penal Code.

HISTORY:
Added Stats 2019 ch 768 § 1 (SB 313), effective January 1, 2020.

§ 2209. Animals permitted to be used in circus

(a) Notwithstanding any other law, a person shall not sponsor, conduct, or operate a circus in this state that uses any animal other than a domestic dog, domestic cat, or domesticated horse.

(b) Notwithstanding any other law, a person shall not exhibit or use any animal other than a domestic dog, domestic cat, or domesticated horse in a circus in this state.

HISTORY:
Added Stats 2019 ch 768 § 1 (SB 313), effective January 1, 2020.

§ 2210. Penalties

(a) In addition to any other penalty provided by law, a person who violates this article, or any rule or regulation adopted pursuant to this article, shall be liable for a civil penalty of no more than twenty-five thousand dollars ($25,000) for each day the person is in violation.

(b) An action against a person who violates this article, or any rule or regulation adopted pursuant to this article, may be brought by the Attorney General, the department, the Department of Food and Agriculture, a district attorney, a city attorney, or a city prosecutor in a city or city and county that has a full-time city prosecutor.

(c) Civil penalties collected pursuant to this section shall be deposited according to the following:

(1)(A) Subject to subparagraph (B), moneys collected by the Attorney General shall be deposited in the General Fund.

(B) If the department, as the investigating agency, refers the matter to the Attorney General for prosecution, 50 percent of the moneys collected shall be deposited in the Fish and Game Preservation Fund and 50 percent shall be deposited in the General Fund.

(2) Moneys collected by the department shall be deposited in the Fish and Game Preservation Fund. The moneys collected pursuant to this section shall be allocated, upon appropriation by the Legislature, to the department for law enforcement purposes.

(3) Moneys collected by the Department of Food and Agriculture shall be deposited in the Circus Cruelty Prevention Account, which is hereby created in the Department of Food and Agriculture Fund, created pursuant to Section 221 of the Food and Agricultural Code. Moneys in the Circus Cruelty Prevention Account shall be available, upon appropriation by the Legislature, to the Department of Food and Agriculture for the purposes of enforcing this chapter.

(4)(A) Subject to subparagraph (B), moneys collected by a district attorney, a city attorney, or a city prosecutor in a city or city and county that has a full-time city prosecutor shall be deposited in that city's, county's, or city and county's general fund.

(B) If the department, as the investigating agency, refers the matter to the office of a prosecutor described in subparagraph (A), 50 percent of the moneys collected shall be deposited in the Fish and Game Preservation Fund and 50 percent shall be deposited in the city's, county's, or city and county's general fund.

HISTORY:
Added Stats 2019 ch 768 § 1 (SB 313), effective January 1, 2020.

CHAPTER 3. IMPORTATION AND TRANSPORTATION OF LIVE PLANTS AND ANIMALS

ARTICLE 1. BIRDS

§ 2225. Transportation of specified birds

Except as otherwise provided, it is unlawful for any common carrier to transport any live protected nongame bird or any live resident or migratory game bird for which there is no open season.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 28.

ARTICLE 2. MAMMALS

§ 2250. Importation, transportation or possession of muskrats; Authorized removal or destruction

It is unlawful to import or transport any live muskrat (genus Ondatra) into, or possess any live muskrat in, California except under permit issued by the department pursuant to Section 2118, or as otherwise provided by law. A county agricultural commissioner, fish and game deputy, or state plant quarantine officer may enter upon lands or waters west of the crest of the Cascade-Sierra Nevada mountain system, and west and south of the Tehachapi, Liebre, San Gabriel, San Bernardino, San Jacinto, Cuyamaca, and connected mountains south to the international boundary, or in any watershed tributary to, or draining into, the Pacific Ocean to remove or destroy the muskrats.

HISTORY:
Enacted 1957. Amended Stats 2003 ch 610 § 8 (AB 1770); Stats 2011 ch 296 § 101 (AB 1023), effective January 1, 2012.

ARTICLE 3. AQUATIC PLANTS AND ANIMALS

§ 2270. Importation from place where infection exists

It is unlawful for any person to receive, bring, or cause to be brought into this state, for the purpose of propagation, any fish, reptile, amphibian, or aquatic plant from any place wherein any infected, diseased, or parasitized fish, reptile, amphibia, or aquatic plants are known to exist.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 4.

§ 2270.5. Importation for approved aquaculture purposes as exempt from restriction

Section 2270 does not apply to the importation of live aquatic plants or animals for aquaculture purposes by a registered aquaculturist if the importation has been approved by the department pursuant to Section 15600.

HISTORY:
Added Stats 1984 ch 1686 § 3, effective September 30, 1984.

§ 2271. Prior written approval; Exceptions

(a) No live aquatic plant or animal may be imported into this state without the prior written approval of the department pursuant to regulations adopted by the commission. A written application for the importation, submitted in conformance with the procedural requirements established by the commission, is deemed approved where it has not been denied within 60 days.

(b) This section does not apply to the following plants or animals unless the plants or animals are or may be placed in waters of the state:

(1) Mollusks.

(2) Crustaceans.

(3) Ornamental marine or freshwater plants and animals that are not utilized for human consumption or bait purposes and are maintained in closed systems for personal, pet industry, or hobby purposes.

(c) The section does not apply to any live aquatic plant or animal imported by a registered aquaculturist.

HISTORY:
Added Stats 1984 ch 85 § 4, effective April 19, 1984.

§ 2272. Tagging of packages

Each package containing any live aquatic plant or animal shall bear, in a conspicuous place, a tag on which shall be stated the name and address of the consignor, the name and address of the consignee, and the exact contents of the package.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 974 § 13; Stats 1984 ch 85 § 5, effective April 19, 1984.

CHAPTER 3.5. AQUATIC INVASIVE SPECIES

§ 2300. Prohibitions relating to specified salt water algae species; Exceptions; Penalties

(a) No person shall sell, possess, import, transport, transfer, release alive in the state, or give away without consideration the salt water algae of the Caulerpa species: taxifolia, cupressoides, mexicana, sertulariodes, floridana, ashmeadii, racemosa, verticillata, and scapelliformis.

(b) Notwithstanding subdivision (a), a person may possess, for bona fide scientific research, as determined by the department, upon authorization by the department, the salt water algae of the Caulerpa species: taxifolia, cupressoides, mexicana, sertulariodes, floridana, ashmeadii, racemosa, verticillata, and scapelliformis.

(c) In addition to any other penalty provided by law, any person who violates this section is subject to a civil penalty of not less than five hundred dollars ($500) and not more than ten thousand dollars ($10,000) for each violation.

HISTORY:
Added Stats 2001 ch 338 § 1 (AB 1334), effective September 25, 2001.

§ 2301. Prohibitions relating to dreissenid mussels; Authority of director; Plan to control or eradicate; Penalties [Repealed effective January 1, 2030]

(a)(1) Except as authorized by the department, a person shall not possess, import, ship, or transport in the state, or place, plant, or cause to be placed or planted in any water within the state, dreissenid mussels.

(2) The director or ****the director's* designee may do all of the following:

(A) Conduct inspections of conveyances, which include vehicles, boats and other watercraft, containers, and trailers, that may carry or contain adult or larval dreissenid mussels. Included as part of this authority to conduct inspections is the authority to temporarily stop conveyances that may carry or contain adult or larval dreissenid mussels on any roadway or waterway in order to conduct inspections.

(B) Order that areas in a conveyance that contain water be drained, dried, or decontaminated pursuant to procedures approved by the department.

(C) Impound or quarantine conveyances in locations designated by the department for up to five days or the period of time necessary to ensure that dreissenid mussels can no longer live on or in the conveyance.

(D)(i) Conduct inspections of waters of the state and facilities located within waters of the state that may contain dreissenid mussels. If dreissenid mussels are detected or may be present, the director or ******the director's*** designee may order the affected waters or facilities closed to conveyances or otherwise restrict access to the affected waters or facilities, and shall order that conveyances removed from, or introduced to, the affected waters or facilities be inspected, quarantined, or disinfected in a manner and for a duration necessary to detect and prevent the spread of dreissenid mussels within the state.

(ii) For the purpose of implementing clause (i), the director or ******the director's*** designee shall order the closure or quarantine of, or restrict access to, these waters, areas, or facilities in a manner and duration necessary to detect and prevent the spread of dreissenid mussels within the state. ******A*** closure, quarantine, or restriction shall ***not*** be authorized by the director or ******the director's*** designee without the concurrence of the Secretary of the Natural Resources Agency. If a closure lasts longer than seven days, the department shall update the operator of the affected facility every 10 days on efforts to address the dreissenid ***mussel*** infestation. The department shall provide these updates in writing and also post these updates on the department's ******internet website*** in an easily accessible manner.

(iii) The department shall develop procedures to ensure proper notification of affected local and federal agencies, and, as appropriate, the Department of Water Resources, the Department of Parks and Recreation, and the State Lands Commission in the event of a decision to close, quarantine, or restrict a facility pursuant to this paragraph. These procedures shall include the reasons for the closure, quarantine, or restriction, and methods for providing updated information to those affected. These procedures shall also include protocols for the posting of the notifications on the department's ******internet website*** required by clause (ii).

(iv) When deciding the scope, duration, level, and type of restrictions, and specific location of a closure or quarantine, the director shall consult with the agency, entity, owner, or operator with jurisdiction, control, or management responsibility over the marina, boat launch facility, or other facility, in order to focus the closure or quarantine to specific areas and facilities so as to avoid or minimize disruption of economic or recreational activity in the vicinity.

(b)(1) Upon a determination by the director that it would further the purposes of this section, other state agencies, including, but not limited to, the Department of Parks and Recreation, the Department of Water Resources, the Department of Food and Agriculture, and the State Lands Commission, may exercise the authority granted to the department in subdivision (a).

(2) A determination made pursuant to paragraph (1) shall be in writing and shall remain in effect until withdrawn, in writing, by the director.

(c)(1) Except as provided in paragraph (2), Division 13 (commencing with Section 21000) of the Public Resources Code does not apply to the implementation of this section.

(2) An action undertaken pursuant to subparagraph (B) of paragraph (2) of subdivision (a) involving the use of chemicals other than salt or hot water to decontaminate a conveyance or a facility is subject to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d)(1) A public or private agency that operates a water supply system shall cooperate with the department to implement measures to avoid infestation by dreissenid mussels and to control or eradicate any infestation that may occur in a water supply system. If dreissenid mussels are detected, the operator of the water supply system, in cooperation with the department, shall prepare and implement a plan to control or eradicate dreissenid mussels within the system. The approved plan shall contain the following minimum elements:

(A) Methods for delineation of infestation, including both adult mussels and veligers.

(B) Methods for control or eradication of adult mussels and decontamination of water containing larval mussels.

(C) A systematic monitoring program to determine any changes in conditions.

(D) The requirement that the operator of the water supply system permit inspections by the department as well as cooperate with the department to update or revise control or eradication measures in the approved plan to address scientific advances in the methods of controlling or eradicating mussels and veligers.

(2) If the operator of water delivery and storage facilities for public water supply purposes has prepared, initiated, and is in compliance with all the elements of an approved plan to control or eradicate dreissenid mussels in accordance with paragraph (1), the requirements of subdivision (a) do not apply to the operation of those water delivery and storage facilities, and the operator is not subject to any civil or criminal liability for the introduction of dreissenid mussel species as a result of those operations. The department may require the operator of a facility to update its plan, and if the plan is not updated or revised as described in subparagraph (D) of paragraph (1), subdivision (a) shall apply to the operation of the water delivery and storage facilities covered by the plan until the operator updates or revises the plan and initiates and complies with all of the elements of the updated or revised plan.

(e) Any entity that discovers dreissenid mussels within this state shall immediately report the discovery to the department.

(f)(1) In addition to any other penalty provided by law, any person who violates this section, violates any verbal or written order or regulation adopted pursuant to this section, or who resists, delays, obstructs, or interferes with the implementation of this section, is subject to a penalty, in an amount not to exceed one thousand dollars ($1,000), that is imposed administratively by the department.

(2) A penalty shall not be imposed pursuant to paragraph (1) unless the department has adopted regulations specifying the amount of the penalty and the procedure for imposing and appealing the penalty.

(g) The department may adopt regulations to carry out this section.

(h) Pursuant to Section 818.4 of the Government Code, the department and any other state agency exercising authority under this section shall not be liable with regard to any determination or authorization made pursuant to this section.

(i) This section shall remain in effect only until January 1, ***2030, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ***2030, deletes or extends that date.

HISTORY:

Added Stats 2007 ch 419 § 4 (AB 1683), effective October 10, 2007, repealed January 1, 2012. Amended Stats 2010 ch 152 § 2 (AB 1929), effective January 1, 2011, repealed January 1, 2012. Stats 2011 ch 332 § 1 (SB 215), effective January 1, 2012, repealed January 1, 2017. See this section as modified in Governor's Reorganization Plan No. 2 of 2012 § 69. Amended Stats 2013 ch 352 § 95 (AB 1317), effective September 26, 2013, operative July 1, 2013, repealed January 1, 2017; Stats 2016 ch 201 § 9 (AB 2549), effective January 1, 2017, repealed January 1, 2020.; Stats 2016 ch 201 § 9 (AB 2549), effective January 1, 2017, repealed January 1, 2020; Stats 2019 ch 469 § 1 (SB 785), effective January 1, 2020, repealed January 1, 2030.

§ 2302. Nonnative dreissenid mussel; Prevention of introduction into reservoirs; Applicability; Enforcement

(a) Any person, or federal, state, or local agency, district, or authority that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, where recreational, boating, or fishing activities are permitted, except a privately owned reservoir that is not open to the public, shall do both of the following:

(1) Assess the vulnerability of the reservoir for the introduction of nonnative dreissenid mussel species.

(2) Develop and implement a program designed to prevent the introduction of nonnative dreissenid mussel species.

(b) The program shall include, at a minimum, all of the following:

(1) Public education.

(2) Monitoring.

(3) Management of those recreational, boating, or fishing activities that are permitted.

(c) Any person, or federal, state, or local agency, district, or authority, that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, where recreational, boating, or fishing activities of any kind are not permitted, except a privately owned reservoir that is not open to the public, shall, based on its available resources and staffing, include visual monitoring for the presence of mussels as part of its routine field activities.

(d) Any entity that owns or manages a reservoir, as defined in Section 6004.5 of the Water Code, except a privately owned reservoir that is not open to the public for recreational, boating, or fishing activities, may refuse the planting of fish in that reservoir by the department unless the department can demonstrate that the fish are not known to be infected with nonnative dreissenid mussels.

(e) Except as specifically set forth in this section, this section applies both to reservoirs that are owned or managed by governmental entities and reservoirs that are owned or managed by private persons or entities.

(f) Violation of this section is not subject to the sanctions set forth in Section 12000. In lieu of any other penalty provided by law, a person who violates this section shall, instead, be subject to a civil penalty, in an amount not to exceed one thousand dollars ($1,000) per violation, that is imposed administratively by the department. To the extent that sufficient funds and personnel are available to do so, the department may adopt regulations establishing procedures to implement this subdivision and enforce this section.

(g) This section shall not apply to a reservoir in which nonnative dreissenid mussels have been detected.

HISTORY:

Added Stats 2008 ch 667 § 2 (AB 2065), effective January 1, 2009. Amended Stats 2009 ch 140 § 73 (AB 1164), effective January 1, 2010.

CHAPTER 4. IMPORTATION AND TRANSPORTATION OF DEAD BIRDS, MAMMALS, FISH, REPTILES, AND AMPHIBIA

ARTICLE 1. DEAD WILD BIRDS, MAMMALS, FISH, REPTILES, AND AMPHIBIA

§ 2345. Application of article

This article applies to all dead wild birds, mammals, fish, reptiles, and amphibians. This article also applies to live mollusks and crustaceans that are transported for purposes other than placement in the waters of this state. This article does not apply to

animals imported for purposes of aquaculture under Division 12 (commencing with Section 15000).

HISTORY:
Enacted 1957. Amended Stats 1982 ch 1486 § 6; Stats 2007 ch 285 § 40 (AB 1729), effective January 1, 2008.

§ 2346. Transportation of more than bag limit unlawful

It is unlawful for a common carrier or his or her agent to transport for, or to receive for transportation from, any one person, during any interval of time, more than the bag limit of birds, mammals, fish, reptiles, or amphibians that may legally be taken and possessed by that person during that interval.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 41 (AB 1729), effective January 1, 2008.

§ 2347. Offering for transportation of more than bag limit unlawful

It is unlawful for any person to offer for transportation by common carrier during any interval of time more than the bag limit of birds, mammals, fish, reptiles, or amphibians that may legally be taken and possessed by that person during that interval.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 42 (AB 1729), effective January 1, 2008.

§ 2348. Shipment; Marking containers; Application to licensed commercial fishermen and dealers

(a) The outside of a package offered to or received by a common carrier or the carrier's agent for transportation, or transported by a common carrier or agent, that contains a bird, mammal, fish, reptile, or amphibian, shall clearly and conspicuously indicate the following:

(1) The name and address of the shipper.

(2) The name and address of the consignee.

(3) The number and kind of bird, mammal, fish, reptile, and amphibian contained in the package.

(b) Licensed commercial fishermen and licensed commercial fish dealers are subject to all of the provisions of this section, except that commercial shipments of fish may be indicated by total net weight of each species instead of by numbers.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 43 (AB 1729), effective January 1, 2008; Stats 2015 ch 154 § 52 (AB 1527), effective January 1, 2016.

§ 2349. Parcel post shipments

No bird, mammal, fish, reptile, or amphibian, except smoked, cured, or dried fish other than trout, may be shipped by parcel post.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 44 (AB 1729), effective January 1, 2008.

§ 2350. Transportation of deer and game birds out of state unlawful; Exceptions

It is unlawful to transport or carry a deer or game bird out of this state, except by the holder of a nonresident hunting license or under a written permit issued by the department.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 53 (AB 1527), effective January 1, 2016.

§ 2352. Transportation of specified birds

Except as permitted by this code, it is unlawful for any common carrier to transport any protected nongame bird, or to transport any resident or migratory game bird for which there is no open season.

HISTORY:
Enacted 1957. Amended 1957 ch 1972 § 29.

§ 2353. Importation

(a) Birds, mammals, fish, reptiles, or amphibians shall not be imported or possessed in this state unless all of the following requirements are met:

(1) The animals were legally taken and legally possessed outside of this state.

(2) This code and regulations adopted pursuant thereto do not expressly prohibit their possession in this state.

(3) A declaration is submitted to the department or a designated state or federal agency at or immediately before the time of entry, in the form and manner prescribed by the department.

(b) Birds, mammals, fish, reptiles, or amphibians legally taken and legally possessed outside of this state may be imported into this state and possessed without a declaration if the shipment is handled by a common carrier under a bill of lading or as supplies carried into this state by common carriers for use as food for the passengers.

(c) The commission and the department shall not modify this section by any regulation that would prohibit the importation of lawfully killed migratory game birds taken in any other state or country and transported into this state pursuant to the migratory bird regulations adopted annually by the Secretary of the Interior.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 432 § 1; Stats 1961 ch 1128 § 1; Stats 1965 ch 695 § 1; Stats 1972 ch 974 § 16; Stats 1980 ch 1006 § 1; Stats 1989 ch 558 § 1; Stats 2007 ch 285 § 45 (AB 1729), effective January 1, 2008.

§ 2354. Exportation of marlin meat

Marlin meat may not be transported out of this State.

HISTORY:
Enacted 1957.

§ 2355. Importation of deer

Deer may be transported into this State only when in accordance with the law of the state in which the deer was taken, and when in accordance with the law of this State and the regulations of the commission adopted pursuant thereto.

HISTORY:
Enacted 1957.

§ 2356. Exportation of trout; Exception

It is unlawful at any time to offer for shipment, ship, or receive for shipment, or transport from this state any trout taken in the waters of this state, except that the holder of a nonresident angling license, or any person on active military duty with an auxiliary branch thereof who possesses a valid angling license, may personally transport from this state not more than one daily bag limit of trout.

HISTORY:
Enacted 1957. Amended Stats 1967 ch 425 § 1.

§ 2358. Shipping trout into closed area; Accompanying statement

It is unlawful to ship trout into an area where the season is closed unless the shipment is accompanied by a written statement containing the name and address of, and signed

by, the person taking the trout, and countersigned, for the purpose of identification, by the agent of the carrier to whom the trout are offered for shipment.

HISTORY:
Enacted 1957.

§ 2359. Transportation of striped bass out of or into state; Exception

Except as provided in Section 2363, no striped bass may be transported or carried out of or into this state, except striped bass taken from the Colorado River by sportfishing licensees to the extent and in the manner following:

(a) A resident of California, or the holder of a valid nonresident California sportfishing license, lawfully taking such fish on the waters or from the Arizona shore of the river may transport or carry such fish into California.

(b) A resident of Arizona, or the holder of a valid nonresident Arizona sportfishing license, lawfully taking such fish on the waters or from the California shore of the river may transport or carry such fish into Arizona.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 591 § 1; Stats 1983 ch 1300 § 1.

§ 2360. Transportation and possession of black and spotted bass in area where season closed

Black bass and spotted bass lawfully taken may be carried or transported into and possessed in an area where the season is closed.

HISTORY:
Enacted 1957.

§ 2361. Importation of salmon for commercial purposes; Minimum length requirements

It is unlawful to import into this state for commercial purposes any salmon of smaller size than can be legally taken under regulations of either the Pacific Fishery Management Council or the state of landing. Such prohibition does not apply to domestically reared salmon as defined by commission regulations to include salmon which have returned to a hatchery or licensed artificial collection facility. Such domestically reared salmon may be imported under regulations established by the commission.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 487 § 1; Stats 1978 ch 662 § 1.

§ 2362. Delivery to California ports of yellowtail, barracuda, and white sea bass; Inspection and marking; Costs

Yellowtail, barracuda, and white seabass taken in waters lying south of the maritime boundary line between the United States and Mexico, with that maritime boundary line including, but not limited to, the federal Exclusive Economic Zone boundary, may be delivered to California ports aboard boats, including boats carrying purse seine or round haul nets in accordance with those regulations as the commission may make governing the inspection and marking of those fish imported into this state. The cost of that inspection and marking shall be paid by the importer. Fish taken in Mexico shall not be imported unless legally taken and legally possessed and a declaration is submitted to the department pursuant to Section 2353.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 46 (AB 1729), effective January 1, 2008.

§ 2363. Importation of striped bass, sturgeon, or shad

Striped bass, sturgeon, or shad legally taken in another state that permits the sale of that fish may be imported into this state under regulations of the commission. Before the

commission adopts any regulation pursuant to this section, a public hearing shall be held in the San Francisco or Sacramento area.

HISTORY:
Enacted 1957. Amended Stats 1983 ch 1300 § 2; Stats 2015 ch 154 § 54 (AB 1527), effective January 1, 2016.

§ 2364. Importation of crab meat

Crab meat from outside the State may be imported into the State under regulations of the commission.

HISTORY:
Enacted 1957.

§ 2365. Importation of spiny lobsters after closing of state season; Possession and sale; Costs

Spiny lobsters may be imported into California until the twenty-sixth day after the close of the California season. Lobsters imported into California and lobsters legally taken in California during the open season prescribed in this code may be possessed and sold during the closed season, subject to the regulations of the commission.

The cost of inspection and marking, under the regulations of the commission, shall be paid by the importer or owner of the lobsters.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1381 § 3.

§ 2368. Shipment of pismo clams unauthorized

No pismo clam taken in this State may be shipped.

HISTORY:
Enacted 1957.

§ 2369. Importation of pismo clams; Regulations governing inspection and marking

Pismo clams taken outside this state may be imported into this state when accompanied by a United States customhouse entry certificate showing their place of origin, and a certificate or clearance from the responsible governmental agency to the effect that such shipment was made in compliance with the laws and regulations of the place or country of origin. Such pismo clams may be canned and shipped outside this state.

The commission may prescribe regulations governing the inspection and marking of pismo clams imported into this state. The cost of such inspection and marking shall be paid by the importer of the pismo clams.

HISTORY:
Enacted 1957. Amended Stats 1967 ch 462 § 1; Stats 1972 ch 51 § 1.

§ 2371. Importation of abalone; Certificate for clearance

Abalone or abalone meat legally taken outside this state may be imported into this state when accompanied by a United States customhouse entry certificate showing the place of origin, and a certificate or clearance from the responsible governmental agency to the effect that such shipment was made in compliance with the laws and regulations of the place or country of origin, and such abalone or abalone meat may be possessed in this state and shipped or transported out of the state, but all containers of such abalone shall be marked with the abalone's place or country of origin.

HISTORY:
Added Stats 1967 ch 462 § 2.

ARTICLE 2. DEAD DOMESTICATED BIRDS AND MAMMALS

§ 2400. Transportation; Tagging or labeling

(a) A common carrier may transport the carcass of a dead domesticated game bird or mammal tagged with a domesticated game breeder's tag as provided in Article 1 (commencing with Section 3200) of Chapter 2 of Part 1 of Division 4.

(b) A tag or label shall be affixed to every package containing a carcass transported pursuant to subdivision (a), which shall state all of the following:

(1) The names of the person to whom the game breeder's license was issued, the person who killed the game bird or mammal, the person to whom the game bird or mammal is consigned, and the person who tagged the game bird or mammal.

(2) The number of carcasses or portions thereof contained in the package.

(3) That the game birds or mammals were killed and tagged in accordance with the provisions of Article 1 (commencing with Section 3200) of Chapter 2 of Part 1 of Division 4.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 55 (AB 1527), effective January 1, 2016.

§ 2401. Importation of game birds and mammals raised outside state; Transportation, possession and sale; Labeling

Notwithstanding the provisions of Section 3206, the carcasses or parts of domesticated game birds which have been raised outside of this State may be imported into this State, and transported, sold, or possessed in this State.

Common carriers may receive and transport such carcasses or parts at any time. A label shall be affixed to every package containing such carcasses or parts with the following data plainly written or printed thereon:

(a) The names and addresses of the consignor and consignee.

(b) The number and kinds of carcasses or parts thereof.

(c) A statement that the contents are carcasses or parts of domesticated game birds raised outside this State.

HISTORY:
Enacted 1957.

CHAPTER 5. HUNTING AND FISHING GUIDES

§ 2535. "Guide"

As used in this chapter, "guide" means any person who is engaged in the business of packing or guiding, or who, for a fee, assists another person in taking or attempting to take any bird, mammal, fish, amphibian, or reptile. "Guide" also includes any person who, for profit, transports other persons, their equipment, or both to or from a hunting or fishing area.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 538 § 1; Stats 1986 ch 750 § 1; Stats 2007 ch 285 § 47 (AB 1729), effective January 1, 2008.

§ 2536. Guide licensing requirements; Exemption for licensee's employees

(a) It is unlawful for any person to engage in the business of guiding or packing, or to act as a guide for any consideration or compensation whatever, without first having secured a guide license from the department.

(b) An employee of a licensee who acts as a guide only in connection with, and within the scope of, his or her employment is exempt from the requirement of subdivision (a) if all of the following conditions are met:

(1) If the employment is subject to and the person is reported to the carrier of the employer's workers' compensation insurance.

(2) If the person is subject and reported to the state and federal taxing authorities for withholding of income tax.

(3) If the person is reported to the department, on forms provided by the department, as an employee of the guide prior to any contact with any person being guided, and a registration fee has been paid. The base fee for an employee guide registration for the 2004 license year shall be thirty-three dollars ($33), which shall be adjusted annually thereafter pursuant to Section 713.

(c) A person who is licensed in another state to provide guide services for the purposes of fishing is exempt from the requirements of subdivision (a) if all of the following conditions are met:

(1) The state in which the person is licensed grants a similar exemption to licensed guides who are residents of this state.

(2) Evidence of a valid guide license is provided to the department upon request.

(3) The person is engaged in the business of guiding only in conjunction with and during the term of a multistate fishing tournament approved by the appropriate agency in each of the affected states.

(4) The tournament sponsor provides to the department any information or documents necessary to administer and enforce this paragraph, as determined by the department, including, but not limited to, the identities of all guides participating in the tournament, verification of another state's license exemption, and information sufficient to determine the validity of another state's guide licenses.

(5) The tournament sponsor pays the department an amount, determined by the department, to be sufficient to cover the department's cost to administer and enforce this subdivision.

(6) The net proceeds of the tournament are used for resource management projects or habitat improvement projects, or both.

(d) The commission shall adjust the amount of the fees specified in paragraph (3) of subdivision (b), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 538 § 2; Stats 1986 ch 750 § 2; Stats 1989 ch 557 § 1; Stats 2003 ch 741 § 5 (SB 1049); Stats 2012 ch 559 § 19 (AB 2402), effective January 1, 2013.

§ 2537. Exemption for commercial passenger fishing boat licensees

A person operating under a commercial passenger fishing boat license issued pursuant to Section 7920 is not required to obtain a guide license.

HISTORY:
Added Stats 1986 ch 750 § 4.

§ 2538. Application for guide license; Contents

An application for a guide license shall be on a form furnished by the department on request. The application shall show all of the following:

(a) The name, date of birth, physical description, age, address, and telephone number, if any, of the applicant.

(b) The area or areas of the state in which the applicant proposes to operate.

(c) The type of guiding or packing in which the applicant proposes to engage.

(d) The experience which qualifies the applicant for the type of guiding or packing he or she proposes to conduct.

(e) The type and amount of the equipment, vehicles, animals, and other property the applicant proposes to use in his or her operations.

(f) Any other information that the department or the commission may require.

HISTORY:
Enacted 1957 as § 2537. Amended Stats 1974 ch 538 § 3; Amended and Renumbered Stats 1986 ch 750 § 3.

§ 2539. Grazing permit requirement; Permit required for use of federal lands

If the licensee operates with pack or riding animals in any area in which a grazing permit is required, the license is not valid unless the holder thereof has a valid grazing permit for the area. A licensee shall not guide clients on any lands under the jurisdiction of the United States Department of the Interior or Department of Agriculture where permits are required without first obtaining the permit from that federal agency.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 538 § 4; Stats 1986 ch 750 § 6.

§ 2540. Guide license fees; Term of license

(a) The base fee for a guide license issued to a resident is one hundred fifty dollars ($150).

(b) The base fee for a guide license issued to a nonresident is three hundred fifty dollars ($350).

(c) A guide license is valid for the license year beginning on February 1 and ending on January 31 of the succeeding year or, if issued after the beginning of the license year, for the remainder of that license year.

(d) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(e) The commission shall adjust the amount of the fees specified in subdivisions (a), (b), and (d), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 538 § 5; Stats 1985 ch 1463 § 9; Stats 1986 ch 750 § 7; Stats 2003 ch 741 § 6 (SB 1049); Stats 2012 ch 559 § 20 (AB 2402), effective January 1, 2013.

§ 2541. Proof of surety bond required

Each applicant for a guide license shall submit proof of having obtained a surety bond in the amount of not less than one thousand dollars ($1,000) which shall insure faithful performance of the guide and his or her agents or employees in fulfilling their responsibilities to their clients. No guide license shall be issued to any applicant who does not submit proof of having a bond which is valid for the term of the license.

HISTORY:
Added Stats 1974 ch 538 § 6 as § 2542. Amended Stats 1979 ch 1076 § 4; Renumbered and amended Stats 1986 ch 750 § 9; Amended Stats 1987 ch 200 § 2, effective July 23, 1987.

§ 2542. Regulations governing conduct and qualifications of guides

The commission shall adopt regulations governing the conduct and qualifications of guides to ensure the safety and welfare of persons engaging the services of a guide, and may adopt regulations governing the procedures for applications for guide licenses. The qualifications shall include, but not be limited to, knowledge of basic first aid and rescue operations.

HISTORY:
Added Stats 1986 ch 750 § 10.

§ 2543. Recordkeeping requirements

The commission may require licensed guides to maintain and submit records of their

operations. The records may be examined at any time by representatives of the department. It is unlawful for any licensed guide to fail to maintain or submit any required records or to refuse to allow the examination of the records upon the request of a department representative.

HISTORY:
Added Stats 1974 ch 538 § 9 as § 2545. Renumbered and amended Stats 1986 ch 750 § 13.

§ 2544. Grounds for refusal of license

The department may refuse to issue a guide license to an applicant upon a showing of any of the following:

(a) The applicant has failed to fulfill his responsibilities to a client.

(b) The applicant has violated this code or any regulation adopted pursuant thereto, or has knowingly permitted a client or another member of a party being guided to violate this code or any regulation adopted pursuant thereto and the applicant had the authority and means to prevent the violation.

HISTORY:
Added Stats 1974 ch 538 § 10 as § 2546. Renumbered and Amended Stats 1986 ch 750 § 15.

§ 2545. Denial of license; Hearing

An applicant denied a guide license by the department may request a hearing before the commission and the commission shall determine whether or not the license shall be issued.

HISTORY:
Added Stats 1986 ch 750 § 14.

§ 2546. Revocation of license

The commission may revoke a guide license or the privilege to guide upon a showing of any of the following:

(a) The licensee has been convicted of a violation of this code or any regulation adopted pursuant thereto.

(b) The licensee has knowingly permitted a client or other member of the party being guided to violate this code or any regulation adopted pursuant thereto and that the licensee had the authority and means to prevent the violation.

(c) The licensee has failed to fulfill his or her responsibilities to a client.

HISTORY:
Added Stats 1974 ch 538 § 8 as § 2544. Renumbered and amended Stats 1986 ch 750 § 12.

CHAPTER 6. CAPTURE, TRANSPORT OR SALE OF WILD RODENTS

§ 2575. "Wild rodents"

"Wild rodents" as used in this chapter means wild ground squirrels, chipmunks, rats, mice or any other members of the order Rodentia native to California except muskrats and beavers.

HISTORY:
Added Stats 1971 ch 428 § 1.

§ 2576. Prohibited capture, transport, or sale

It is unlawful to knowingly capture for sale, transport for sale or sell wild rodents, except as provided in Article 1.5 (commencing with Section 1000) of Chapter 3 of Division 2.

HISTORY:
Added Stats 1971 ch 428 § 1.

CHAPTER 6.5. CONTROL OF ILLEGALLY TAKEN FISH AND WILDLIFE

§ 2580. "Qualified hearing officer"; "Transport"

The definitions in this section govern the construction of this chapter.

(a) "Qualified hearing officer" means an attorney admitted to the State Bar of California who is knowledgeable in fish and wildlife law.

(b) "Transport" means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2581. Lawful loss from forestry, agricultural, development, or maintenance activities

If the loss is lawful under this code and regulations adopted under this code, this chapter does not apply to the loss of any bird, mammal, amphibian, reptile, or fish as a result of any of the following acts:

(a) Implementing lawful forestry practices.

(b) Implementing lawful agricultural practices.

(c) Any development or maintenance activity carried out pursuant to the terms of a permit issued by the federal government, the state, or any city, county, or district, or any agency thereof.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2582. Prohibited acts

(a) The department may impose civil liability upon any person pursuant to this chapter for any of the following acts done for profit or personal gain:

(1) Unlawfully export, import, transport, sell, possess, receive, acquire, or purchase, or unlawfully assist, conspire, or aid in the importing, exporting, transporting, sale, possession, receiving, acquisition, or purchasing of, any bird, mammal, amphibian, reptile, or fish which are taken or possessed in violation of this code or the regulations adopted pursuant to this code.

(2) Unlawfully export, import, transport, sell, possess, receive, acquire, or purchase, or unlawfully assist, conspire, or aid in the importing, exporting, transporting sale, possession, receiving, acquisition, or purchasing of any plants, insects, or other species listed pursuant to the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050)), which are taken or possessed in violation of this code or the regulations adopted pursuant to this code.

(3) Unlawfully export, import, transport, sell, possess, receive, acquire, or purchase any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish which has been taken, possessed, transported, or sold in violation of this code or the regulations adopted pursuant to this code.

(4) Unlawfully possess any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish which has been taken, possessed, transported, or sold in violation of this code or any regulations adopted pursuant to this code within the maritime and territorial jurisdiction of the state or within the portions of the special maritime jurisdiction of

the United States upon which the State of California exercises concurrent jurisdiction, either by statute, deputization, or by contract with the United States.

(5) Having exported, imported, transported, sold, purchased, or received any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish, unlawfully make or submit any false record, account, label, or identification thereof.

(6) Attempt to commit any unlawful act, or unlawfully attempt to commit any act, described in paragraphs (1) to (5), inclusive.

(b) The department may impose civil liability upon any person pursuant to this chapter for unlawfully exporting, importing, possessing, receiving, or transporting in interstate commerce any container or package containing any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish unless the container or package has previously been plainly marked, labeled, or tagged in accordance with this code and the regulations adopted pursuant to this code.

(c) The department may impose civil liability upon any person pursuant to this chapter for any unlawful failure or refusal to maintain any records or paperwork as required by this code.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2583. Civil penalties

(a) Except as provided in subdivision (b), any person who violates this code or any regulation adopted to carry out this code, and, with the exercise of due care, should have known that the birds, mammals, amphibians, reptiles, or fish, or the endangered or threatened species, or the fully protected birds, mammals, or fish were taken, possessed, transported, imported, received, purchased, acquired, or sold in violation of, or in a manner unlawful under, this code, may be assessed a civil penalty. The civil penalty imposed under this chapter by the department shall not be more than ten thousand dollars ($10,000) for each bird, mammal, amphibian, reptile, or fish, or for each endangered or threatened species, or each fully protected bird, mammal, or fish unlawfully taken, possessed, transported, imported, received, purchased, acquired, or sold. This civil penalty may be in addition to any other penalty, civil or criminal, provided in this code or otherwise by law.

(b) No civil penalties shall be imposed under this chapter until the guidelines for the imposition of the penalties are adopted by the commission pursuant to Section 500.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2584. Consultation with district attorney; Concurrence of Attorney General; Issuance of complaint; Hearing; Assessment of penalty; Review

(a) Upon an actionable violation, the department shall consult, as to the appropriate civil or criminal remedy, with the district attorney in the jurisdiction where the violation was alleged to have occurred. Before proceeding with a civil action, the department shall seek the concurrence of the Attorney General.

(b) The director shall appoint a qualified referee or hearing board, composed of one or any combination of the following persons:

(1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

(2) A retired judge of the Superior Court who is knowledgeable in fish and wildlife law.

(3) A qualified neutral referee, appointed upon petition to the Superior Court in which the violation was alleged to have occurred.

(c) The director, after investigation of the facts and circumstances, may issue a complaint to any person on whom a civil penalty may be imposed pursuant to Section 2582 or 2583. The complaint shall allege the acts or failures to act that constitute a basis for a civil penalty and the amount of the proposed civil penalty. The complaint shall be served by personal service or certified mail and shall inform the person so served that a hearing shall be conducted within 60 days after the person has been served, unless the person waives the right to a hearing. If the person waives the right to a hearing, the department shall issue an order setting liability in the amount proposed in the complaint. If the person has waived the right to a hearing or if the department and the person have entered into a settlement agreement, the order shall be final.

(d) Any hearing required under this section shall be conducted by a referee or hearing board according to the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code, except as otherwise provided in this section. In making a determination, the hearing officer may consider the records of the department in the matter, the complaint, and any new facts brought to his or her attention by that person. The hearing officer shall be the sole trier of fact as to the existence of a basis for liability under Section 2582 or 2583. The hearing officer shall make the determination of the facts of the case and shall prepare and submit the proposed decision, including recommended penalty assessment, to the director for his or her review and assistance in the penalty assessment process.

(e) The director may assess the civil penalty, and may reduce the amount, or not impose any assessment, of civil penalties based upon the nature, circumstances, extent, and gravity of the prohibited acts alleged, and the degree of culpability of the violator; or the director may enter into a settlement agreement with the person in the best interests of the state or confirm the amount of civil penalties contained in the complaint. If the director reduces the amount of the civil penalty, does not impose the civil penalty, or enters into a settlement agreement, the director shall seek the recommendation of the hearing officer and enter into the records of the case the reasons for that action, including the hearing officer's recommendation. The decision of the director assessing the civil penalty is final. The proposed decision is a public record and shall be served upon the person. The director may approve the proposed decision in its entirety, or the director may reduce the proposed penalty and adopt the balance of the proposed decision.

(f) Upon the final assessment of the civil penalty, the department shall issue an order setting the amount of the civil penalty to be imposed. An order setting civil liability under this section becomes effective and final upon the issuance thereof, and payment shall be made within 30 days of issuance. Copies of the order shall be served by personal service or by certified mail upon the person served with the complaint and upon other persons who appeared before the director and requested a copy. Copies of the order shall be provided to any person within 10 days of receipt of a written request from that person.

(g) Within 30 days after service of a copy of an order setting the amount of the civil penalty, any person so served may file with the superior court a petition for a writ of mandate for review of the order. In all proceedings pursuant to this subdivision, the court shall exercise its independent judgment on the evidence in the whole record. The filing of a petition for a writ of mandate shall not stay any other civil or criminal action.

(h) The records of the case, after all appeals are final, are public records, as defined in subdivision (d) of Section 6252 of the Government Code.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2585. Forfeiture in addition to civil penalty

The civil penalties imposed under this chapter are in addition to any forfeiture of equipment pursuant to Section 12157 or forfeiture of birds, mammals, amphibia, reptiles, or fish pursuant to Section 12159.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2586. Reward for informants

(a) The director may pay a reward from any funds available for that purpose to any person who furnished information which led to an arrest, a criminal conviction, an order of assessment of a civil penalty, or for forfeiture of property for any violation of this code or any regulation adopted pursuant to this code. The amount of reward, if any, shall be designated by the director with the advice of the CalTIP Award Board.

(b) This chapter does not apply to any action brought to recover damages under Section 2014.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2587. Retention or appointment of legal counsel

(a) Notwithstanding Section 12511 of the Government Code, the department may retain or appoint legal counsel to prepare and prosecute civil actions under this chapter.

(b) Any action to recover civil penalties imposed under this chapter shall be commenced within three years after discovery of the commission of the offense.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2588. Deposit of penalties and revenues in Fish and Game Preservation Fund

All civil penalties and revenues from forfeitures collected pursuant to this chapter shall be deposited in the Fish and Game Preservation Fund.

HISTORY:
Added Stats 1988 ch 1059 § 4.

§ 2589. Adoption of regulations

The commission and the department may adopt regulations as are necessary to carry out their responsibilities under this chapter.

HISTORY:
Added Stats 1988 ch 1059 § 4.

CHAPTER 7. FISH AND WILDLIFE HABITAT ENHANCEMENT ACT OF 1984

ARTICLE 1. GENERAL PROVISIONS

§ 2600. Citation of chapter

This chapter shall be known and may be cited as the Fish and Wildlife Habitat Enhancement Act of 1984.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2601. Purpose of chapter

(a) The fundamental requirement for healthy, vigorous populations of fish and wildlife is habitat. Without adequate habitat, efforts to conserve and manage fish and wildlife resources will have limited success.

(b) Assuring adequate habitat, with the resulting increase in the abundance of fish and wildlife, confers substantial benefits on the people of California through the opportunities afforded for the use, enjoyment, and appreciation of fish and wildlife resources, the perpetuation of species of fish and wildlife for their intrinsic and ecological values, and the enhancement of economic activities based on these resources.

(c) Accordingly, the purpose of this chapter is to provide the financial means to correct the most severe deficiencies in fish and wildlife habitat currently found in California through a program of acquisition, enhancement, and development of habitat areas that are most in need of proper conservation and management.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2602. Definitions

As used in this chapter, the following terms have the following meanings:

(a) "Acquisition" means the acquisition of any interest in real property.

(b) "Coastal zone" means the coastal zone as defined and mapped pursuant to Section 30103 of the Public Resources Code.

(c) "Local public agency" means a city, county, city and county, regional park or open-space district, recreation and park district, resource conservation district, association of governments, or joint powers agency whose jurisdiction is wholly or partially within the coastal zone or in the San Francisco Bay region.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

ARTICLE 2. HABITAT ENHANCEMENT PROGRAM

§ 2620. Appropriations

All money deposited in the Fish and Wildlife Habitat Enhancement Fund shall be available for appropriation by the Legislature for the following purposes:

(a) Forty million dollars ($40,000,000) for expenditure by the Wildlife Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the acquisition, enhancement, or development, or any combination thereof, of lands located outside the coastal zone for the preservation of resources and the management of wildlife and fisheries, in accordance with the following schedule:

(1) Thirty million dollars ($30,000,000) for the acquisition, enhancement, or development, or any combination thereof, of lands for habitat for wildfowl and other wildlife benefitted by a marsh or aquatic environment.

(2) Ten million dollars ($10,000,000) for the restoration of waterways for the management of fisheries and the enhancement or development, or both, of habitat for other wildlife.

(b) Five million dollars ($5,000,000) for expenditure by the Wildlife Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the acquisition, enhancement, or development, or any combination thereof, of lands for habitat for rare, endangered, and fully protected species.

(c) Thirty million dollars ($30,000,000) for expenditure by the State Coastal Conservancy for the acquisition, enhancement, or development, or any combination thereof, of marshlands and associated and adjacent lands and the development of associated facilities and for grants to local public agencies for those purposes, in accordance with the following schedule:

(1) Twenty million dollars ($20,000,000) for grants by the conservancy to local public agencies in the coastal zone and in the San Francisco Bay region for the acquisition, enhancement, or development, or any combination thereof, of marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or aquatic

environment and the improvement of drainage into wetlands to control or retard erosion and sedimentation, and biologically and hydrologically associated upland habitat areas. Of the amount made available pursuant to this paragraph, not less than five million dollars ($5,000,000) shall be available for grants for projects in the San Francisco Bay region.

(2) Ten million dollars ($10,000,000) for expenditure by the conservancy for the purposes authorized in this subdivision.

(d) Ten million dollars ($10,000,000) for expenditure by the Wildlife Conservation Board pursuant to the Wildlife Conservation Law of 1947 for the acquisition, enhancement, or development, or any combination thereof, inside the coastal zone of marshlands and adjacent lands for habitat for wildlife benefitted by a marsh or aquatic environment.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2621. Administrative costs incurred by Wildlife Conservation Board

An annual amount, not to exceed one hundred thousand dollars ($100,000), may be appropriated from the funds available pursuant to subdivisions (a) and (d) of Section 2620 in the 1984–85 through 1989–90 fiscal years, in a particular amount to be determined in each annual appropriation, to the Wildlife Conservation Board for expenditure for costs incurred by the board in administering this chapter, as provided in this section. The board shall augment, as needed, any amount appropriated pursuant to this section with an appropriation from any other funds available to it. This chapter is not intended, nor shall it be construed, to authorize the Wildlife Conservation Board or the department to establish any additional personnel positions.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2622. Administrative costs incurred by State Coastal Conservancy

An annual amount, not to exceed two hundred fifty thousand dollars ($250,000), may be appropriated from the funds available pursuant to subdivision (c) of Section 2620 in the 1984–85 through 1989–90 fiscal years, in a particular amount to be determined in each annual appropriation, to the State Coastal Conservancy for expenditure for costs incurred by the conservancy in administering this chapter.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2623. Prohibited encumbrances; Eminent domain

(a) None of the funds appropriated pursuant to this chapter may be encumbered for any purpose described in Section 1353.

(b) Notwithstanding Sections 31105 and 31106 of the Public Resources Code, the State Coastal Conservancy and the State Public Works Board may not make any acquisition pursuant to the power of eminent domain with any funds appropriated pursuant to this chapter.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2624. Limitation on encumbrances for lands with habitat values

Funds available pursuant to subdivision (b) of Section 2620 may be encumbered only for lands constituting habitat that is subject to destruction, drastic modification, or severe curtailment of habitat values.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2625. Consideration of alternatives to direct purchase of full fee title

No acquisition shall be undertaken with funds appropriated pursuant to Section 2620 and no grant of funds appropriated pursuant to subdivision (c) of Section 2620 shall be encumbered until all practical alternatives to direct purchase of the full fee title have been considered. The Wildlife Conservation Board and the State Coastal Conservancy shall establish a procedure to assure consideration of alternatives to direct purchase. These alternatives shall include, but not be limited to, the following:

(a) Opportunities for obtaining the land through exchanges of other publicly held lands.

(b) Tax considerations that may pertain to the contemplated transaction.

(c) Utilization of transfers of densities and density bonuses and other available land use controls.

(d) Purchase of less than full fee title.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2626. Review of restoration projects; Adherence to priorities of Coastal Commission; Maximum amount for single acquisition project

(a) All restoration projects which involve the expenditure of funds available pursuant to subdivision (c) of Section 2620 shall be reviewed in accordance with Section 31208, 31208.5, 31258, or 31258.5 of the Public Resources Code, as applicable.

(b) Funds available pursuant to subdivision (d) of Section 2620 shall be encumbered in accordance with priorities of the California Coastal Commission.

(c) Of the total amount available pursuant to subdivision (d) of Section 2620, not more than four million dollars ($4,000,000) may be encumbered for any single acquisition project.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2627. Limitations on grants to local public agencies; Minimum amount of individual project

(a) Funds granted pursuant to subdivision (c) of Section 2620 for any purpose, other than acquisition, shall not be encumbered by the recipient until the conservancy has entered into an agreement sufficient to protect the public interest in any improvements constructed pursuant to this chapter with the entity that exercises legal control of the real property on which the improvement is constructed.

(b) The conservancy shall not disburse any grant until the applicant, or any other appropriate managing or operating entity, has entered into an agreement with the conservancy or its designee, or both, sufficient to assure that the property acquired, enhanced, or developed, and any improvements thereon, shall be managed and operated for the purpose for which the grant was requested. No use of the property that is incompatible with that purpose shall ever be permitted.

(c) The minimum amount for which an application for an individual project may be made is fifteen thousand dollars ($15,000).

(d) Every application for a grant shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(e) Notwithstanding Sections 31207 and 31257 of the Public Resources Code, funds granted pursuant to subdivision (c) of Section 2620 may be encumbered only for the acquisition, enhancement, or development, or any combination thereof, and the costs incurred by the recipient in planning, preparation of construction documents, fiscal

management and accounting, and supervision of construction in connection with the project for which the grant was made. All expenditures made by a recipient of a grant shall be subject to being audited.

(f) Funds granted pursuant to subdivision (c) of Section 2620 shall be available for encumbrance by the recipient for a period of three years after the date when the grant became effective.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

ARTICLE 3. FISCAL PROVISIONS

§ 2640. Issuance and sale of bonds

Bonds in the total amount of eighty-five million dollars ($85,000,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal and interest on the bonds as the principal and interest become due and payable.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2641. Collection of sum to pay principal and interest

There shall be collected each year and in the same manner and at the same time as other state revenue is collected such a sum in addition to the ordinary revenues of the state as shall be required to pay the principal and interest on the bonds maturing each year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which shall be necessary to collect that additional sum.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2642. Appropriation

There is hereby appropriated from the General Fund in the State Treasury for the purpose of this chapter, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal and interest on bonds issued and sold pursuant to the provisions of this chapter, as principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 2644, which sum is appropriated without regard to fiscal years.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2643. Fish and Wildlife Habitat Enhancement Fund; Expenditures

The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Fish and Wildlife Habitat Enhancement Fund, which is hereby created. The money in the fund may be expended only for the purposes specified in this chapter and only pursuant to appropriation by the Legislature in the manner prescribed in this chapter.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2644. Withdrawals from General Fund; Return of moneys from proceeds of bond sale

For the purposes of carrying out the provisions of this article, the Director of Finance may, pursuant to appropriate authority in each annual Budget Act, authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any moneys made available under this section shall be returned to the General Fund from moneys received from the sale of bonds for the purpose of carrying out the provisions of this chapter. The withdrawals from the General Fund shall be returned to the General Fund with interest at the rate which would otherwise have been earned by those sums in the Pooled Money Investment Fund.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2644.5. Treasurer's treatment of bond proceeds when interest is excluded from gross income

Notwithstanding any other provision of this bond act, or of the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), if the Treasurer sells bonds pursuant to this bond act that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

HISTORY:
Added Stats 1991 ch 652 § 9 (SB 822).

§ 2645. Inclusion of proposed appropriations in Budget Bill; Applicability of Budget Act limitations and other fiscal procedures

All proposed appropriations for the program shall be included in a section in the Budget Bill for the 1984-85 fiscal year and each succeeding fiscal year for consideration by the Legislature and shall bear the caption "Fish and Wildlife Habitat Enhancement Program." The section shall contain separate items for each project, each class of projects, or each element of the program for which an appropriation is made.

All appropriations shall be subject to all limitations enacted in the Budget Act and to all fiscal procedures prescribed by law with respect to the expenditure of state funds unless expressly exempted from such laws by a statute enacted by the Legislature. The section in the Budget Act shall contain proposed appropriations only for the program elements and classes of projects contemplated by this chapter, and no funds derived from the bonds authorized by this chapter may be expended pursuant to an appropriation not contained in that section of the Budget Act.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984. Amended Stats 2001 ch 745 § 52 (SB 1191), effective October 12, 2001.

§ 2646. Applicability of State General Obligation Bond Law

The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4

(commencing with Section 16720) of Part 3, Division 4, Title 2 of the Government Code), and all of the provisions of that law are applicable to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full herein.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2647. Wildlife Habitat Enhancement Program Finance Committee; Membership

Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 1 of Division 4 of Title 2 of the Government Code), of the bonds authorized by this chapter, the Wildlife Habitat Enhancement Program Finance Committee is hereby created. The committee consists of the Controller, the Director of Finance, and the Treasurer. For purposes of this chapter, this committee is "the committee" as that term is used in the State General Obligation Bond Law, and the Treasurer shall serve as chairman of the committee.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2648. Money derived from premium and accrued interest on bonds sold; Availability for transfer to General Fund

All money deposited in the fund which is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2649. Appropriation of remaining balances for any program element

Commencing with the Budget Bill for the 1995–96 fiscal year, the balance remaining in the fund may be appropriated by the Legislature for expenditure, without regard to the maximum amounts allocated to each element of the program, for any or all elements of the program specified in Section 2620, or any class or classes of projects within those elements that the Legislature deems to be of the highest priority.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2650. Inapplicability of government spending limitation

The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIIIB of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

§ 2651. Severability clause

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

HISTORY:
Added Stats 1984 ch 6 § 1, approved at the election of June 5, 1984.

CHAPTER 7.5. WILDLIFE AND NATURAL AREAS CONSERVATION PROGRAM

ARTICLE 1. GENERAL PROVISIONS

§ 2700. Citation of chapter

This chapter shall be known and may be cited as the Wildlife and Natural Areas Conservation Act.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2701. Purpose of chapter

(a) The fundamental requirement for healthy, vigorous populations of fish and wildlife is habitat. Without adequate habitat, efforts to conserve and manage fish and wildlife resources will have limited success. Further, California contains the greatest diversity of wildlife and plant species of virtually any state in the nation. This rich natural heritage enables Californians to enjoy a great variety of recreational, aesthetic, ecological, and other uses and benefits of these biological resources. The public interest is served only by ensuring that these resources are preserved, protected, and propagated for this and future generations.

(b) Many of California's wildlife, fish, and plant species and biological communities are found nowhere else on earth. Without adequate protection and management, rare native species and communities could easily become extinct. In that event, the benefits they provide to the people of California, whether presently realized or which remain to be discovered, will be lost forever, and California will be significantly poorer as a result.

(c) The people of California have vested in the department the principal responsibility for protecting, conserving, and perpetuating native fish, plants, and wildlife, including endangered species and game animals, for their aesthetic, intrinsic, ecological, educational, and economic values. To help accomplish this goal, the people of California have further established a significant natural areas program and a natural diversity database in the department, which is charged with maintaining and perpetuating California's most significant natural areas for present and future generations. To ensure the perpetuation of areas containing uncommon elements of natural diversity and to ensure the continued abundance of habitat for more common species, especially examples of those that are presently threatened with destruction, the purchase of land is often necessary.

(d) Accordingly, the purpose of this chapter is to provide the Wildlife Conservation Board and the department the financial means to correct the most severe deficiencies in wildlife habitat and in the statewide system of areas designated for the preservation of California's natural diversity through a program of acquisition, enhancement, restoration, and protection of areas that are most in need of proper conservation.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988. Amended Stats 2015 ch 154 § 56 (AB 1527), effective January 1, 2016.

§ 2702. Definitions

As used in this chapter, the following terms have the following meanings:

(a) "Acquisition" means the acquiring of any interest in real property.

(b) "Fund" means the Wildlife and Natural Areas Conservation Fund created pursuant to Section 2720.

(c) "Highly rare" means a worldwide rarity in which any species or natural community occurs in 50 or fewer locations, irrespective of whether the species or any

species in the community is listed as threatened or endangered or was previously listed as rare.

(d) "Natural community" means a distinct, identifiable, and recurring association of plants and animals that are ecologically interrelated.

(e) "Species" means the fundamental biological unit of plant and animal classification that comprises a subdivision of a genus, but for the purposes of this chapter, "species" also includes the unit of a subspecies.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

ARTICLE 2. HABITAT CONSERVATION PROGRAM

§ 2720. Wildlife and Natural Areas Conservation Fund

Moneys available for the purposes of this chapter pursuant to Chapter 4 (commencing with Section 5930) of Division 5.8 of the Public Resources Code shall be deposited in the Wildlife and Natural Areas Conservation Fund, which is hereby created. Money deposited in the fund shall be available for appropriation by the Legislature to the Wildlife Conservation Board, for expenditure pursuant to the Wildlife Conservation Law of 1947, for the following programs:

(a) Forty-one million dollars ($41,000,000) for the preservation of highly rare examples of the state's natural diversity through the acquisition, enhancement, restoration, or protection, or a combination thereof, of lands supporting California's unique, fragile, threatened, or endangered plants, animals, and natural communities.

(b) Six million dollars ($6,000,000) for the acquisition, enhancement, restoration, or protection, or a combination thereof, of critical habitat areas for fish, game mammals, and game birds, including, but not limited to, the following types:

(1) Winter deer ranges.

(2) Wild trout or steelhead nursery and spawning areas.

(3) Significant routes of migration for wildlife.

(4) Breeding, nesting, and forage areas for sage grouse and other upland game birds.

For purposes of this subdivision, "enhancement" includes the construction or development of facilities for furnishing public access to lands or waters open to the public for fishing, hunting, or shooting.

(c) Three million dollars ($3,000,000) for the acquisition, enhancement, restoration, or protection, or any combination thereof, of lands providing habitat for threatened, endangered, or fully protected species, such as the bald eagle, San Joaquin kit fox, desert tortoise, bighorn sheep, peregrine falcon, and California condor.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2721. Expenditure of funds for preservation of highly rare examples of state's diversity

Funds available pursuant to subdivision (a) of Section 2720 shall be expended to acquire, enhance, restore, or protect lands in California on which any of the following naturally exists:

(a) A unique species or natural community, whose existence at a single location in California is the only known occurrence in the world of that particular species or natural community.

(b) A species that occurs in only 20 or fewer locations in the world, at least one of which is in California.

(c) A natural community that occurs in only 50 or fewer locations in the world, at least one of which is in California.

(d) An assemblage of three or more highly rare species or natural communities, or any combination thereof, of which at least one of the species or natural communities is found only in 20 or fewer locations in the world.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2722. Preferences between parcels of land

(a) Whenever the application of the criteria specified in Section 2721 results in the identification of two or more parcels of land that are essentially indistinguishable as to their quality, preference shall be given to the parcel on which exists the species that is more threatened or more endangered.

(b) Whenever the application of the criteria specified in Section 2721 results in the identification of two or more parcels of land that are essentially indistinguishable as to their quality and the degree of threat to, or endangerment of, the species existing on them, preference shall be given to the parcel on which exists the best example of the species. As used in this subdivision, "best example" means the parcel of land and the wildlife inhabiting it which, in balancing all the factors present, represents, as determined by the board, the stronger combination of all of the following: the better condition, higher quality, easier defensibility, greater likelihood of long-term viability, and the lesser costs to be incurred by the department in operating and maintaining the parcel.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2723. Limitation on encumbrance for acquisition project; Eligibility for additional grants

(a) Of the total amount available pursuant to subdivision (a) of Section 2720, not more than five million dollars ($5,000,000) may be encumbered for any single acquisition project. In enacting this limitation, the people of California recognize that there are a number of important projects meeting the criteria of this chapter but whose acquisition cost would most likely exceed this limitation. Therefore, in these instances any acquisition cost in excess of this limitation may be met by a donation by the owner, donations of funds from private sources, or other funds from state or nonstate sources.

(b) The qualification for or allocation of a grant or grants to a local agency under Section 2720 shall not preclude eligibility for an additional allocation of grant funds to the same local agency pursuant to Section 2720 of this code or Section 5907 of the Public Resources Code.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2724. Preference guidelines in choosing land for acquisition

(a) In choosing among two or more parcels of land to be acquired, enhanced, restored, or protected with funds available pursuant to subdivision (b) or (c) of Section 2720, preference shall be given to acquiring, enhancing, restoring, or protecting the parcel that will result in the least cost to the department for operating and maintaining the land.

(b) Funds available pursuant to subdivisions (b) and (c) of Section 2720 may be encumbered only for lands which constitute habitat that is subject to destruction, drastic modification, or significant curtailment of habitat values.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2725. Encumbrance of funds for land with degraded character

No funds available pursuant to this chapter shall be encumbered for any lands that, due to their degraded character, will not sustain plants or wildlife or will not afford protection to a natural community on a long-term basis.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2726. Encumbrances of funds for lands which may be eligible for grants

With respect to any lands which may be acquired, enhanced, restored, or protected with funds under this chapter and which could also be eligible for funds under Chapter 7 (commencing with Section 2600), funds under this chapter shall not be encumbered for those lands until it is determined by the Wildlife Conservation Board that funds are not likely to be available for those lands under that Chapter 7.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2727. Encumbrances for purchase of equipment for improvement and protection of fisheries

No funds available for appropriation under this chapter may be encumbered for any purpose described in Section 1353 of the Fish and Game Code.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2728. Appropriations to Wildlife Conservation Board; Purposes for expenditures; Augmentation of funds

An annual amount, not to exceed three hundred fifty thousand dollars ($350,000) may be appropriated from the fund in the 1988–89 through 1998–99 fiscal years, in an amount to be determined in each annual appropriation, to the Wildlife Conservation Board for expenditure for costs incurred by the board and the department in administering this chapter, including, but not limited to, preacquisition studies, planning, appraisals, surveys, and closing costs. The Wildlife Conservation Board and the department may augment, as needed, any amount thus appropriated with any funds appropriated to it from any other source.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988.

§ 2729. Augmentation of staff; Duration of personnel appointments

(a) For the purpose of administering this chapter, the Wildlife Conservation Board and the department shall augment its existing staff, whenever possible, by contracting for those services necessary for the administration of this chapter. Any contract shall, however, be entered into only pursuant to Sections 19130 to 19132, inclusive, of the Government Code and shall be only for the minimum period necessary for completion of the particular project or projects for which the contract was entered into.

(b) Due to the limited duration of the program authorized by this chapter, in the event some services cannot be provided by contract, any personnel directly hired by the Wildlife Conservation Board for the administration of this chapter shall be hired, to the extent permitted by Article 2 (commencing with Section 19080) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code, as limited-term appointments.

HISTORY:
Adopted by voters, Prop 70 § 3, effective June 8, 1988, operative November 9, 1988. Amended Stats 2015 ch 154 § 57 (AB 1527), effective January 1, 2016.

CHAPTER 8. FISHERIES RESTORATION

§ 2760. Citation of chapter

This chapter shall be known and may be cited as the Keene–Nielsen Fisheries Restoration Act of 1985.

HISTORY:
Added Stats 1985 ch 1236 § 1, effective September 30, 1985. Amended Stats 1986 ch 867 § 1.

§ 2761. Legislative findings and declarations

The Legislature finds and declares as follows:

(a) Many of California's significant fish and wildlife resources in inland and coastal waters have declined as the result of many development projects which have provided valuable economic growth.

(b) Fish and wildlife have been adversely affected by water developments that have significantly altered water flows in many of California's rivers and streams, thereby affecting fish and wildlife, their habitat, adjacent riparian habitat, spawning areas, and migration routes.

(c) Fish and wildlife are important public resources with significant economical, environmental, recreational, aesthetic, and educational values.

(d) California intends to make reasonable efforts to prevent further declines in fish and wildlife, to restore fish and wildlife to historic levels where possible, and to enhance fish and wildlife resources where possible.

(e) Protection of, and an increase in, the naturally spawning salmon and steelhead trout resources of the state would provide a valuable public resource to the residents, a large statewide economic benefit, and would, in addition, provide employment opportunities not otherwise available to the citizens of this state, particularly in rural areas of underemployment.

(f) The protection of, and increase in, the naturally spawning salmon and steelhead trout resources of the state should be accomplished primarily through the improvement of stream habitat.

(g) The Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Ch. 8 (commencing with Sec. 6900), Pt. 1, Div. 6), declares that it is the policy of the state to increase the state's salmon and steelhead trout resources, and directs the department to develop a plan and program that strives to double the salmon and steelhead trout resources.

HISTORY:
Added Stats 1985 ch 1236 § 1, effective September 30, 1985. Amended Stats 1990 ch 1671 § 1 (SB 2301).

§ 2762. Fisheries Restoration Account; Priority for funding; Preproject and postproject evaluation

(a) The Fisheries Restoration Account is hereby created in the Fish and Game Preservation Fund. The moneys in the Fisheries Restoration Account are hereby appropriated to the department for expenditure in fiscal years 1991–92 to 1993–94, inclusive, pursuant to subdivision (b).

(b) The moneys in the Fisheries Restoration Account may be expended for the construction, operation, and administration of projects designated in the plan developed by the department in accordance with the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act (Ch. 8 (commencing with Sec. 6900), Pt. 1, Div. 6), and projects designed to restore and maintain fishery resources and their habitat that have been damaged by past water diversions and projects and other development activities. Expenditures shall not be authorized for a project to be funded under this subdivision before a date which is 30 days after the department has furnished a copy of the proposal for the project to be funded, together with supporting descriptions, to the Joint Committee on Fisheries and Aquaculture and to the Joint Legislative Budget Committee. These projects shall have as their primary objective the restoration of fishery resources identified in the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act. Projects may include, but shall not be limited to, watershed assessments, fisheries restoration planning, acquisition of lands, restoration of habitat, restoration or creation of spawning areas, construction of fish screens or fish ladders, stream rehabilitation, and

installation of pollution control facilities. Projects for restoration or creation of spawning areas shall utilize natural spawning rather than hatcheries to the extent possible.

Under no circumstances shall any water project be absolved under this subdivision of any mitigation requirements which are placed upon it under existing law.

No land shall be acquired pursuant to this chapter by eminent domain proceedings.

(c) Priority for funding shall be given to projects that employ fishermen, fish processing workers, and others who are unemployed or underemployed due to the elimination of a commercial fishing season as a result of restrictions imposed by federal regulations. This priority shall remain in effect only as long as those restrictions are in force.

(d) Expenditures shall not be authorized for multiyear projects funded under subdivision (b) before a date which is 30 days after the department has submitted an annual progress report on the project and a copy of the work schedule for subsequent year funding of the project to the Joint Committee on Fisheries and Aquaculture and to the Joint Legislative Budget Committee.

(e) The department shall conduct a preproject and postproject evaluation on each project recommended in the plan and program developed by the department in accordance with the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act for which money has been appropriated from the Fisheries Restoration Account.

(f) The department may expend not more than 5 percent of the funds annually appropriated from the Fisheries Restoration Account for the administration of projects.

(g) The department may contract for services for the purpose of conducting a preproject and postproject evaluation or for the administration of projects.

(h) The department shall, during the last fiscal year of funding, conduct a review of all previous and ongoing projects to determine if the elements of the plan and program developed by the department pursuant to the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act are being met, including the goal of doubling the 1988 population of salmon and steelhead trout, as declared in Section 6902.

HISTORY:
Added Stats 1985 ch 1236 § 1, effective September 30, 1985. Amended Stats 1986 ch 867 § 2; Stats 1987 ch 1325 § 1; Stats 1990 ch 1671 § 2 (SB 2301); Stats 1993 ch 617 § 3 (AB 14), effective September 30, 1993.

§ 2762.2. Advancement of partial funding; Requirements

The department may advance partial finding, of up to 50 percent of the amount contracted for, to contractors for projects under subdivision (b) of Section 2762 if the director finds the organization meets all of the following requirements:

(1) It has a previously demonstrated record of successfully completing one or more fishery restoration projects funded under contract with the department.

(2) It utilizes generally accepted accounting procedures.

(3) It demonstrates that the project can be accomplished more efficiently and economically with partial funding advanced at the initiation of the project.

HISTORY:
Added Stats 1987 ch 937 § 1.

§ 2762.5. Fisheries Restoration Account; Administrative costs of Advisory Committee on Salmon and Steelhead Trout

In addition to subdivision (b) of Section 2762, the moneys in the Fisheries Restoration Account may be expended, upon appropriation by the Legislature, by the department to fund the administrative costs of the Advisory Committee on Salmon and Steelhead Trout.

HISTORY:
Added Stats 1986 ch 212 § 1, effective June 27, 1986.

§ 2762.6. Allocation of moneys to pay costs of Advisory Committee on Salmon and Steelhead Trout

The department shall, after consultation with the Advisory Committee on Salmon and Steelhead Trout, allocate that amount of moneys appropriated to the department from the Public Resources Account in the Cigarette and Tobacco Products Surtax Fund which the department determines to be necessary to pay the costs for the advisory committee.

HISTORY:
Added Stats 1989 ch 1400 § 4, effective October 2, 1989.

§ 2763. Consultations in determining projects proposed for funding

The director shall consult with the Resources Agency, the Department of Water Resources, the State Water Resources Control Board, the State Coastal Conservancy, the San Francisco Bay Conservation and Development Commission, and the California Coastal Commission in determining projects proposed for funding pursuant to Section 2762.

HISTORY:
Added Stats 1985 ch 1236 § 1, effective September 30, 1985.

§ 2764. Consultations in developing projects to be funded

The director shall consult with other responsible state agencies and appropriate fishery advisory committees, including, but not limited to, the Advisory Committee on Salmon and Steelhead Trout and the Striped Bass Stamp Advisory Committee, in developing projects to be funded pursuant to Section 2762.

HISTORY:
Added Stats 1985 ch 1236 § 1, effective September 30, 1985.

§ 2765. Recommendations of California Water Commission

The California Water Commission, in any recommendation it may make to the Congress of the United States on funding for water projects, shall include recommendations for studies, programs, and facilities necessary to correct fish and wildlife problems caused, fully or partially, by federal water facilities and operation, including, but not limited to, all of the following:

(a) The Red Bluff Dam.

(b) The Trinity and Lewiston Dams.

(c) The facilities necessary to protect wildlife areas in the Suisun Marsh and the Sacramento-San Joaquin Delta from adverse water quality effects caused by the federal Central Valley Project.

(d) The Kesterson Reservoir and the San Luis Drain.

HISTORY:
Added Stats 1985 ch 1236 § 1, effective September 30, 1985. Amended Stats 2006 ch 538 § 183 (SB 1852), effective January 1, 2007.

CHAPTER 9. CALIFORNIA WILDLIFE PROTECTION ACT OF 1990

ARTICLE 1. GENERAL PROVISIONS

§ 2780. Findings and declarations

The people of California find and declare all of the following:

(a) Protection, enhancement, and restoration of wildlife habitat and fisheries are vital to maintaining the quality of life in California. As the state's human population

increases, there is an urgent need to protect the rapidly disappearing wildlife habitats that support California's unique and varied wildlife resources.

(b) Much of the state's most important deer winter ranges have been destroyed in the last 20 years.

(c) Critical winter ranges of migratory deer in the Sierra Nevada and Cascade mountain ranges are increasingly subject to incompatible land uses. In some counties, over 80 percent of the critical winter ranges fall on these lands. The potential for incompatible land uses on these lands is a major threat to the survival of many migratory deer herds.

(d) Deer, mountain lion, and other wildlife habitat within the Sierra Nevada, Cascade, Coast Range (including the Santa Lucia Mountains in Monterey County along the Central Coast), Siskiyou and Klamath Mountains; and the Santa Susana, Simi Hills, Santa Monica, San Gabriel, San Bernardino, San Jacinto, Santa Ana and other mountains and foothill areas within southern California, is disappearing rapidly. Small and often isolated wildlife populations are forced to depend upon these shrinking habitat areas within the heavily urbanizing areas of this state. Corridors of natural habitat must be preserved to maintain the genetic integrity of California's wildlife.

(e) This chapter shall be implemented in the most expeditious manner. All state officials shall implement this chapter to the fullest extent of their authority in order to preserve, maintain, and enhance California's diverse wildlife heritage and the habitats upon which it depends.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2781. Further findings and declarations; Intent

The people of California find and declare that wildlife and fisheries conservation is in the public interest and that it is necessary to keep certain lands in open space and natural condition to protect significant environmental values of wildlife and native plant habitat, riparian and wetland areas, native oak woodlands, and other open-space lands, and to provide opportunities for the people of California to appreciate and visit natural environments and enjoy California's unique and varied fish and wildlife resources.

It is the intent of the people, in enacting this chapter, that additional funds are needed to protect fish, wildlife, and native plant resources and that the Legislature should provide those funds through bond acts and other appropriate sources.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

ARTICLE 2. CALIFORNIA WILDLIFE PROTECTION

§ 2785. Definitions

The following definitions govern the construction of this chapter:

(a) "Acquisition" includes but is not limited to, gifts, purchases, leases, easements, the exercise of eminent domain if expressly authorized, the transfer or exchange of property for other property of like value, transfers of development rights or credits, and purchases of development rights and other interests.

(b) "Board" means the Wildlife Conservation Board.

(c) "Fund" means the Habitat Conservation Fund created by Section 2786.

(d) "Local agency" means a city, county, city and county, or a district as defined in subdivision (b) of Section 5902 of the Public Resources Code.

(e) "Riparian habitat" means lands which contain habitat which grows close to and which depends upon soil moisture from a nearby freshwater source.

(f) "Southern California" means the Counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara, and Ventura.

(g) "Wetlands" means lands which may be covered periodically or permanently with shallow water and which include saltwater marshes, freshwater marshes, open or closed brackish water marshes, swamps, mudflats, fens, and vernal pools.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2786. Habitat Conservation Fund

Except as otherwise expressly provided in paragraph (3) of subdivision (a) of Section 2787, the money in the Habitat Conservation Fund, which is hereby created, shall be used for the following purposes:

(a) The acquisition of habitat, including native oak woodlands, necessary to protect deer and mountain lions.

(b) The acquisition of habitat to protect rare, endangered, threatened, or fully protected species.

(c) The acquisition of habitat to further implement the Habitat Conservation Program pursuant to Article 2 (commencing with Section 2721) excepting Section 2722 and subdivision (a) of Section 2723, and Sections 2724 and 2729.

(d) The acquisition, enhancement, or restoration of wetlands.

(e) The acquisition, restoration, or enhancement of aquatic habitat for spawning and rearing of anadromous salmonids and trout resources.

(f) The acquisition, restoration, or enhancement of riparian habitat.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2787. Appropriations [Repealed effective July 1, 2030]

Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated, without regard to fiscal years, as follows:

(a) To the Department of Parks and Recreation, four million five hundred thousand dollars ($4,500,000) annually for allocation as follows:

(1) One million five hundred thousand dollars ($1,500,000) for projects that are located in the Santa Lucia Mountain Range in Monterey County for expenditure by the Department of Parks and Recreation and for grants to the Monterey Peninsula Regional Park District.

(2) One million dollars ($1,000,000) for acquisitions in, and adjacent to, units of the state park system.

(3) Two million dollars ($2,000,000) for 50 percent matching grants to local agencies for projects meeting the purposes specified in Section 2786 and, additionally, for the acquisition of wildlife corridors and urban trails, nature interpretation programs, and other programs ******that*** bring urban residents into park and wildlife areas. The grants made pursuant to this subdivision are subject to the conditions of subdivision (d) of Section 5910, and Sections 5917 and 5919, of the Public Resources Code, as nearly as may be practicable.

(b) To the State Coastal Conservancy, four million dollars ($4,000,000) annually.

(c) To the Santa Monica Mountains Conservancy, five million dollars ($5,000,000) annually for the next 10 fiscal years, commencing with the 1990-91 fiscal year. The money shall be used for the purposes specified in Section 2786 for wildlife habitat, and for related open-space projects, within the Santa Monica Mountains Zone, the Rim of the Valley Corridor, and the Santa Clarita Woodlands. Of the total amount appropriated pursuant to this subdivision, not less than a total of ten million dollars ($10,000,000) shall be spent within the Santa Susana Mountains and the Simi Hills, and not less than a total of ten million dollars ($10,000,000) shall be spent within the

Santa Clarita Woodlands. These funds shall be expended in accordance with Division 23 (commencing with Section 33000) of the Public Resources Code during the operative period of this section as specified in subdivision (f) and in Section 2797. The Legislature may, by statute, extend the period for expenditure of the funds provided by this ******subdivision***.

(d) To the California Tahoe Conservancy, five hundred thousand dollars ($500,000) annually.

(e) To the board, the balance of the fund.

(f) This section shall become operative on July 1, 1990, and, as of July 1, ******2030***, is repealed, unless a later enacted statute, which becomes effective on or before July 1, ******2030***, deletes or extends that date.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990, operative July 1, 1990, repealed July 1, 2020. Amended Stats 2019 ch 31 § 1 (SB 85), effective June 27, 2019, repealed July 1, 2030.

§ 2788. Continuous appropriation to board (Operative date contingent)

Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated, without regard to fiscal years, to the board.

This section shall become operative only if, and on the date that, Section 2787 is repealed.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990, operative date contingent.

§ 2789. Isolated or fragmented habitats

In areas where habitats are or may become isolated or fragmented, preference shall be given by the agencies expending money from the fund to projects which will serve as corridors linking otherwise separated habitat so that the genetic integrity of wildlife populations will be maintained.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2790. Report to board regarding money spent

Each agency receiving money from the fund pursuant to Section 2787 shall report to the board on or before July 1 of each year the amount of money that was expended and the purposes for which the money was expended. The board shall prescribe the information in the agencies reports that it determines is necessary to carry out the requirements of Section 2791.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2791. Conditions for expenditures of money

The board shall expend the money appropriated to it from the fund subject to the following conditions:

(a) Not more than one and one-half (1½) percent shall be expended for administration of this chapter.

(b) The board shall, to the extent practicable, expend the money in a manner and for projects so that, within each 24-month period, approximately one-third of the total expenditures of the money in the fund, including, until July 1, ******2030***, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended for the purposes specified in subdivision (a) of Section 2786 and approximately two-thirds of the total expenditures of the money in the fund, including, until July 1, ******2030***, the expenditures by the agencies

receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended for the purposes specified in subdivisions (b) and (c) of Section 2786.

(c) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and (c) of Section 2786, the board shall, to the extent practicable, expend the money in the fund in a manner and for projects so that, within each 24-month period, approximately six million dollars ($6,000,000) of the money, including, until July 1, ***2030, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended for the purposes specified in subdivision (d) of Section 2786.

(d) Notwithstanding the requirement for acquisition in subdivisions (a), (b), and (c) of Section 2786, the board shall, to the extent practicable, expend the money in the fund in a manner and for projects so that, within each 24-month period, approximately six million dollars ($6,000,000) of the money, including, until July 1, ***2030, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended for the purposes specified in subdivision (e) and (f) of Section 2786.

(e) To the extent practicable, the board shall expend the money appropriated to it from the fund in a manner and for projects so that, within each 24-month period, approximately one-half of the total expenditures of the money in the fund, including, until July 1, ***2030, the expenditures by the agencies receiving money from the fund pursuant to subdivisions (a) to (d), inclusive, of Section 2787, are expended in northern California and approximately one-half in southern California.

(f) Subject to the other requirements of this section, the board may allocate not more than two million dollars ($2,000,000) annually for the purposes of this chapter to one or more ***state agencies created by the Legislature or the people ***that are authorized by other provisions of law to expend funds for the purposes of this chapter.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990. Amended Stats 2019 ch 31 § 2 (SB 85), effective June 27, 2019.

§ 2792. Successor agency

If any agency designated in Section 2787 ceases to exist, or is otherwise unable to expend the funds appropriated by Section 2787 to that agency for the period specified, the board or its successor agency shall expend the same funds for the same purpose.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2793. Services of California Conservation Corps

The board and any other state or local agency that expends any funds appropriated from the fund on environmental enhancement, restoration, or improvement projects shall utilize the services of the California Conservation Corps and local community conservation corps to the extent practicable.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2794. Management plan

In implementing this chapter, the state or local agency that manages lands acquired with funds appropriated from the fund shall prepare, with full public participation, a management plan for lands that have been acquired, which plan shall reasonably reduce possible conflicts with neighboring land use and landowners, including agriculturists. The plans shall comply with the California Environmental Quality Act (Division 21 (commencing with Section 21000) of the Public Resources Code).

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2795. Transfer of funds from Unallocated Account in Cigarette and Tobacco Products Surtax Fund

(a) The Controller shall annually transfer 10 percent of the funds in the Unallocated Account in the Cigarette and Tobacco Products Surtax Fund to the Habitat Conservation Fund.

(b) No additional allocation of funds from that account shall be made by the Legislature for purposes of this chapter or for any other natural resource or environmental protection program.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2796. Transfer from General Fund [Repealed effective January 1, 2031; Inoperative June 30, 2030]

(a) The Controller shall annually transfer the sum of thirty million dollars ($30,000,000) from the General Fund to the Habitat Conservation Fund, less any amount transferred to the Habitat Conservation Fund from, but not limited to, the following accounts and funds:

(1) The Public Resources Account in the Cigarette and Tobacco Products Surtax Fund to the extent authorized by the Tobacco Tax and Health Protection Act of 1988.

(2) The Unallocated Account in the Cigarette and Tobacco Products Surtax Fund pursuant to subdivision (a) of Section 2795.

(3) The California Environmental License Plate Fund.

(4) The Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(5) Any other non-General Fund accounts and funds created by the Legislature or the people for purposes ******that*** are consistent with the purposes of this act.

(6) Any bond funds ******that*** are authorized by the people after July 1, 1990, ******that*** may be used for purposes ******that*** are identical to the purposes specified in Section 2786.

(7) The Wildlife Restoration Fund.

(b) Except for transfers from the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account, transfers from the Fish and Game Preservation Fund are not transfers for purposes of subdivision (a) and shall not be made to the fund. Transfers of federal, local, or privately donated funds or transfers from the State Coastal Conservancy Fund pursuant to Section 31011 of the Public Resources Code to the fund are not transfers for purposes of subdivision (a).

(c) This section does not limit the amount of funds ******that*** may be transferred to the fund or ******that*** may be expended for fish and wildlife habitat protection either from the fund or from any other sources.

(d) This section shall become operative on July 1, 1990, shall become inoperative on June 30, ******2030***, and, as of January 1, ******2031***, is repealed, unless a later enacted statute, which becomes effective before January 1, ******2031***, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990, operative July 1, 1990, operative until June 30, 2020. Amended Stats 2019 ch 31 § 3 (SB 85), effective June 27, 2019, inoperative June 30, 2030, repealed January 1, 2031.

§ 2797. Findings and declarations

(a) The people find it necessary to acquire, restore, and improve the rapidly disappearing wildlife habitat of southern California in the quickest and most efficient manner

possible using existing governmental resources. Therefore, notwithstanding Section 33216 of the Public Resources Code, Division 23 (commencing with Section 33000) of the Public; Resources Code shall continue in effect for the period that funds may be expended pursuant to subdivision (c) of Section 2787.

This subdivision shall not become operative if, prior to June 6, 1990, Section 33216 of the Public Resources Code has been amended to extend the operative effect of that Division 23 to at least July 1, 1995.

(b) If subdivision (a) of this section does not become operative, the controller shall increase the annual transfer of funds pursuant to subdivision (c) of Section 2787 on a pro rata basis so that the total amount available to the Santa Monica Mountains Conservancy for purposes of this chapter pursuant to that subdivision (c) is fifty million dollars ($50,000,000). Nothing in this section precludes the Legislature from extending the time for expenditure of funds pursuant to subdivision (c) of Section 2787.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2798. Compliance with land acquisition law

Acquisitions of real property made pursuant to this chapter shall be done in compliance with the land acquisition law as existing or as hereafter amended and as it applies to the agencies designated in Section 2787, and in compliance with subdivision (a) of Section 5929 of the Public Resources Code.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2799. Compliance with CEQA

Every expenditure made pursuant to this chapter shall comply with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2799.5. Public access

Reasonable public access to lands acquired in fee with funds made available pursuant to this chapter shall be provided except when that access may interfere with habitat protection.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 2799.6. Reappropriation

Only those amounts of money which are transferred to the fund from the General Fund pursuant to Section 2796 may be reappropriated for purposes of this chapter by a two-thirds vote of the Legislature.

HISTORY:
Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

CHAPTER 10. NATURAL COMMUNITY CONSERVATION PLANNING ACT

§ 2800. Citation of chapter

This chapter shall be known, and may be cited, as the Natural Community Conservation Planning Act.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2801. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) The continuing population growth in California will result in increasing demands for dwindling natural resources and result in the continuing decline of the state's wildlife.

(b) There is a need for broad-based planning to provide for effective protection and conservation of the state's wildlife heritage while continuing to allow appropriate development and growth.

(c) Natural community conservation planning is an effective tool in protecting California's natural diversity while reducing conflicts between protection of the state's wildlife heritage and reasonable use of natural resources for economic development.

(d) Natural community conservation planning promotes coordination and cooperation among public agencies, landowners, and other private interests, provides a mechanism by which landowners and development proponents can effectively address cumulative impact concerns, promotes conservation of unfragmented habitat areas, promotes multispecies and multihabitat management and conservation, provides one option for identifying and ensuring appropriate mitigation that is roughly proportional to impacts on fish and wildlife, and promotes the conservation of broad-based natural communities and species diversity.

(e) Natural community conservation planning can provide for efficient use and protection of natural and economic resources while promoting greater sensitivity to important elements of the state's critical natural diversity.

(f) Natural community conservation planning is a voluntary and effective planning process that can facilitate early coordination to protect the interests of the state, the federal government, and local public agencies, landowners, and other private parties.

(g) Natural community conservation planning is a mechanism that can provide an early planning framework for proposed development projects within the planning area in order to avoid, minimize, and compensate for project impacts to wildlife.

(h) Natural community conservation planning is consistent with, and will support, the fish and wildlife management activities of the department in its role as the trustee for fish and wildlife within the state.

(i) The purpose of natural community conservation planning is to sustain and restore those species and their habitat identified by the department that are necessary to maintain the continued viability of those biological communities impacted by human changes to the landscape.

(j) Natural community conservation planning is a cooperative process that often involves local, state, and federal agencies and the public, including landowners within the plan area. The process should encourage the active participation and support of landowners and others in the conservation and stewardship of natural resources in the plan area during plan development using appropriate measures, including incentives.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2802. Legislative intent

The Legislature further finds and declares that it is the policy of the state to conserve, protect, restore, and enhance natural communities. It is the intent of the Legislature to acquire a fee or less than fee interest in lands consistent with approved natural community conservation plans and to provide assistance with the implementation of those plans.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2805. Definitions

The definitions in this section govern the construction of this chapter:

(a) "Adaptive management" means to use the results of new information gathered through the monitoring program of the plan and from other sources to adjust management strategies and practices to assist in providing for the conservation of covered species.

(b) "Candidate species" has the same meaning as defined in Section 2068.

(c) "Changed circumstances" are reasonably foreseeable circumstances that could affect a covered species or geographic area covered by the plan.

(d) "Conserve," "conserving," and "conservation" mean to use, and the use of, methods and procedures within the plan area that are necessary to bring any covered species to the point at which the measures provided pursuant to Chapter 1.5 (commencing with Section 2050) are not necessary, and for covered species that are not listed pursuant to Chapter 1.5 (commencing with Section 2050), to maintain or enhance the condition of a species so that listing pursuant to Chapter 1.5 (commencing with Section 2050) will not become necessary.

(e) "Covered species" means those species, both listed pursuant to Chapter 1.5 (commencing with Section 2050) and nonlisted, conserved and managed under an approved natural community conservation plan and that may be authorized for take. Notwithstanding Sections 3511, 4700, 5050, or 5515, fully protected species may be covered species pursuant to this subdivision, and taking of fully protected species may be authorized pursuant to Section 2835 for any fully protected species conserved and managed as a covered species under an approved natural community conservation plan.

(f) "Department assurance" means the department's commitment pursuant to subdivision (f) of Section 2820.

(g) "Monitoring program" means a program within an approved natural community conservation plan that provides periodic evaluations of monitoring results to assess the adequacy of the mitigation and conservation strategies or activities and to provide information to direct the adaptive management program. The monitoring program shall, to the extent practicable, also be used to meet the monitoring requirements of Section 21081.6 of the Public Resources Code. A monitoring program includes all of the following:

(1) Surveys to determine the status of biological resources addressed by the plan, including covered species.

(2) Periodic accountings and assessment of authorized take.

(3) Progress reports on all of the following matters:

(A) Establishment of habitat reserves or other measures that provide equivalent conservation of covered species and providing funding where applicable.

(B) Compliance with the plan and the implementation agreement by the wildlife agencies, local governments, and landowners who have responsibilities under the plan.

(C) Measurements to determine if mitigation and conservation measures are being implemented roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan.

(D) Evaluation of the effectiveness of the plan in meeting the conservation objectives of the plan.

(E) Maps of land use changes in the plan area that may affect habitat values or covered species.

(4) A schedule for conducting monitoring activities.

(h) "Natural community conservation plan" or "plan" means the plan prepared pursuant to a planning agreement entered into in accordance with Section 2810. The plan shall identify and provide for those measures necessary to conserve and manage natural biological diversity within the plan area while allowing compatible and appropriate economic development, growth, and other human uses.

(i) "Person" has the same meaning as defined in Section 711.2.

(j)(1) "Plan participant," prior to approval of a natural community conservation plan and execution of an implementation agreement, means a signatory to the planning agreement.

(2) Upon approval of a natural community conservation plan and execution of an implementation agreement, "plan participant" means the permittees and any local agency that is a signatory to the implementing agreement.

(k) "Unforeseen circumstances" means changes affecting one or more species, habitat, natural community, or the geographic area covered by a conservation plan that could not reasonably have been anticipated at the time of plan development, and that result in a substantial adverse change in the status of one or more covered species.

(*l*) "Wildlife" has the same meaning as defined in Section 89.5.

(m) "Wildlife agencies" means the department and one or both of the following:

(1) United States Fish and Wildlife Service.

(2) National Marine Fisheries Service.

HISTORY:
Added Stats 2002 ch 133 § 2 (SB 2052). Amended Stats 2011 ch 596 § 2 (SB 618), effective January 1, 2012; Stats 2015 ch 154 § 58 (AB 1527), effective January 1, 2016.

§ 2809. Who may undertake natural community conservation planning

Any person, or any local, state, or federal agency, independently, or in cooperation with other persons, may undertake natural community conservation planning.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2810. Agreements for preparation of natural community conservation planning

(a) The department may enter into an agreement with any person or public entity for the purpose of preparing a natural community conservation plan, in cooperation with a local agency that has land use permit authority over the activities proposed to be addressed in the plan, to provide comprehensive management and conservation of multiple wildlife species, including, but not limited to, those species listed pursuant to Article 2 (commencing with Section 2070) of Chapter 1.5. The agreement shall include a provision specifying the amount of compensation, if any, payable to the department pursuant to Section 2829.

(b) The agreement shall meet all of the following conditions:

(1) The agreement shall be binding upon the department, other participating federal, state, and local agencies, and participating private landowners.

(2) The agreement shall define the geographic scope of the conservation planning area.

(3) The agreement shall identify a preliminary list of those natural communities, and the endangered, threatened, candidate, or other species known, or reasonably expected to be found, in those communities, that are intended to be the initial focus of the plan.

(4) The agreement shall identify preliminary conservation objectives for the planning area.

(5) The agreement shall establish a process for the inclusion of independent scientific input to assist the department and plan participants, and to do all of the following:

(A) Recommend scientifically sound conservation strategies for species and natural communities proposed to be covered by the plan.

(B) Recommend a set of reserve design principles that addresses the needs of species, landscapes, ecosystems, and ecological processes in the planning area proposed to be addressed by the plan.

(C) Recommend management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan.

(D) Identify data gaps and uncertainties so that risk factors can be evaluated.

(6) The agreement shall require coordination with federal wildlife agencies with respect to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

(7) The agreement shall encourage concurrent planning for wetlands and waters of the United States.

(8) The agreement shall establish an interim process during plan development for project review wherein discretionary projects within the plan area subject to Division 13 (commencing with Section 21000) of the Public Resources Code that potentially conflict with the preliminary conservation objectives in the planning agreement are reviewed by the department prior to, or as soon as possible after the project application is deemed complete pursuant to Section 65943 of the Government Code and the department recommends mitigation measures or project alternatives that would help achieve the preliminary conservation objectives. As part of this process, information developed pursuant to paragraph (5) of subdivision (b) of Section 2810 shall be taken into consideration by the department and plan participants. Any take of candidate, threatened, or endangered species that occurs during this interim period shall be included in the analysis of take to be authorized under an approved plan. Nothing in this paragraph is intended to authorize take of candidate, protected, or endangered species.

(9) The agreement shall establish a process for public participation throughout the plan development and review pursuant to Section 2815.

(c) The approval of the planning agreement is not a project pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Prior to department approval of the planning agreement, the public shall have 21 calendar days to review and comment on the proposed planning agreement.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2815. Process for public participation throughout plan development and review

The department shall establish, in cooperation with the parties to the planning agreement, a process for public participation throughout plan development and review to ensure that interested persons, including landowners, have an adequate opportunity to provide input to lead agencies, state and federal wildlife agencies, and others involved in preparing the plan. The public participation objectives of this section may be achieved through public working groups or advisory committees, established early in the process. This process shall include all of the following:

(a) A requirement that draft documents associated with a natural community conservation plan that are being considered for adoption by the plan lead agency shall be available for public review and comment for at least 60 days prior to the adoption of that draft document. Preliminary public review documents shall be made available by the plan lead agency at least 10 working days prior to any public hearing addressing these documents. The review period specified in this subdivision may run concurrently with the review period provided for any document required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) that is associated with the natural community conservation plan. This subdivision shall not be construed to limit the discretion of a public agency to revise any draft documents at a public hearing.

(b) A requirement to make available in a reasonable and timely manner all draft plans, memoranda of understanding, maps, conservation guidelines, species coverage

lists, and other planning documents associated with a natural community conservation plan that are subject to public review.

(c) A requirement that all public hearings held during plan preparation or review for approval are complementary to, or integrated with, those hearings otherwise provided by law.

(d) An outreach program to provide access to information for persons interested in the plan, including landowners, with an emphasis on obtaining input from a balanced variety of affected public and private interests, including state and local governments, county agricultural commissioners, agricultural organizations, landowners, conservation organizations, and the general public.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2820. Approval of natural community conservation plan; Implementation agreement

(a) The department shall approve a natural community conservation plan for implementation after making the following findings, based upon substantial evidence in the record:

(1) The plan has been developed consistent with the process identified in the planning agreement entered into pursuant to Section 2810.

(2) The plan integrates adaptive management strategies that are periodically evaluated and modified based on the information from the monitoring program and other sources, which will assist in providing for the conservation of covered species and ecosystems within the plan area.

(3) The plan provides for the protection of habitat, natural communities, and species diversity on a landscape or ecosystem level through the creation and long-term management of habitat reserves or other measures that provide equivalent conservation of covered species appropriate for land, aquatic, and marine habitats within the plan area.

(4) The development of reserve systems and conservation measures in the plan area provides, as needed for the conservation of species, all of the following:

(A) Conserving, restoring, and managing representative natural and seminatural landscapes to maintain the ecological integrity of large habitat blocks, ecosystem function, and biological diversity.

(B) Establishing one or more reserves or other measures that provide equivalent conservation of covered species within the plan area and linkages between them and adjacent habitat areas outside of the plan area.

(C) Protecting and maintaining habitat areas that are large enough to support sustainable populations of covered species.

(D) Incorporating a range of environmental gradients (such as slope, elevation, aspect, and coastal or inland characteristics) and high habitat diversity to provide for shifting species distributions due to changed circumstances.

(E) Sustaining the effective movement and interchange of organisms between habitat areas in a manner that maintains the ecological integrity of the habitat areas within the plan area.

(5) The plan identifies activities, and any restrictions on those activities, allowed within reserve areas that are compatible with the conservation of species, habitats, natural communities, and their associated ecological functions.

(6) The plan contains specific conservation measures that meet the biological needs of covered species and that are based upon the best available scientific information regarding the status of covered species and the impacts of permitted activities on those species.

(7) The plan contains a monitoring program.

(8) The plan contains an adaptive management program.

(9) The plan includes the estimated timeframe and process by which the reserves or other conservation measures are to be implemented, including obligations of landowners and plan signatories and consequences of the failure to acquire lands in a timely manner.

(10) The plan contains provisions that ensure adequate funding to carry out the conservation actions identified in the plan.

(b) A natural community conservation plan approved pursuant to this section shall include an implementation agreement that contains all of the following:

(1) Provisions defining species coverage, including any conditions of coverage.

(2) Provisions for establishing the long-term protection of any habitat reserve or other measures that provide equivalent conservation of covered species.

(3) Specific terms and conditions, which, if violated, would result in the suspension or revocation of the permit, in whole or in part. The department shall include a provision requiring notification to the plan participant of a specified period of time to cure any default prior to suspension or revocation of the permit in whole or in part. These terms and conditions shall address, but are not limited to, provisions specifying the actions the department shall take under all of the following circumstances:

(A) If the plan participant fails to provide adequate funding.

(B) If the plan participant fails to maintain the rough proportionality between impacts on habitat or covered species and conservation measures.

(C) If the plan participant adopts, amends, or approves any plan or project without the concurrence of the wildlife agencies that is inconsistent with the objectives and requirements of the approved plan.

(D) If the level of take exceeds that authorized by the permit.

(4) Provisions specifying procedures for amendment of the plan and the implementation agreement.

(5) Provisions ensuring implementation of the monitoring program and adaptive management program.

(6) Provisions for oversight of plan implementation for purposes of assessing mitigation performance, funding, and habitat protection measures.

(7) Provisions for periodic reporting to the wildlife agencies and the public for purposes of information and evaluation of plan progress.

(8) Mechanisms to ensure adequate funding to carry out the conservation actions identified in the plan.

(9) Provisions to ensure that implementation of mitigation and conservation measures on a plan basis is roughly proportional in time and extent to the impact on habitat or covered species authorized under the plan. These provisions shall identify the conservation measures, including assembly of reserves where appropriate and implementation of monitoring and management activities, that will be maintained or carried out in rough proportion to the impact on habitat or covered species and the measurements that will be used to determine if this is occurring.

(c) If a plan participant does not maintain the proportionality between take and conservation measures specified in the implementation agreement and does not either cure the default within 45 days or enter into an agreement with the department within 45 days to expeditiously cure the default, the department shall suspend or revoke the permit, in whole or in part.

(d) Any data and reports associated with the monitoring program required by this section shall be available for public review. The entity managing the plan shall also conduct public workshops on an annual basis to provide information and evaluate progress toward attaining the conservation objectives of the plan.

(e) To the extent provided pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code and any guidelines adopted pursuant thereto, if the impacts on one or more covered species and its habitat are analyzed and mitigated pursuant to a program environmental impact report for a plan adopted pursuant to this chapter, a plan participant that is a lead agency or a responsible agency under that

division shall incorporate in the review of any subsequent project in the plan area the feasible mitigation measures and alternatives related to the biological impacts on covered species and their habitat developed in the program environmental impact report.

(f) The department may provide assurances for plan participants commensurate with long-term conservation assurances and associated implementation measures pursuant to the approved plan.

(1) When providing assurances pursuant to this subdivision, the department's determination of the level of assurances and the time limits specified in the implementation agreement for assurances may be based on localized conditions and shall consider all of the following:

(A) The level of knowledge of the status of the covered species and natural communities.

(B) The adequacy of analysis of the impact of take on covered species.

(C) The use of the best available science to make assessments about the impacts of take, the reliability of mitigation strategies, and the appropriateness of monitoring techniques.

(D) The appropriateness of the size and duration of the plan with respect to quality and amount of data.

(E) The sufficiency of mechanisms for long-term funding of all components of the plan and contingencies.

(F) The degree of coordination and accessibility of centralized data for analysis and evaluation of the effectiveness of the plan.

(G) The degree to which a thorough range of foreseeable circumstances are considered and provided for under the adaptive management program.

(H) The size and duration of the plan.

(2) If there are unforeseen circumstances, additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources shall not be required without the consent of plan participants for a period of time specified in the implementation agreement, unless the department determines that the plan is not being implemented consistent with the substantive terms of the implementation agreement.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2821. Identification of species covered under plan

Concurrent with the approval by the department of a final natural community conservation plan, the department shall do both of the following:

(a) Establish a list of species that are authorized for take pursuant to Section 2835 and the department shall make specific findings to support coverage pursuant to Section 2820. For purposes of determining whether a species should receive coverage under a plan, the department shall use, in addition to the standards required for the adoption of a plan, one or more of the following criteria:

(1) Coverage is warranted based upon regional or landscape level consideration, such as healthy population levels, widespread distribution throughout the plan area, and life history characteristics that respond to habitat-scale conservation and management actions.

(2) Coverage is warranted based on regional or landscape level considerations with site specific conservation and management requirements that are clearly identified in the plan for species that are generally well-distributed, but that have core habitats that must be conserved.

(3) Coverage is warranted based upon site specific considerations and the identification of specific conservation and management conditions for species within a narrowly defined habitat or limited geographic area within the plan area.

(b) Find that the mitigation measures specified in the plan and imposed by the plan participants are consistent with subdivision (d) of Section 2801.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2822. Enforcement

The department may seek injunctive relief against any plan participant, person, or entity to enforce this chapter.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2823. Revocation of permit

The department shall suspend or revoke any permit, in whole or in part, issued for the take of a species subject to Section 2835 if the continued take of the species would result in jeopardizing the continued existence of the species.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2825. Adoption of regulations for development and implementation of plan

The department may adopt regulations for the development and implementation of natural community conservation plans consistent with this chapter.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2826. Exemptions

Nothing in this chapter exempts a project proposed in a natural community conservation planning area from Division 13 (commencing with Section 21000) of the Public Resources Code or otherwise alters or affects the applicability of that division.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2827. Use of conservation corps services

To the extent practicable, implementation of natural community conservation plans shall use the services of either the California Conservation Corps or local community conservation corps.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2828. Power and authority of local government

Nothing in this chapter prohibits a local government from exercising any power or authority granted to it pursuant to state law to acquire land or water to implement a plan.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2829. Compensation for participation and implementation of plan

(a) The department may be compensated for the actual costs incurred in participating in the preparation and implementation of natural community conservation plans. These costs may include consultation with other parties to agreements authorized by Section 2810, providing and compiling wildlife and wildlife habitat data, reviewing and approv-

ing the final plan, monitoring implementation of the plan, and other activities necessary to the preparation and implementation of a plan.

(b) The department may be compensated for those expenses identified in subdivision (a) according to a schedule in the agreement authorized by Section 2810.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107).

§ 2830. Authorization for taking of identified species

Nothing in this chapter prohibits the taking or the incidental take of any identified species if the taking is authorized by the department pursuant to any of the following:

(a) A natural community conservation plan or amended plan approved by the department prior to January 1, 2002. Any permits, plans, implementation agreements, and amendments to those permits, plans, or implementation agreements described in this section are deemed to be in full force and effect as of the date approved or entered into by the parties insofar as they authorize the take of identified species pursuant to an approved natural community conservation plan and shall be governed solely by former Chapter 10 (commencing with Section 2800) as it read on December 31, 2001.

(b) Any natural community conservation plan, or subarea plan, approved, or amended on or after January 1, 2002, for which a planning or enrollment agreement meets any of the following criteria, which shall be solely governed in accordance with former Chapter 10 (commencing with Section 2800) as it read on December 31, 2001:

(1) The natural community conservation plan was entered into between the department and plan participants prior to January 1, 2001, and is carried out pursuant to Rule 4(d) for the California Gnatcatcher (Federal Register Volume 58, December 10, 1993), including the southern subregion of Orange County.

(2) The natural community conservation plan was prepared pursuant to the planning agreement for the San Diego Multiple Species Conservation Plan.

(3) The natural community conservation plan was prepared pursuant to the planning agreement for the San Diego Multiple Habitat Conservation Plan.

(c) Any programmatic natural community conservation plan approved by the department on or before January 1, 2002.

(d) Any natural community conservation plan developed pursuant to a planning or enrollment agreement executed on or before January 1, 2001, and for which the department finds that the plan has been developed using a public participation and scientific analysis process substantially in conformance with the intent of paragraph (5) of subdivision (b) of Section 2810 and Section 2815.

(e) Any natural community conservation plan developed pursuant to a planning agreement executed on or before January 1, 2002, and which the department finds is in substantial compliance with Section 2820.

(f)(1) Any natural community conservation plan or subarea plan initiated on or before January 1, 2000, or amendments thereto, by Sweetwater Authority, Helix Water District, Padre Dam Municipal Water District, Santa Fe Irrigation District, or the San Diego County Water Authority, which the department determines is consistent with the approved San Diego Multiple Habitat Conservation Program or the San Diego Multiple Species Conservation Program, is exempt from Section 2810, and paragraph (1) of subdivision (a) of Section 2820, except as provided in paragraph (2), if the department finds that the plan has been developed and is otherwise in conformance with this chapter.

(2) The public water agencies identified in this subdivision and the department shall include independent scientific input as described in subparagraphs (A) to (D), inclusive, of paragraph (5) of subdivision (b) of Section 2810 into the proposed plans in a manner that focuses on the covered species that are proposed for take authorization and that are not otherwise covered in the San Diego Multiple Species Conservation Program or the San Diego Multiple Habitat Conservation Program.

The scientific input required by this paragraph shall be based on the best and most current scientific data generally available, and shall assure that documentation for coverage of all species is equal or greater than the San Diego Multiple Habitat Conservation Program.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107). Amended Stats 2003 ch 61 § 1 (SB 572).

§ 2831. Dedicated land in San Diego

(a) Notwithstanding any other provision of law, lands designated as of January 1, 2013, as open-space lands in a document entitled "Declaration of the Dedication of Land" approved by a resolution of the San Diego City Council in the same manner in which the city council processes approval of dedicated open space, reserving to the city council the authority to grant easements for utility purposes in, under, and across dedicated property, if those easements and facilities to be located thereon do not significantly interfere with the park and recreational use of the property, and filed with the Office of the City Clerk for the City of San Diego, and, if required, at the Office of the County of San Diego Assessor/Recorder/County Clerk, are dedicated land under the City Charter of the City of San Diego.

(b) Upon filing of that document in accordance with subdivision (a), the Office of the City Clerk for the City of San Diego, and, if applicable, the Office of the County of San Diego Assessor/Recorder/County Clerk shall make the document available for inspection by the public upon request.

HISTORY:
Added Stats 2007 ch 644 § 2 (SB 373), effective January 1, 2008. Amended Stats 2012 ch 275 § 2 (SB 1169), effective January 1, 2013.

§ 2835. Permit to take covered species

At the time of plan approval, the department may authorize by permit the taking of any covered species, including species designated as fully protected species pursuant to Sections 3511, 4700, 5050, or 5515, whose conservation and management is provided for in a natural community conservation plan approved by the department.

HISTORY:
Added Stats 2002 ch 4 § 2 (SB 107). Amended Stats 2011 ch 596 § 3 (SB 618), effective January 1, 2012.

CHAPTER 10.5. MARINE LIFE PROTECTION ACT

§ 2850. Citation

This chapter shall be known and may be cited as the Marine Life Protection Act.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2850.5. Ocean Protection Council to assume responsibility for direction of policy of MPAs

Notwithstanding any other law and consistent with the authority granted under Section 2860, commencing on July 1, 2013, the Ocean Protection Council shall assume responsibility for the direction of policy of marine protected areas (MPAs).

HISTORY:
Added Stats 2013 ch 356 § 3 (SB 96), effective September 26, 2013.

§ 2851. Legislative findings

The Legislature finds and declares all of the following:

(a) California's marine protected areas (MPAs) were established on a piecemeal basis rather than according to a coherent plan and sound scientific guidelines. Many of these MPAs lack clearly defined purposes, effective management measures and enforcement. As a result, the array of MPAs creates the illusion of protection while falling far short of its potential to protect and conserve living marine life and habitat.

(b) California's extraordinary marine biological diversity is a vital asset to the state and nation. The diversity of species and ecosystems found in the state's ocean waters is important to public health and well-being, ecological health, and ocean-dependent industry.

(c) Coastal development, water pollution, and other human activities threaten the health of marine habitat and the biological diversity found in California's ocean waters. New technologies and demands have encouraged the expansion of fishing and other activities to formerly inaccessible marine areas that once recharged nearby fisheries. As a result, ecosystems throughout the state's ocean waters are being altered, often at a rapid rate.

(d) Fish and other sea life are a sustainable resource, and fishing is an important community asset. MPAs and sound fishery management are complementary components of a comprehensive effort to sustain marine habitats and fisheries.

(e) Understanding of the impacts of human activities and the processes required to sustain the abundance and diversity of marine life is limited. The designation of certain areas as sea life reserves can help expand our knowledge by providing baseline information and improving our understanding of ecosystems where minimal disturbance occurs.

(f) Marine life reserves are an essential element of an MPA system because they protect habitat and ecosystems, conserve biological diversity, provide a sanctuary for fish and other sea life, enhance recreational and educational opportunities, provide a reference point against which scientists can measure changes elsewhere in the marine environment, and may help rebuild depleted fisheries.

(g) Despite the demonstrated value of marine life reserves, only 14 of the 220,000 square miles of combined state and federal ocean water off California, or six-thousandths of 1 percent, are set aside as genuine no take areas.

(h) For all of the above reasons, it is necessary to modify the existing collection of MPAs to ensure that they are designed and managed according to clear, conservation-based goals and guidelines that take full advantage of the multiple benefits that can be derived from the establishment of marine life reserves.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2852. Definitions

The following definitions govern the construction of this chapter:

(a) "Adaptive management," with regard to marine protected areas, means a management policy that seeks to improve management of biological resources, particularly in areas of scientific uncertainty, by viewing program actions as tools for learning. Actions shall be designed so that, even if they fail, they will provide useful information for future actions, and monitoring and evaluation shall be emphasized so that the interaction of different elements within marine systems may be better understood.

(b) "Biogeographical regions" refers to the following oceanic or near shore areas, seaward from the mean high tide line or the mouth of coastal rivers, with distinctive biological characteristics, unless the master plan team establishes an alternative set of boundaries:

(1) The area extending south from Point Conception.

(2) The area between Point Conception and Point Arena.

(3) The area extending north from Point Arena.

(c) "Marine protected area" (MPA) means a named, discrete geographic marine or estuarine area seaward of the mean high tide line or the mouth of a coastal river, including any area of intertidal or subtidal terrain, together with its overlying water and associated flora and fauna that has been designated by law, administrative action, or voter initiative to protect or conserve marine life and habitat. An MPA includes marine life reserves and other areas that allow for specified commercial and recreational activities, including fishing for certain species but not others, fishing with certain practices but not others, and kelp harvesting, provided that these activities are consistent with the objectives of the area and the goals and guidelines of this chapter. MPAs are primarily intended to protect or conserve marine life and habitat, and are therefore a subset of marine managed areas (MMAs), which are broader groups of named, discrete geographic areas along the coast that protect, conserve, or otherwise manage a variety of resources and uses, including living marine resources, cultural and historical resources, and recreational opportunities.

(d) "Marine life reserve," for the purposes of this chapter, means a marine protected area in which all extractive activities, including the taking of marine species, and, at the discretion of the commission and within the authority of the commission, other activities that upset the natural ecological functions of the area, are prohibited. While, to the extent feasible, the area shall be open to the public for managed enjoyment and study, the area shall be maintained to the extent practicable in an undisturbed and unpolluted state.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993). Amended Stats 2000 ch 385 § 5 (AB 2800).

§ 2853. Program goals

(a) The Legislature finds and declares that there is a need to reexamine and redesign California's MPA system to increase its coherence and its effectiveness at protecting the state's marine life, habitat, and ecosystems.

(b) To improve the design and management of that system, the commission, pursuant to Section 2859, shall adopt a Marine Life Protection Program, which shall have all of the following goals:

(1) To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.

(2) To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.

(3) To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.

(4) To protect marine natural heritage, including protection of representative and unique marine life habitats in California waters for their intrinsic value.

(5) To ensure that California's MPAs have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.

(6) To ensure that the state's MPAs are designed and managed, to the extent possible, as a network.

(c) The program may include areas with various levels of protection, and shall include all of the following elements:

(1) An improved marine life reserve component consistent with the guidelines in subdivision (c) of Section 2857.

(2) Specific identified objectives, and management and enforcement measures, for all MPAs in the system.

(3) Provisions for monitoring, research, and evaluation at selected sites to facilitate adaptive management of MPAs and ensure that the system meets the goals stated in this chapter.

(4) Provisions for educating the public about MPAs, and for administering and enforcing MPAs in a manner that encourages public participation.

(5) A process for the establishment, modification, or abolishment of existing MPAs or new MPAs established pursuant to this program, that involves interested parties, consistent with paragraph (7) of subdivision (b) of Section 7050, and that facilitates the designation of MPAs consistent with the master plan adopted pursuant to Section 2855.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2854. Implementation of report

The workgroup shall, after appropriate consultation with members of the public, determine future actions for implementing the recommendations of its final report.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993). Amended Stats 2004 ch 172 § 1 (SB 1265).

§ 2855. Master plan

(a) The commission shall adopt a master plan that guides the adoption and implementation of the Marine Life Protection Program adopted pursuant to Section 2853 and decisions regarding the siting of new MPAs and major modifications of existing MPAs. The plan shall be based on the best readily available science.

(b)(1) The department shall prepare, or by contract shall cause to be prepared, a master plan in accordance with this subdivision. In order to take full advantage of scientific expertise on MPAs, the department shall convene a master plan team to advise and assist in the preparation of the master plan, or hire a contractor with relevant expertise to assist in convening such a team.

(2) The team members convened pursuant to this subdivision shall have expertise in marine life protection and shall be knowledgeable about the use of protected areas as a marine ecosystem management tool. The members shall also be familiar with underwater ecosystems found in California waters, with the biology and habitat requirements of major species groups in the state's marine waters, and with water quality and related issues.

(3) The team shall be composed of the following individuals:

(A) Staff from the department, the Department of Parks and Recreation, and the State Water Resources Control Board, to be designated by each of those departments.

(B) Five to seven members who shall be scientists, one of whom may have expertise in the economics and culture of California coastal communities.

(C) One member, appointed from a list prepared by Sea Grant marine advisers, who shall have direct expertise with ocean habitat and sea life in California marine waters.

(4) The master plan shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons. In preparing the master plan, the department shall confer, to the extent feasible, with the commission, the Pacific Fishery Management Council, the National Marine Fisheries Service, the United States Navy, the United States Geological Survey's national biological survey, staff from national marine sanctuaries off California, Sea Grant researchers, marine advisers, and national parks personnel.

(5) The department may engage other experts to contribute to the master plan, including scientists, geographic information system (GIS) experts, and commercial and recreational fishermen, divers, and other individuals knowledgeable about the

state's underwater ecosystems, the history of fishing effort or MPA management, or other relevant subjects.

(c) The department and team, in carrying out this chapter, shall take into account relevant information from local communities, and shall solicit comments and advice for the master plan from interested parties on issues including, but not necessarily limited to, each of the following:

(1) Practical information on the marine environment and the relevant history of fishing and other resources use, areas where fishing is currently prohibited, and water pollution in the state's coastal waters.

(2) Socioeconomic and environmental impacts of various alternatives.

(3) Design of monitoring and evaluation activities.

(4) Methods to encourage public participation in the stewardship of the state's MPAs.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2856. Components of master plan

(a)(1) The department and team shall use the best readily available scientific information in preparing the master plan adopted pursuant to Section 2855, and shall organize the location-specific contents, where feasible, by biogeographical region. In preparing the plan, the department and team shall use and build upon the findings of the Sea Grant survey of protected areas in California waters, which is entitled "California's Marine Protected Areas," the report of the State Interagency Marine Managed Areas Workgroup, the Department of Parks and Recreation's planning information and documents regarding existing and potential underwater parks and reserves, maps and other information from the department's marine nearshore ecosystem mapping project, and other relevant planning and scientific materials.

(2) The master plan shall include all of the following components:

(A) Recommendations for the extent and types of habitat that should be represented in the MPA system and in marine life reserves. Habitat types described on maps shall include, to the extent possible using existing information, rocky reefs, intertidal zones, sandy or soft ocean bottoms, underwater pinnacles, sea mounts, kelp forests, submarine canyons, and seagrass beds.

(B) An identification of select species or groups of species likely to benefit from MPAs, and the extent of their marine habitat, with special attention to marine breeding and spawning grounds, and available information on oceanographic features, such as current patterns, upwelling zones, and other factors that significantly affect the distribution of those fish or shellfish and their larvae.

(C) Recommendations to augment or modify the guidelines in subdivision (c) of Section 2857, if necessary to ensure that the guidelines reflect the most up-to-date science, including, for example, recommendations regarding the minimum size of individual marine life reserves needed to accomplish the various goals set forth in Section 2853.

(D) Recommended alternative networks of MPAs, including marine life reserves in each biogeographical region that are capable of achieving the goals in Section 2853 and designed according to the guidelines in subdivision (c) of Section 2857.

(E) A simplified classification system, which shall be consistent with the goals of Section 2853 and the guidelines in subdivision (c) of Section 2857, and which may include protections for specific habitats or species, if no system that meets these specifications has already been developed.

(F) Recommendations for a preferred siting alternative for a network of MPAs that is consistent with the goals in Section 2853 and the guidelines in subdivision (c) of Section 2857.

(G) An analysis of the state's current MPAs, based on the preferred siting alternative, and recommendations as to whether any specific MPAs should be consolidated, expanded, abolished, reclassified, or managed differently so that, taken as a group, the MPAs best achieve the goals of Section 2853 and conform to the guidelines in subdivision (c) of Section 2857.

(H) Recommendations for monitoring, research, and evaluation in selected areas of the preferred alternative, including existing and long-established MPAs, to assist in adaptive management of the MPA network, taking into account existing and planned research and evaluation efforts.

(I) Recommendations for management and enforcement measures for the preferred alternative that apply systemwide or to specific types of sites and that would achieve the goals of this chapter.

(J) Recommendations for improving the effectiveness of enforcement practices, including, to the extent practicable, the increased use of advanced technology surveillance systems.

(K) Recommendations for funding sources to ensure all MPA management activities are carried out and the Marine Life Protection Program is implemented.

(b) The team shall, as necessary, identify and define additional appropriate components of the master plan as soon as possible after enactment of this section.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2857. Objectives and guidelines

(a) On or before July 1, 2001, the department shall convene, in each biogeographical region and to the extent practicable near major working harbors, siting workshops, composed of interested parties, to review the alternatives for MPA networks and to provide advice on a preferred siting alternative. The department and team shall develop a preferred siting alternative that incorporates information and views provided by people who live in the area and other interested parties, including economic information, to the extent possible while maintaining consistency with the goals of Section 2853 and guidelines in subdivision (c) of this section.

(b) The preferred alternative may include MPAs that will achieve either or both of the following objectives:

(1) Protection of habitat by prohibiting potentially damaging fishing practices or other activities that upset the natural ecological functions of the area.

(2) Enhancement of a particular species or group of species, by prohibiting or restricting fishing for that species or group within the MPA boundary.

(c) The preferred siting alternative shall include MPA networks with an improved marine life reserve component, and shall be designed according to each of the following guidelines:

(1) Each MPA shall have identified goals and objectives. Individual MPAs may serve varied primary purposes while collectively achieving the overall goals and guidelines of this chapter.

(2) Marine life reserves in each bioregion shall encompass a representative variety of marine habitat types and communities, across a range of depths and environmental conditions.

(3) Similar types of marine habitats and communities shall be replicated, to the extent possible, in more than one marine life reserve in each biogeographical region.

(4) Marine life reserves shall be designed, to the extent practicable, to ensure that activities that upset the natural ecological functions of the area are avoided.

(5) The MPA network and individual MPAs shall be of adequate size, number, type of protection, and location to ensure that each MPA meets its objectives and that the network as a whole meets the goals and guidelines of this chapter.

(d) The department and team, in developing the preferred siting alternative, shall take into account the existence and location of commercial kelp beds.

(e) The department and team may provide recommendations for phasing in the new MPAs in the preferred siting alternative.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2858. Peer review

The department shall establish a process for external peer review of the scientific basis for the master plan prepared pursuant to Section 2855. The peer review process may be based, to the extent practicable, on the peer review process described in Section 7062.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2859. Public review before final master plan

(a) On or before January 1, 2005, the department shall submit to the commission a draft of the master plan prepared pursuant to this chapter.

(b) On or before April 1, 2005, after public review, not less than three public meetings, and appropriate modifications of the draft plan, the department shall submit a proposed final master plan to the commission. On or before December 1, 2005, the commission shall adopt a final master plan and a Marine Life Protection Program with regulations based on the plan and shall implement the program, to the extent funds are available. The commission's adoption of the plan and a program based on the plan shall not trigger an additional review under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) The commission shall hold at least two public hearings on the master plan and the Marine Life Protection Program prior to adopting the plan and program. The commission may adopt the plan and the program immediately following the second public hearing or at any duly noticed subsequent meeting.

(d) Upon the commission's adoption of the program, the commission shall submit the master plan and program description, including marine life reserve and other MPA designations, to the Joint Committee on Fisheries and Aquaculture for review and comment. Upon receipt of the plan, the joint committee shall have 60 days to review the plan and to submit written recommendations to the commission regarding the plan and program. The joint committee shall only submit a recommendation to the commission if a majority of the members agree to that recommendation. The commission shall consider all recommendations submitted by the joint committee, and may amend the program to incorporate the recommendations. If the commission does not incorporate any recommendations submitted by the joint committee, the commission shall set forth, in writing, its reasons for not incorporating that recommendation.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993). Amended Stats 2001 ch 753 § 3 (AB 1673); Stats 2002 ch 559 § 2 (AB 892).

§ 2860. Taking of marine species

(a) The commission may regulate commercial and recreational fishing and any other taking of marine species in MPAs.

(b) Notwithstanding any other provision of this code, the taking of a marine species in a marine life reserve is prohibited for any purpose, including recreational and commercial fishing, except that the commission may authorize the taking of a marine species for scientific purposes, consistent with the purposes of this chapter, under a scientific collecting permit issued by the department.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2861. Changes and modifications

(a) The commission shall, annually until the master plan is adopted and thereafter at least every three years, receive, consider, and promptly act upon petitions from any interested party, to add, delete, or modify MPAs, favoring those petitions that are compatible with the goals and guidelines of this chapter.

(b) Nothing in this chapter restricts any existing authority of the department or the commission to make changes to improve the management or design of existing MPAs or designate new MPAs prior to the completion of the master plan. The commission may abbreviate the master plan process to account for equivalent activities that have taken place before enactment of this chapter, providing that those activities are consistent with this chapter.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993). Amended Stats 2001 ch 753 § 4 (AB 1673); Stats 2012 ch 728 § 46 (SB 71), effective January 1, 2013.

§ 2862. Potential adverse impacts

The department, in evaluating proposed projects with potential adverse impacts on marine life and habitat in MPAs, shall highlight those impacts in its analysis and comments related to the project and shall recommend measures to avoid or fully mitigate any impacts that are inconsistent with the goals and guidelines of this chapter or the objectives of the MPA.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

§ 2863. Conferences

The department shall confer as necessary with the United States Navy regarding issues related to its activities.

HISTORY:
Added Stats 1999 ch 1015 § 1 (AB 993).

CHAPTER 11. HABITAT MAINTENANCE DISTRICTS

§ 2900. Citation of chapter

This chapter shall be known and may be cited as the Habitat Maintenance Funding Act.

HISTORY:
Added Stats 1993 ch 1301 § 2 (SB 445).

§ 2901. Improvement or maintenance of natural habitat

(a) A local agency may establish an assessment district pursuant to Article 3.1 (commencing with Section 50060) of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code for the improvement or maintenance of natural habitat, in a manner consistent with the policies and procedures of this code. Funds generated pursuant to this chapter may not be allocated to implement a plan without the approval of the owner of the land to be improved.

(b) A local agency may provide for the long-term maintenance of natural habitat pursuant to Section 50060.5 of the Government Code only pursuant to a plan for the conservation of natural habitat approved by the department.

HISTORY:
Added Stats 1993 ch 1301 § 2 (SB 445).

CHAPTER 13. SALTON SEA RESTORATION ACT

ARTICLE 1. GENERAL PROVISIONS

§ 2930. Citation of chapter; Citation of Salton Sea comprehensive management plan

(a) This chapter shall be known, and may be cited, as the Salton Sea Restoration Act.

(b) The state's comprehensive management plan for the Salton Sea, established pursuant to the Governor's directive of May 2015, shall be known, and may be cited, as the John J. Benoit Salton Sea Restoration Plan.

HISTORY:
Added Stats 2003 ch 611 § 1 (SB 277). Amended Stats 2017 ch 859 § 2 (SB 615), effective January 1, 2018.

§ 2931. Legislative intent

(a) It is the intent of the Legislature that the State of California undertake the restoration of the Salton Sea ecosystem and the permanent protection of the wildlife dependent on that ecosystem.

(b) This restoration shall be based on the preferred alternative developed as a result of the restoration study and alternative selection process described in Section 2081.7 and using the funds made available in accordance with that section to be deposited in the Salton Sea Restoration Fund and other funds made available by the Legislature and the federal government.

(c) The preferred alternative shall provide the maximum feasible attainment of the following objectives:

(1) Restoration of long-term stable aquatic and shoreline habitat for the historic levels and diversity of fish and wildlife that depend on the Salton Sea.

(2) Elimination of air quality impacts from the restoration projects.

(3) Protection of water quality.

(d) For the purpose of the restoration plan, the Salton Sea ecosystem shall include, but is not limited to, the Salton Sea, the agricultural lands surrounding the Salton Sea, and the tributaries and drains within the Imperial and Coachella Valleys that deliver water to the Salton Sea.

HISTORY:
Added Stats 2003 ch 611 § 1 (SB 277). Amended Stats 2004 ch 614 § 3 (SB 1214).

§ 2931.5. Exemption from specified Water Code requirements relating to dams and reservoirs; Certain barriers not considered dam

(a) The construction of facilities to separate fresh water from highly saline water for the purposes of implementing restoration activities pursuant to this chapter shall not be subject to review, approval, inspection, or any fees associated with implementing Division 3 (commencing with Section 6000) of the Water Code.

(b) No barrier in the Salton Sea within or below the minus 220 foot contour based on the North American Vertical Datum of 1988 shall be considered a dam.

HISTORY:
Added Stats 2017 ch 859 § 3 (SB 615), effective January 1, 2018.

§ 2932. Salton Sea Restoration Fund established; Purposes

There is hereby established the Salton Sea Restoration Fund which shall be administered by the director. Money deposited in the fund shall be expended, upon appropriation by the Legislature, for the following purposes:

(a) Environmental and engineering studies related to the restoration of the Salton Sea and the protection of fish and wildlife dependent on the sea.

(b) Implementation of conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea, including adaptive management measurements pursuant to Section 2081.7. These conservation measures shall be limited to the Salton Sea and lower Colorado River ecosystems, including the Colorado River Delta.

(c) Implementation of the preferred Salton Sea restoration alternative.

(d) Administrative, technical, and public outreach costs related to the development and selection of the preferred Salton Sea restoration alternative.

HISTORY:
Added Stats 2003 ch 611 § 1 (SB 277).

§ 2932.2 Transfer of expenditure of funds appropriated pursuant to Section 79565 of the Water Code for Salton Sea restoration

Of the funds appropriated pursuant to Section 79565 of the Water Code, not less than eight million five hundred thousand dollars ($8,500,000) shall be made available for transfer or direct expenditure for acquisition, grants, or other activities that directly restore the Salton Sea and its transboundary watersheds, consistent with Section 2932.

HISTORY:
Added Stats 2005 ch 81 § 1 (SB 71), effective July 19, 2005.

§ 2932.3. Salton Sea Ecosystem restoration program preferred alternative report and funding plan; Funding activities and expenditures

Any moneys made available by paragraph (3) of subdivision (b) of Section 75050 of the Public Resources Code and deposited in the Salton Sea Restoration Fund shall be expended, upon appropriation by the Legislature in the annual Budget Act, for a restoration project at the Salton Sea that is consistent with subdivision (c) of Section 2931. The activities and expenditures authorized by this section shall be limited to funding those activities identified in the Resources Agency report entitled "Salton Sea Ecosystem Restoration Program Preferred Alternative Report and Funding Plan," and dated May 2007, for completion in the first five years of implementation identified in the report as "Period I." The activities specified for completion in Period I include, but are not limited to, a demonstration project, early start habitat, and additional biological, inflow, sediment quality, water quality, and air quality investigations. For purposes of carrying out these activities and expending the funds made available, the Resources Agency shall act as the lead agency and work cooperatively with designated staff from the Department of Water Resources, the State Air Resources Board, the State Water Resources Control Board, and the department. The Resources Agency shall remain the lead agency for implementation, in partnership with one or more of its departments, unless and until legislation is enacted on or after January 1, 2009, establishing a new governance structure for restoration of the Salton Sea. This section is not legislative approval or denial of the preferred alternative identified in the Secretary of the Resources Agency's recommendations contained in the "Salton Sea Ecosystem Restoration Program Preferred Alternative Report and Funding Plan," dated May 2007 and submitted to the Legislature.

HISTORY:
Added Stats 2008 ch 374 § 2 (SB 187), effective January 1, 2009.

§ 2932.5. Mitigation expenditures from fund

Moneys deposited in the fund created pursuant to Section 2932 shall not be expended for mitigation except for mitigation undertaken by the State of California.

HISTORY:
Added Stats 2004 ch 614 § 4 (SB 1214).

§ 2933. Authority to contract to purchase and sell water

The Department of Water Resources may contract with water suppliers to purchase and sell water made available pursuant to Section 1745.02 of the Water Code to achieve the goals of this chapter.

HISTORY:
Added Stats 2003 ch 611 § 1 (SB 277).

ARTICLE 2. SALTON SEA RESTORATION

§ 2940. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) The Salton Sea is California's largest inland water body with beneficial uses that include fisheries and wildlife habitat and preservation of endangered species, and is a repository for agricultural drainage.

(b) The Salton Sea ecosystem is a critical link on the international Pacific Flyway and supports over 400 species of birds.

(c) The Salton Sea is threatened by increasing salinity and reduced inflows. Mitigation water inflows ordered by the State Water Resources Control Board in 2002 will expire at the end of 2017. Combined, these changes increasingly threaten the unparalleled wildlife resources at the sea, as well as air quality in the region.

(d) In cooperation with local governments, nonprofit organizations, private businesses, and the public, the State of California can help protect wildlife habitats and endangered species, improve water and air quality, and enhance recreational opportunities in the region.

(e) The State of California and the United States Department of the Interior committed through a memorandum of understanding signed on August 31, 2016, to protect the ecological values of the Salton Sea and to prevent dust emissions from at least 25,000 acres of lakebed exposed by reduced agricultural inflows resulting from the implementation of the Quantification Settlement Agreement.

(f) In restoring the Salton Sea, it is the intent of the Legislature to do all of the following:

(1) Protect and provide long-term conservation of fish and wildlife that are dependent on the Salton Sea ecosystem.

(2) Restore the long-term stable aquatic and shoreline habitat for fish and wildlife that depend on the Salton Sea.

(3) Mitigate air quality impacts from restoration projects using the best available technology or best available control measures, as determined by the South Coast Air Quality Management District and the Imperial County Air Pollution Control District.

(4) Protect water quality.

(5) Maintain the Salton Sea as a vital link along the Pacific Flyway.

(6) Preserve local tribal heritage and cultural values associated with the Salton Sea.

(7) Minimize noxious odors and other water and air quality problems.

(8) Coordinate with local, state, and federal agencies that are responsible for air quality, endangered species, and other environmental mitigation implementation requirements of the Quantification Settlement Agreement.

(9) Enhance economic development opportunities that will provide sustainable financial improvements benefiting the local environment and the economic quality of life for communities around the Salton Sea.

HISTORY:
Added Stats 2013 ch 402 § 1 (AB 71), effective January 1, 2014. Amended Stats 2014 ch 124 § 1 (AB 148), effective January 1, 2015; Stats 2017 ch 859 § 4 (SB 615), effective January 1, 2018.

§ 2941. Definitions

Unless the context requires otherwise, the definitions set forth in this section govern the construction of this article.

(a) "Agency" means the Natural Resources Agency.

(b) "Habitat mosaics" means two or more proximate habitat types, such as saltwater shoreline abutting riverine deltas and irrigated farmland.

(c) "Quantification Settlement Agreement" has the same meaning as defined in subdivision (a) of Section 1 of Chapter 617 of the Statutes of 2002.

(d) "Salton Sea Authority" or "authority" means the joint powers authority comprised of the County of Imperial, the County of Riverside, the Imperial Irrigation District, the Coachella Valley Water District, and the Torres Martinez Desert Cahuilla Indian Tribe.

(e) "Secretary" means the Secretary of the Natural Resources Agency.

(f) "Vector management" means services that eliminate or reduce the risk of illness caused by any organism transporting a pathogen.

HISTORY:
Added Stats 2013 ch 402 § 1 (AB 71), effective January 1, 2014.

§ 2942. Duty of Secretary and authority to lead Salton Sea Restoration efforts; Feasibility study; Use of design-build procurement authority

(a)(1) The secretary, in consultation and coordination with the authority, shall lead the Salton Sea restoration efforts that shall include all of the following:

(A) Early start habitat demonstration projects.

(B) Biological investigations relating to the restoration of the Salton Sea.

(C) Investigations of water quality, sedimentation, and inflows relating to the restoration of the Salton Sea.

(D) Air quality investigations, in consultation and coordination with local and regional air quality agencies, relating to the restoration of the Salton Sea.

(E) Geotechnical investigations relating to the restoration of the Salton Sea.

(F) Financial assistance grant programs to support restoration activities of local stakeholders.

(2) Nothing in this article shall alter any state responsibility under the Quantification Settlement Agreement or the state's authority to carry out any responsibility under the Quantification Settlement Agreement.

(3)(A) To the extent that funding is appropriated to the department for Salton Sea restoration activities, the Department of Water Resources, in coordination and under agreement with the department, may undertake restoration efforts identified in this subdivision.

(B) The department and the Department of Water Resources shall do all of the following for the Salton Sea Species Conservation Habitat Project:

(i) Immediately make available relevant information relating to the factors that influence the cost and size of the alternatives discussed in the environmental impact report or environmental impact statement for the species habitat conservation program.

(ii) Release all available detail on a final project design immediately, or upon final determination of a least environmentally damaging preferred alternative by the United States Army Corps of Engineers. Details of a final project design shall include location, configuration, size, and cost.

(iii) Immediately make available project evaluation protocols that include the following principles of adaptive management:

(I) Goals and objectives of the project.

(II) The project design and an operations plan.

(III) A monitoring plan that will include metrics that identify benefits to the species.

(IV) A performance evaluation based on species population identified through monitoring.

(V) A decisionmaking framework to evaluate project performance and guide operations and management changes.

(b)(1) The authority may lead a feasibility study, in coordination and under contract with the secretary, to do the following:

(A) Investigate access and utility agreements that may contribute to the future funding of restoration activities at the Salton Sea.

(B) Analyze all feasible funding sources for restoration program components and activities.

(C) Analyze economic development opportunities, including, but not limited to, renewable energy, biofuels, mineral development, and algae production for the purposes of identifying new revenue sources for the Salton Sea restoration efforts.

(D) Identify state procurement and royalty sharing opportunities.

(E) Review existing long-term plans for restoration of the Salton Sea and recommend to the secretary changes to existing restoration plans. In any review pursuant to this subparagraph, the authority shall consider the impacts of the restoration plan on air quality, fish and wildlife habitat, water quality, and the technical and financial feasibility of the restoration plan and shall consider the impacts on other agencies responsible for air quality, endangered species, and other environmental mitigation requirements for implementation of the Quantification Settlement Agreement.

(2) No evaluation, study, review, or other activity pursuant to this article shall delay the planning and implementation of ongoing and planned restoration or mitigation projects, including, but not limited to, the Salton Sea Species Conservation Habitat Project or other measures pursuant to existing state and federal programs and agreements.

(c) Notwithstanding any other law, the Department of Water Resources is authorized to use design-build procurement authority for projects constructed at the Salton Sea in accordance with Article 6 (commencing with Section 10187) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code.

HISTORY:
Added Stats 2013 ch 402 § 1 (AB 71), effective January 1, 2014. Amended Stats 2014 ch 124 § 2 (AB 148), effective January 1, 2015; Stats 2016 ch 340 § 7 (SB 839), effective September 13, 2016.

§ 2943. Consultation with Salton Sea Authority

For the purposes of considering local, publicly derived input concerning habitat objectives and actions, types and levels of public access, and integration of air quality management and habitat restoration, the secretary shall seek input from the authority with regard to the following components of restoration of the Salton Sea:

(a) Design opportunities and constraints, including the integration of the habitat, public access, and air quality management objectives.

(b) Public access and recreational components.

(c) Opportunities for economic development.

(d) Habitat mosaics and location.

(e) Vector management and predator control.

(f) Feasible financial resources to fund all recommended restoration program components.

HISTORY:
Added Stats 2013 ch 402 § 1 (AB 71), effective January 1, 2014.

§ 2945. Limitations on article's effect

(a) Nothing in this article interferes with or prevents the exercise of authority by a public agency to carry out its programs, projects, or responsibilities.

(b) Nothing in this article affects requirements imposed under any other provision of law.

HISTORY:
Added Stats 2013 ch 402 § 1 (AB 71), effective January 1, 2014.

DIVISION 4. BIRDS AND MAMMALS

PART 1. PROVISIONS GENERALLY APPLICABLE TO BOTH

CHAPTER 1. GENERAL PROVISIONS

ARTICLE 1. METHODS OF TAKING

§ 3000. Hours

It is unlawful to take any bird or mammal, except a nongame mammal, between one-half hour after sunset and one-half hour before sunrise of the following day at the place of taking, except as otherwise provided in this code or under such regulations as the commission may adopt. The commission may adopt regulations prohibiting the taking of any nongame mammal between one-half hour after sunset and one-half hour before sunrise of the following day at the place of taking.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 29.5; Stats 1971 ch 1470 § 1.

§ 3001. Taking when intoxicated

It is unlawful to take birds or mammals with firearms, BB devices as defined in Section 16250 of the Penal Code, crossbows, or with bow and arrow when intoxicated.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 48 (AB 1729), effective January 1, 2008; Stats 2010 ch 178 § 29 (SB 1115), effective January 1, 2011, operative January 1, 2012.

§ 3002. Shooting from specified vehicles

It is unlawful to shoot at any game bird or mammal, including a marine mammal as defined in Section 4500, from a powerboat, sailboat, motor vehicle, or airplane.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 119 § 1; Stats 1975 ch 786 § 1.

§ 3003. Online shooting or spearing prohibited

(a) It is unlawful for a person to shoot, shoot at, or kill a bird or mammal with a gun or other device accessed via an Internet connection in this state.

(b) It is unlawful for a person, firm, corporation, partnership, limited liability company, association, or other business entity to do either of the following:

(1) Own or operate a shooting range, site, or gallery located in the state for the purpose of online shooting or spearing of a bird or mammal.

(2) Create, maintain, or utilize an Internet Web site, or other service or business in this state for the purpose of online shooting or spearing of a bird or mammal.

(c) It is unlawful to possess or confine a bird or mammal in furtherance of an activity prohibited by this section.

(d) It is unlawful for a person in this state to import into, or export from, this state a bird or mammal that is killed by a device accessed via an Internet connection.

(e) A bird or mammal that is possessed in violation of this section shall be subject to seizure by the department.

(f) For the purposes of this section, "online shooting or spearing" means the use of a computer or other device, equipment, software, or technology to remotely control the aiming and discharge of a weapon, including, but not limited to, a firearm, bow and arrow, spear, slingshot, harpoon, or other projectile device.

HISTORY:
Added Stats 2005 ch 672 § 2 (SB 1028), effective January 1, 2006. Amended Stats 2015 ch 154 § 59 (AB 1527), effective January 1, 2016.

§ 3003.1. Use of body-gripping trap

(a) Notwithstanding ****Section* 1001, 1002, 4002, 4004, 4007, 4008, 4009.5, ***4152, 4180 or 4181:

****(1)* It is unlawful for any person to trap for the purposes of recreation or commerce in fur any fur-bearing mammal or nongame mammal with any body-gripping trap. A body-gripping trap is one that grips the mammal's body or body part, including, but not limited to, steel-jawed leghold traps, padded-jaw leghold traps, conibear traps, and snares. Cage and box traps, nets, suitcase-type live beaver traps, and common rat and mouse traps shall not be considered body-gripping traps.

****(2)* It is unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or to offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined by Section 4005, of any fur-bearing mammal or nongame mammal that was trapped in this state, with a body-gripping trap as described in ****paragraph (1)*.

****(3)* It is unlawful for any person, including an employee of the federal, state, county, or municipal government, to use or authorize the use of any steel-jawed leghold trap, padded or otherwise, to capture any game mammal, fur-bearing mammal, nongame mammal, ***or*** protected mammal, or any dog or cat. The prohibition in this subdivision does not apply to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded-jaw leghold trap is the only method available to protect human health or safety.

****(4)* For purposes of this section, fur-bearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by statute on January 1, 1997.

(b) Nothing in this section authorizes any person to trap for purposes of recreation or commerce in fur any fur-bearing mammal or nongame mammal by any other means.

HISTORY:
Addition adopted by voters, Prop 4 § 1, effective November 4, 1998. Amended Stats 2019 ch 216 § 3 (AB 273), effective January 1, 2020.

§ 3003.2. Poisoning animals by use of sodium fluoroacetate or sodium cyanide

Notwithstanding Sections 4003, 4152, 4180, or 4180.1 of this code or Section 14063 of the Food and Agricultural Code, no person, including an employee of the federal, state, county, or municipal government, may poison or attempt to poison any animal by using sodium fluoroacetate, also known as Compound 1080, or sodium cyanide.

HISTORY:
Addition adopted by voters, Prop 4 § 2, effective November 4, 1998.

§ 3003.5. Pursuit with motorized vehicle; Exceptions

It is unlawful to pursue, drive, or herd any bird or mammal with any motorized water,

land, or air vehicle, including, but not limited to, a motor vehicle, airplane, powerboat, or snowmobile, except in any of the following circumstances:

(a) On private property by the landowner or tenant thereof to haze birds or mammals for the purpose of preventing damage by that wildlife to private property.

(b) Pursuant to a permit from the department issued under regulations as the commission may prescribe.

(c) In the pursuit of agriculture.

HISTORY:
Added Stats 1969 ch 1075 § 11. Amended Stats 1971 ch 1343 § 2; Stats 2007 ch 285 § 49 (AB 1729), effective January 1, 2008.

§ 3004. Discharge of firearms within specified distance of buildings; Exceptions

(a) It is unlawful for a person, other than the owner, person in possession of the premises, or a person having the express permission of the owner or person in possession of the premises, while within 150 yards of an occupied dwelling house, residence, or other building, or within 150 yards of a barn or other outbuilding used in connection with an occupied dwelling house, residence, or other building, to either hunt or discharge a firearm or other deadly weapon while hunting. The 150-yard area is a "safety zone."

(b) It is unlawful for a person to intentionally discharge a firearm or release an arrow or crossbow bolt over or across a public road or other established way open to the public in an unsafe and reckless manner.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 50 (AB 1729), effective January 1, 2008; Stats 2009 ch 294 § 11 (AB 1442), effective January 1, 2010; Stats 2015 ch 154 § 60 (AB 1527), effective January 1, 2016.

§ 3004.5. Nonlead centerfire rifle and pistol ammunition; When required; Temporary suspension of requirement; Public process to certify; Coupon program; Report; Notice; Punishment for infraction; Promulgation of regulations

(a)(1) Nonlead centerfire rifle and pistol ammunition, as determined by the commission, shall be required when taking big game, as defined in the department's mammal hunting regulations (14 Cal. Code Regs. 350), with rifle or pistol, and when taking coyote, within the California condor range.

(2) For purposes of this section, "California condor range" means:

(A) The department's deer hunting zone A South, but excluding Santa Cruz, Alameda, Contra Costa, San Mateo, and San Joaquin Counties, areas west of Highway 101 within Santa Clara County, and areas between Highway 5 and Highway 99 within Stanislaus, Merced, Madera, Fresno, Kings, Tulare, and Kern Counties.

(B) Areas within deer hunting zones D7, D8, D9, D10, D11, and D13.

(3) The requirements of this subdivision shall remain in effect in the California condor range unless and until the more restrictive nonlead prohibitions required pursuant to subdivision (b) are implemented.

(b) Except as provided in subdivision (j), and as soon as is practicable as implemented by the commission pursuant to subdivision (i), but by no later than July 1, 2019, nonlead ammunition, as determined by the commission, shall be required when taking all wildlife, including game mammals, game birds, nongame birds, and nongame mammals, with any firearm.

(c)(1) The commission shall maintain, by regulation, a public process to certify ammunition as nonlead ammunition, and shall define, by regulation, nonlead ammunition as including only ammunition in which there is no lead content, excluding the presence of trace amounts of lead. The commission shall establish and annually update a list of certified ammunition.

(2) The list of certified ammunition shall include, but not be limited to, any federally approved nontoxic shotgun ammunition.

(d)(1) To the extent that funding is available, the commission shall establish a process that will provide hunters with nonlead ammunition at no or reduced charge. The process shall provide that the offer for nonlead ammunition at no or reduced charge may be redeemed through a coupon sent to a permitholder with the appropriate permit tag. If available funding is not sufficient to provide nonlead ammunition at no charge, the commission shall set the value of the reduced charge coupon at the maximum value possible through available funding, up to the average cost within this state for nonlead ammunition, as determined by the commission.

(2) The nonlead ammunition coupon program described in paragraph (1) shall be implemented only to the extent that sufficient funding, as determined by the Department of Finance, is obtained from local, federal, public, or other nonstate sources in order to implement the program.

(3) If the nonlead ammunition coupon program is implemented, the commission shall issue a report on the usage and redemption rates of ammunition coupons. The report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued by June of the following year.

(e) The commission shall issue a report on the levels of lead found in California condors. This report shall cover calendar years 2008, 2009, and 2012. Each report shall be issued by June of the following year.

(f) The department shall notify those hunters who may be affected by this section.

(g) A person who violates any provision of this section is guilty of an infraction punishable by a fine of five hundred dollars ($500). A second or subsequent offense shall be punishable by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000).

(h) This section does not apply to government officials or their agents when carrying out a statutory duty required by law.

(i) The commission shall promulgate regulations by July 1, 2015, that phase in the requirements of this section. The requirements of this section shall be fully implemented statewide by no later than July 1, 2019. If any of the requirements of this section can be implemented practicably, in whole or in part, in advance of July 1, 2019, the commission shall implement those requirements. The commission shall not reduce or eliminate any existing regulatory restrictions on the use of lead ammunition in California condor range unless or until the additional requirements for use of nonlead ammunition as required by this section are implemented.

(j)(1) The prohibition in subdivision (b) shall be temporarily suspended for a specific hunting season and caliber upon a finding by the director that nonlead ammunition of a specific caliber is not commercially available from any manufacturer because of federal prohibitions relating to armor-piercing ammunition pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(2) Notwithstanding a suspension pursuant to paragraph (1), nonlead ammunition shall be used when taking big game mammals, nongame birds, or nongame mammals in the California condor range, as defined in subdivision (a).

HISTORY:

Added Stats 2007 ch 570 § 3 (AB 821), effective January 1, 2008. Amended Stats 2013 ch 742 § 2 (AB 711), effective January 1, 2014.

§ 3005. Taking or possession by specified means unlawful; Exceptions

(a) It is unlawful to take birds or mammals with any net, pound, cage, trap, set line or wire, or poisonous substance, or to possess birds or mammals so taken, whether taken within or without this state, except as provided in this code or, when relating to ongoing mining operations, in accordance with a mitigation plan approved by the department.

(b)(1) Mitigation plans relating to mining operations approved by the department shall, among other criteria, require avoidance of take, where feasible, and include reasonable and practicable methods of mitigating the unavoidable take of birds and mammals. When approving mitigation plans, the department shall consider the use of the best available technology on a site-specific basis.

(2) Mitigation plans relating to mining operations approved by the department shall include provisions that address circumstances where mining operations contribute to bird deaths, including ponding of process solutions on heap leach pads and exposure of process solution channels, solution ponds, and tailing ponds.

(3) The mine operator shall prepare a mitigation plan that shall be submitted to the department for approval. For ongoing mining operations, the mitigation plan shall result in an overall reduction in take of avian or mammal species. The department shall provide an opportunity for public review and comment on each mitigation plan during the department's approval process. The mitigation plan shall be prepared on a site-specific basis and may provide for offsite mitigation measures designed to reduce avian mortality. The mine operator shall submit monthly monitoring reports on avian mortality to the department to aid in evaluating the effectiveness of onsite mitigation measures.

(4) The department shall monitor and evaluate implementation of the mitigation plan by the mine operator and require modification of the plan or other remedial actions to be taken if the overall reduction in take of avian or mammal species required pursuant to paragraph (3) is not being achieved.

(5) The mining operator shall reimburse the department for its direct costs to provide appropriate notice of the mitigation plan to affected local government entities and other affected parties. The mine operator shall provide the department a limited number of copies, as determined by the department, of the mitigation plan for public review.

(c) Proof of possession of any bird or mammal that does not show evidence of having been taken by means other than a net, pound, cage, trap, set line or wire, or poisonous substance, is prima facie evidence that the birds or mammals were taken in violation of this section.

(d) This section does not apply to the lawful taking of fur-bearing mammals, nongame birds, nongame mammals, or mammals found to be injuring crops or property, to the taking of birds or mammals under depredation permits, to taking by employees of the department acting in an official capacity, or to taking in accordance with the conditions of a scientific or propagation permit by the holder of that permit.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 30; Stats 1971 ch 1470 § 2; Stats 1994 ch 768 § 1 (SB 1656).

§ 3005.5. Capture or possession of bird or mammal; Regulations

It is unlawful to capture any game mammal, game bird, nongame bird, nongame mammal, or furbearer, or to possess or confine any live game mammal, game bird, nongame bird, nongame mammal, or furbearer taken from the wild, except as provided by this code or regulations made pursuant thereto. Any bird or mammal possessed or confined in violation of this section shall be seized by the department.

The commission may promulgate regulations permitting the temporary confinement of game mammals, game birds, nongame birds, nongame mammals, or furbearers for the purpose of treating the animals, if injured or diseased.

HISTORY:
Added Stats 1970 ch 296 § 1. Amended Stats 1971 ch 1470 § 3; Stats 1983 ch 1300 § 3.

§ 3006. Killing of captive deer, elk, or bear; Disposition of carcass

Except as authorized under a domesticated game breeder's license, a deer, elk, or bear kept in captivity may be killed only with the approval of the department, and pursuant

to any regulation that the commission may adopt. The carcass of a deer, elk, or bear kept in captivity may not be sold, and shall be disposed of as directed by the department.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 61 (AB 1527), effective January 1, 2016.

§ 3007. Necessity of license or entitlement

Except as provided in this code or regulations adopted pursuant to this code, it is unlawful to take a bird or mammal without a license or entitlement to do so.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 1633 § 1; Stats 1971 ch 1470 § 4; Stats 2007 ch 285 § 56 (AB 1729), effective January 1, 2008; Stats 2015 ch 154 § 62 (AB 1527), effective January 1, 2016.

§ 3008. Control of hunting by owner; Rabies vaccination requirements

The physical control of a dog by its owner while the dog is engaged in hunting in an area where the owner is otherwise authorized to hunt, shall be as required by this code or regulations made pursuant thereto.

Dogs which are used for hunting which have been vaccinated for rabies in their county of residence in conformity with state law regulating vaccinations in rabies areas are not subject to rabies vaccination requirements of local ordinances outside their county of residence.

HISTORY:
Added Stats 1959 ch 444 § 1.

§ 3009. Abandonment of or failure to aid person injured by hunting weapon or device; Felony

Every person who while taking any bird or mammal kills or injures another person by the use of any firearm, bow and arrow, spear, slingshot, or other weapon or device used in such taking and who knowingly either abandons such person or fails to render to such injured person all necessary aid possible under the circumstances is guilty of a felony.

HISTORY:
Added Stats 1961 ch 1815 § 1.

§ 3010. Taking of pheasants on their release into hunting area

It is unlawful for any person to take any pheasant within 300 yards of any vehicle from which pheasants are being released into an area for hunting while such pheasants are being released.

HISTORY:
Added Stats 1963 ch 1674 § 1.

§ 3011. Taking of bears with metal-jawed traps

No person, including employees of the state, federal or county government, shall take bear with iron or steel-jawed or any type of metal-jawed traps, and no provision of this code or any other law shall be construed to authorize, or to permit the authorizing of, the use of iron or steel-jawed or any type of metal-jawed traps to take bear.

HISTORY:
Added Stats 1967 ch 310 § 1.

§ 3012. Use of bird or mammal calls

It is unlawful to use any recorded or electrically amplified bird or mammal calls or sounds, or recorded or electrically amplified imitations of bird or mammal calls or

sounds, to assist in taking any bird or mammal, except nongame birds and nongame mammals as permitted by regulations of the commission.

HISTORY:
Added Stats 1971 ch 1114 § 1, operative July 1, 1972.

ARTICLE 2. HUNTING LICENSES

§ 3031. Eligibility; Fees; Persons accompanying junior license holders on state and federal areas [Repealed effective July 1, 2020]

(a) A hunting license, granting the privilege to take birds and mammals, shall be issued to any of the following:

(1) A resident of this state, 18 years of age or older, upon the payment of a base fee of thirty-one dollars and twenty-five cents ($31.25).

(2) A resident or nonresident, who is under 18 years of age on July 1 of the licensing year, upon the payment of a base fee of eight dollars and twenty-five cents ($8.25), regardless of whether that person applies before or after July 1 of that year. A license issued pursuant to this paragraph shall be known as a junior hunting license and a person who holds one of these licenses shall be known as a junior hunter.

(3) A nonresident, 18 years of age or older, upon the payment of a base fee of one hundred eight dollars and fifty cents ($108.50).

(4) A nonresident, 18 years of age or older, valid only for two consecutive days upon payment of the fee set forth in paragraph (1). A license issued pursuant to this paragraph is valid only for taking resident and migratory game birds, resident small game mammals, fur-bearing mammals, and nongame mammals, as defined in this code or in regulations adopted by the commission.

(5) A nonresident, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed game bird club, or for the taking of domesticated migratory game birds in areas licensed for shooting those birds, upon the payment of a base fee of fifteen dollars ($15).

(b) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(c) The commission shall adjust the amount of the fees specified in subdivision (b), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

(d) A person who is 16 or 17 years of age, is in possession of a valid junior hunting license, and is issued an entry permit pursuant to Section 551 of Title 14 of the California Code of Regulations may hunt in the area described in the entry permit unaccompanied by a person over 18 years of age but shall not be accompanied by a person under 16 years of age.

(e) This section shall remain in effect only until July 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

HISTORY:
Added Stats 1996 ch 870 § 6.3 (AB 3245), operative July 1, 1997. Amended Stats 1998 ch 247 § 3 (AB 2230); Stats 2003 ch 741 § 7 (SB 1049); Stats 2008 ch 98 § 2 (AB 2330), effective January 1, 2009; Stats 2012 ch 565 § 16 (SB 1148), effective January 1, 2013; Stats 2014 ch 456 § 1 (AB 1709), effective January 1, 2015, operative July 1, 2015, repealed July 1, 2020. Amended Stats 2018 ch 295 § 5 (AB 2151), effective January 1, 2019, operative July 1, 2019, repealed July 1, 2020.

§ 3031. Eligibility; Fees; Persons accompanying license holders 16 or 17 years of age on state and federal areas [Operative July 1, 2020]

(a) A hunting license, granting the privilege to take birds and mammals, shall be issued to any of the following:

(1) A resident of this state, 16 years of age or older, upon the payment of a base fee of thirty-one dollars and twenty-five cents ($31.25).

(2) A resident or nonresident, who is under 16 years of age on July 1 of the licensing year, upon the payment of a base fee of eight dollars and twenty-five cents ($8.25), regardless of whether that person applies before or after July 1 of that year. A license issued pursuant to this paragraph shall be known as a junior hunting license and a person who holds one of these licenses shall be known as a junior hunter.

(3) A nonresident, 16 years of age or older, upon the payment of a base fee of one hundred eight dollars and fifty cents ($108.50).

(4) A nonresident, 16 years of age or older, valid only for two consecutive days upon payment of the fee set forth in paragraph (1). A license issued pursuant to this paragraph is valid only for taking resident and migratory game birds, resident small game mammals, fur-bearing mammals, and nongame mammals, as defined in this code or in regulations adopted by the commission.

(5) A nonresident, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed game bird club, or for the taking of domesticated migratory game birds in areas licensed for shooting those birds, upon the payment of a base fee of fifteen dollars ($15).

(b) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(c) The commission shall adjust the amount of the fees specified in subdivision (b), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

(d) A person who is 16 or 17 years of age, is in possession of a valid resident or nonresident hunting license, and is issued an entry permit pursuant to Section 551 of Title 14 of the California Code of Regulations may hunt in the area described in the entry permit unaccompanied by a person over 18 years of age but shall not be accompanied by a person under 16 years of age.

(e) This section shall become operative on July 1, 2020.

HISTORY:

Added Stats 2014 ch 456 § 2 (AB 1709), effective January 1, 2015, operative July 1, 2020. Amended Stats 2018 ch 295 § 6 (AB 2151), effective January 1, 2019, operative July 1, 2020.

§ 3031.2. Issuance of lifetime hunting license

(a) In addition to Section 3031, and notwithstanding Section 3037, the department shall issue lifetime hunting licenses under this section. A lifetime hunting license authorizes the taking of birds and mammals anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime hunting license is not transferable. A lifetime hunting license is valid for one year from July 1 through June 30 and may be renewed annually, regardless of any lapse of the license, at no additional cost to the licensee. A lifetime hunting license does not include any special tags, stamps, or fees.

(b) A lifetime hunting license may be issued to residents of this state, as follows:

(1) To a person 62 years of age or over, upon payment of a base fee of three hundred sixty-five dollars ($365).

(2) To a person 40 years of age or over, and less than 62 years of age, upon payment of a base fee of five hundred forty dollars ($540).

(3) To a person 10 years of age or over, and less than 40 years of age, upon payment of a base fee of six hundred dollars ($600).

(4) To a person less than 10 years of age, upon payment of a base fee of three hundred sixty-five dollars ($365).

(c) Upon payment of a base fee of four hundred forty-five dollars ($445), a person holding a lifetime hunting license shall be issued annually one deer tag application

pursuant to subdivision (a) of Section 4332 and five wild pig tags pursuant to Section 4654. Lifetime privileges issued pursuant to this subdivision are not transferable.

(d) Upon payment of a base fee of two hundred ten dollars ($210), a person holding a lifetime hunting license shall be entitled annually to the privileges afforded to a person holding a state duck stamp or validation issued pursuant to Section 3700.1 and an upland game bird stamp or validation issued pursuant to Section 3682.1. Lifetime privileges issued pursuant to this subdivision are not transferable.

(e) Nothing in this section requires a person less than 16 years of age to obtain a license to take birds or mammals except as required by law.

(f) Nothing in this section exempts an applicant for a license from meeting other qualifications or requirements otherwise established by law for the privilege of sport hunting.

(g) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

(h) The commission shall adjust the amount of the fees specified in subdivisions (b), (c), and (d), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:
Added Stats 1997 ch 424 § 3 (SB 263). Amended Stats 2003 ch 741 § 8 (SB 1049); Stats 2007 ch 285 § 57 (AB 1729), effective January 1, 2008; Stats 2012 ch 559 § 21 (AB 2402), effective January 1, 2013; Stats 2017 ch 26 § 7 (SB 92), effective June 27, 2017.

§ 3031.5. Job Corps enrollees deemed residents

For the purpose of obtaining a hunting license, enrollees in the Job Corps, created by the Economic Opportunity Act of 1964 (Public Law 88-452), shall be deemed to be residents of California.

HISTORY:
Added Stats 1965 ch 1086 § 1.

§ 3032. Authority to establish a hound tag program

(a) As used in this section:

(1) "Bear" and "pursue" have the same meanings as defined in Section 3960.

(2) "Hound" means a dog used to pursue mammals.

(b) The commission may establish a hound tag program.

(c) If a hound tag program is established, the commission may require all of the following:

(1) That each hound be issued a license tag bearing a unique identifying number that is to be worn at all times by the hound while pursuing mammals.

(2) That all relevant local and state laws pertaining to dogs are being followed while the hound is being used to pursue mammals.

(3) That each hound be microchipped with an implanted transponder that has a unique identification code.

(4) That the owner maintain documentation showing that the hound is current on all required vaccinations and treatments for the prevention of rabies and any other disease specified by the department.

(5) That the owner report, within 24 hours of its last sighting, any hound that is lost during hunting, pursuing, or tracking activities.

(6) That the hound's tag identification number be recorded on the hunting tag of any animal taken using the services of the hound.

(d) If a hound tag program is established, the commission may adjust the amount of the fees for the hound tag as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to the program.

HISTORY:
Added Stats 2012 ch 595 § 1 (SB 1221), effective January 1, 2013.

§ 3033. Reduced fee licenses for disabled veterans or recovering service member

(a) Pursuant to this section, the department shall issue to a disabled veteran or recovering service member who has not been convicted of a violation of this code a reduced fee hunting license that authorizes the licensee to take a bird or mammal as authorized by this code and regulations adopted pursuant to this code.

(b) The base license fee for a reduced fee hunting license shall be four dollars ($4) for the hunting license year beginning on July 1, 1995, and, for the following years, this license fee may be annually reviewed and adjusted in accordance with Section 713.

(c) For the purposes of this section, the following terms have the following meanings:

(1) "Disabled veteran" means a person having a 50 percent or greater service-connected disability and an honorable discharge from military service.

(2) "Recovering service member" means a member of the military who meets the definition of "recovering service member" in Section 1602(7) of the federal National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181).

(d) A person applying for a reduced fee hunting license shall submit to the department adequate documentation for the department to determine whether the person is, in fact, eligible for a reduced fee hunting license. The department shall not issue a reduced fee hunting license to a person unless it is satisfied that the person has provided adequate documentation of eligibility for that license.

(e) A disabled veteran shall submit the following documentation:

(1) Proof of an honorable discharge from military service.

(2) Proof of the disability described in paragraph (1) of subdivision (c), either by certification from the United States Department of Veterans Affairs or by presentation of a license issued pursuant to this section in the preceding license year.

(f) A recovering service member shall submit a letter to the department stating that the person is a recovering service member as defined in subdivision (d), from either that person's commanding officer or a military medical doctor. The letter may be submitted either in hard copy form or online.

HISTORY:
Added Stats 1989 ch 317 § 1, operative July 1, 1990. Amended Stats 1990 ch 216 § 28 (SB 2510), operative July 1, 1990; Stats 1994 ch 849 § 6 (SB 2113); Stats 2003 ch 291 § 1 (AB 1420); Stats 2012 ch 410 § 1 (SB 1288), effective January 1, 2013; Stats 2015 ch 154 § 63 (AB 1527), effective January 1, 2016.

§ 3034. Report to Legislature regarding reduced-price tag program [Repealed effective July 1, 2028]

(a) The department shall prepare a report to the Legislature no later than July 1, 2024, on the effects of the reduced-price tags issued pursuant to Sections 331, 332, 4751, and 4902 of the Fish and Game Code on rates of participation by junior hunters, the Big Game Management Account, and the Fish and Game Preservation Fund. The department shall collect relevant, sufficient, and appropriate data to evaluate the reduced-price tag program in the report, and make recommendations on improving the cost-effectiveness of those tags.

(b) The report required to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on July 1, 2028.

HISTORY:
Added Stats 2018 ch 295 § 7 (AB 2151), effective January 1, 2019, operative July 1, 2019, repealed July 1, 2028.

§ 3037. Term

A hunting license authorizes the person to whom it is issued to take birds and

mammals, in accordance with law, for a term of one year from July 1st to June 30th, or, if issued after the beginning of such term, for the remainder of the term.

HISTORY:
Enacted 1957. Amended Stats 1971 ch 1470 § 6.

§ 3038. Issuance to disabled members of armed forces

Any member of the armed forces of the United States who is in a military medical facility and who is at least 70 percent disabled shall be issued a hunting permit, on application therefor, by the department, in lieu of a hunting license and appropriate tags, authorizing the taking of birds and mammals. If the permit covers a period during which birds or mammals may only be taken or shipped with appropriate tags, the department may issue such tags with the permit or shall endorse the permit to authorize such taking and shipping without such tags.

Such a permit shall be valid only during the period of time such person is in the medical facility and so disabled. Certification by the commanding officer of the military medical facility shall be sufficient proof of this period of time and extent of disability.

HISTORY:
Added Stats 1961 ch 372 § 1. Amended Stats 1971 ch 1470 § 7.

§ 3039. Unlawful sale or purchase of bird or animal; Exceptions; Civil liability [Repealed effective January 1, 2023]

(a) Except as otherwise provided in this section, Section 3087, Section 4303, another provision of this code, or a regulation adopted pursuant to this code, it is unlawful to sell or purchase a bird or mammal found in the wild in California.

***

(b) Shed antlers, or antlers taken from domestically reared animals that have been manufactured into products or handicraft items, or that have been cut into blocks or units ****that*** are to be handcrafted or manufactured into those articles***,*** may be purchased or sold at any time. However, complete antlers, whole heads with antlers, antlers that are mounted for display, or antlers in velvet may not be sold or purchased at any time, except as authorized by Section 3087.

****(c)*** Notwithstanding Section 3504, inedible parts of domestically raised game birds may be sold or purchased at any time.

****(d)*** A person who illegally takes a bird or mammal for profit or for personal gain by engaging in an activity authorized by this section is subject to civil liability pursuant to Section 2582.

(e) This section shall remain in effect only until January 1, 2023, and as of that date is repealed.

HISTORY:
Added Stats 1961 ch 688 § 1. Amended Stats 1977 ch 1208 § 6; Stats 1990 ch 747 § 1 (AB 3803); Stats 1992 ch 255 § 1 (AB 3421); Stats 2015 ch 154 § 64 (AB 1527), effective January 1, 2016; Stats 2019 ch 216 § 4 (AB 273), effective January 1, 2020; Stats 2019 ch 764 § 2.5 (AB 44), effective January 1, 2020, repealed January 1, 2023 (ch 764 prevails).

§ 3039. Unlawful sale or purchase of bird or animal; Exceptions; Civil liability [Operative January 1, 2023]

(a) Except as otherwise provided in this section, Section 2023, Section 3087, Section 4303, another provision of this code, or a regulation adopted pursuant to this code, it is unlawful to sell or purchase a bird or mammal found in the wild in California.

(b) Shed antlers, or antlers taken from domestically reared animals that have been manufactured into products or handicraft items, or that have been cut into blocks or units that are to be handcrafted or manufactured into those articles, may be purchased or sold at any time. However, complete antlers, whole heads with antlers, antlers that

are mounted for display, or antlers in velvet may not be sold or purchased at any time, except as authorized by Section 3087.

(c) Notwithstanding Section 3504, inedible parts of domestically raised game birds may be sold or purchased at any time.

(d) A person who illegally takes a bird or mammal for profit or for personal gain by engaging in an activity authorized by this section is subject to civil liability pursuant to Section 2582.

(e) This section shall become operative on January 1, 2023.

HISTORY:
Added Stats 2019 ch 764 § 3.5 (AB 44), effective January 1, 2020, operative January 1, 2023.

§ 3040. Free Hunting Days

(a) Notwithstanding Section 3031, the director may designate two days per year as "Free Hunting Days." One free hunting day may be established during the fall hunting season, and the other free hunting day may be established during the winter hunting season. The department shall publish the exact dates of the free hunting days in annual publications of the department regarding current hunting regulations.

(b) During a free hunting day, a California resident may hunt if accompanied by a hunter who holds a valid hunting license issued by the State of California, has held a valid hunting license for at least the last three consecutive years, is at least 21 years of age, and accompanies only one unlicensed hunter in the field at a time. An unlicensed hunter shall participate in the free hunting days for only one license year and shall complete a hunter education course approved by the department and register with the department, or an agent of the department, prior to participating in a free hunting day. While engaged in hunting activities, the unlicensed hunter shall remain in close visual and verbal contact with the licensed hunter at all times so that the licensed hunter is able to provide adequate direction and immediately assume control of a firearm from the unlicensed hunter at any time.

(c) An unlicensed hunter who participates in a free hunting day shall have in his or her possession all of the following:

(1) A certificate of completion of a course in hunter education as required in paragraph (3) of subdivision (a) of Section 3050.

(2) Any required tags or report cards.

(3) Any required federal entitlements.

(4) Any required entry permits.

(d) Unlicensed hunters participating in free hunting days shall not take any species that requires a draw or lottery to obtain a tag.

(e) An unlicensed hunter hunting pursuant to this section is subject to all of the limitations, restrictions, conditions, statutes, rules, and regulations applicable to the holder of a valid hunting license, except the requirement to possess a valid hunting license.

(f) The department may adopt additional minimum requirements and restrictions for a licensed hunter or unlicensed hunter participating in a free hunting day pursuant to this section.

(g) This section shall not be implemented until the department's Automated License Data System is fully operational for at least one year.

HISTORY:
Added Stats 2010 ch 410 § 2 (SB 1179), effective January 1, 2011.

ARTICLE 2.5. HUNTER'S SAFETY

§ 3049. Legislative intent, declarations and findings

It is the intent of the Legislature in enacting this article to ensure the health and safety of its citizens engaged in activities requiring the use of hunting implements.

The Legislature finds and declares that individuals who engage in hunting should possess an adequate understanding of hunter safety practices, principles of conservation, and sportsmanship.

It is also the intent of the Legislature that persons so engaged be mindful of their responsibilities to others, toward wildlife, and toward their natural environment. The department shall take all steps necessary to carry out the provisions of this article.

HISTORY:
Added Stats 1970 ch 1404 § 5, operative June 1, 1971, ch 1539 § 5, operative June 1, 1971.

§ 3050. Prerequisites to issuance of license; Exceptions

(a) No hunting license may be issued to any person unless he or she presents to the person authorized to issue that license any of the following:

(1) Evidence that he or she has held a hunting license issued by this state in a prior year.

(2) Evidence that he or she holds a current hunting license, or a hunting license issued in either of the two previous hunting years by another state or province.

(3) A certificate of completion of a course in hunter education, principles of conservation, and sportsmanship, as provided in this article. A hunter education instruction validation stamp shall be permanently affixed to certificates of completion that have been issued before January 1, 2008.

(4) A certificate of successful completion of a hunter education course in another state or province.

(5) Evidence of completion of a course in hunter education, principles of conservation, and sportsmanship, which the commission may, by regulation, require.

(b) The evidence required in subdivision (a) shall be forwarded to the department.

(c) Subdivision (a) does not apply to any person purchasing a hunting license under paragraph (5) of subdivision (a) of Section 3031. However, that license shall not qualify as evidence required in subdivision (a) of this section.

HISTORY:
Added Stats 1970 ch 1404 § 5, operative June 1, 1971, ch 1539 § 5, operative June 1, 1971. Amended Stats 1989 ch 530 § 1; Stats 1995 ch 293 § 3 (AB 1916), ch 827 § 2 (SB 123), effective October 13, 1995; Stats 1998 ch 247 § 4 (AB 2230); Stats 2002 ch 453 § 4 (AB 3055); Stats 2007 ch 285 § 58 (AB 1729), effective January 1, 2008; Stats 2015 ch 683 § 16 (SB 798), effective January 1, 2016.

§ 3051. Course of instruction; Certificate of completion; Recruitment and retention of instructors

(a) The department shall provide for a course of instruction in hunter education, principles of conservation, and sportsmanship, and for this purpose may cooperate with any reputable association or organization having as one of its objectives the promotion of hunter safety, principles of conservation, and sportsmanship.

(b) The department may designate as a hunter education instructor any person found by it to be competent to give instruction in the courses required in this article.

(c) A hunter education instructor shall issue a certificate of completion as provided by the department to a person who completes a course of instruction in hunter safety, principles of conservation, and sportsmanship.

(d) The department shall prescribe a minimum level of skill and knowledge to be required of all hunter education instructors, and may limit the number of students per instructor in all required classes.

(e) The department may revoke the certificate of an instructor when, in the opinion of the department, it is in the best interest of the state to do so.

(f) In order to recruit and retain hunter education instructors, the department shall offer special hunting opportunities to qualified hunter education instructors by providing a limited number of existing tags and other hunting opportunities. The department may provide these tags and hunting opportunities through any of the following methods:

(1) The private lands management program described in Article 5 (commencing with Section 3400) of Chapter 2.

(2) The Shared Habitat Alliance for Recreational Enhancement (SHARE) program described in Article 3 (commencing with Section 1570) of Chapter 5 of Division 2.

(3) Entering into cooperative agreements with federal, state, and local agencies that hold title to, or administer, lands or waters.

(4) Entering into cooperative agreements with landowners or tenants seeking depredation permits for game mammals as described in Section 4188.

(5) Authorizing a maximum of 15 tags from the annual tag quota, as determined by the department.

(g) The department shall determine eligibility criteria for hunter education instructors seeking the hunting opportunities offered pursuant to subdivision (f). The department shall offer hunting opportunities to eligible hunter education instructors only by random drawing.

(h) The department may adopt regulations to implement this section.

HISTORY:

Added Stats 1970 ch 1404 § 5, operative June 1, 1971, ch 1539 § 5, operative June 1, 1971. Amended Stats 1989 ch 530 § 2; Stats 2007 ch 285 § 59 (AB 1729), effective January 1, 2008; Stats 2010 ch 419 § 2 (AB 1254), effective January 1, 2011; Stats 2015 ch 154 § 65 (AB 1527), effective January 1, 2016.

§ 3052. Fee; Record of costs

A person receiving instruction from a hunter education instructor shall not be charged a fee for the service provided by the instructor, but may be charged a fee to cover the costs incurred by the instructor in teaching the class. A record of these costs shall be kept for inspection by the department. Costs may include, but are not limited to, range fees, ammunition, and transportation of students.

HISTORY:

Added Stats 1970 ch 1404 § 5, operative June 1, 1971, ch 1539 § 5, operative June 1, 1971. Amended Stats 2015 ch 154 § 66 (AB 1527), effective January 1, 2016.

§ 3053. Duplicate certificates

In the case of loss or destruction of a certificate, a duplicate certificate may be issued by the instructor who issued the original certificate, or, by an instructor of the sponsoring organization having adequate records to establish successful completion of the prescribed course, or by the department if verified by adequate records to establish successful completion of the prescribed course. An administrative fee of three dollars ($3) shall be charged for the issuance of a duplicate certificate, for the hunting license year commencing on July 1, 1990, and, for the following years as adjusted pursuant to Section 713.

HISTORY:

Added Stats 1970 ch 1404 § 5, operative June 1, 1971, ch 1539 § 5, operative June 1, 1971. Amended Stats 1989 ch 530 § 3.

§ 3054. Information to instructors

The department shall furnish information on hunter safety, principles of conservation, and sportsmanship that shall be distributed free of charge to persons designated as hunter education instructors for instructional purposes.

HISTORY:

Added Stats 1970 ch 1404 § 5, operative June 1, 1971, ch 1539 § 5, operative June 1, 1971. Amended Stats 2007 ch 285 § 60 (AB 1729), effective January 1, 2008.

§ 3055. [Section repealed 2008.]

HISTORY:

Added Stats 1970 ch 1404 § 5, operative June 1, 1971, ch 1539 § 5, operative June 1, 1971. Amended Stats 1985 ch 1463 § 11; Stats 1986 ch 1368 § 8; Stats 1989 ch 530 § 4; Stats 2001 ch 112 § 19 (AB 435); Repealed Stats 2007 ch 285

§ 61 (AB 1729), effective January 1, 2008. The repealed section related to hunter safety instruction validation stamps, document issuance not through the Automated License Data System.

§ 3055.1. [Section repealed 2008.]

HISTORY:
Added Stats 2001 ch 112 § 20 (AB 435). Repealed Stats 2007 ch 285 § 62 (AB 1729), effective January 1, 2008. The repealed section related to hunter safety instruction validation stamps, document issuance through the Automated License Data System.

ARTICLE 3. SPECIAL COLORADO RIVER HUNTING LICENSES

§ 3060. Issuance authorized

The department, in conformity with such regulations as the commission may prescribe, may issue special Colorado River hunting licenses when the commission finds and determines that under the laws of the State of Arizona substantially similar licenses are authorized to be issued to licensees of the State of California upon substantially the same terms and conditions as are provided for in this article as to the issuance of licenses to licensees of the State of Arizona.

HISTORY:
Enacted 1957.

§ 3061. Eligibility

A special Colorado River hunting license may be issued to any person holding a hunting license issued by the State of Arizona.

HISTORY:
Enacted 1957.

§ 3062. Rights conferred

A special Colorado River hunting license shall entitle the holder thereof to take only migratory waterfowl and only in, on, or along the Colorado River in accordance with the applicable state and federal laws and regulations or orders made pursuant thereto.

HISTORY:
Enacted 1957.

§ 3063. Fee; Term

The fee for a special Colorado River hunting license shall be two dollars ($2), and each such license shall be valid until the end of the calendar year in which it is issued.

HISTORY:
Enacted 1957.

ARTICLE 4. POSSESSION OF BIRDS AND MAMMALS AFTER SEASON

§ 3080. Donor intermediary; Possession limit

(a) For the purposes of this section, “donor intermediary” means a recipient who receives a game bird or mammal from a donor to give to a charitable organization or charitable entity.

(b) A person may possess a game bird or mammal during a period other than the open season for that game bird or mammal, up to the possession limit allowed for that game bird or mammal during the open season, in any of the following circumstances:

(1) The person possesses a hunting license and a validated tag or tags for the species possessed, or a copy of the license and tag or tags. The license and tag or tags shall have been issued to that person for the current or immediate past license year.

(2) The person is a donor intermediary who received the game bird or mammal from a donor described in paragraph (1), and has a written confirmation of the donation that is signed and dated by the donor, and a photocopy of the donor's hunting license and the applicable validated tag or tags from the current or immediate past license year.

(3) The person is a donor intermediary who received the game bird or mammal from a donor described in paragraph (1), and has a written confirmation of the donation signed and dated by the donor, which includes the donor's name, address, hunting license number, and applicable tag numbers for the species possessed. The license and tag or tags shall be for the current or immediate past license year.

(c) The documentation required by subdivision (b) shall be made available to the department as described in Section 2012. There is no required format for the documentation. Any written documentation containing the required information shall be deemed to comply with this section. A charitable organization or charitable entity receiving and distributing a game bird or mammal for a charitable or humane purposes shall maintain the documentation described in paragraph (2) or (3) of subdivision (b) for one year from the date of disposal.

(d) This section does not authorize the possession of a game bird contrary to regulations adopted pursuant to the federal Migratory Bird Treaty Act (16 U.S.C. Sec. 703 et seq.).

(e) On or before January 1, 2015, and subject to the requirements of subdivision (d), the commission shall recommend legislation or adopt regulations to clarify when a possession limit is not violated by processing into food lawfully taken game birds or mammals.

HISTORY:
Added Stats 1998 ch 531 § 4 (AB 2440). Amended Stats 2007 ch 285 § 63 (AB 1729), effective January 1, 2008; Stats 2013 ch 346 § 1 (SB 392), effective January 1, 2014; Stats 2015 ch 154 § 67 (AB 1527), effective January 1, 2016.

§ 3086. Cold storage records; Inspection

Cold storage plants and frozen food locker plants shall make and keep a complete detailed record of all game birds or mammals stored in such plants. A record of each game bird or mammal shall be made at the time it is received at the plant for storage.

The record shall be open for inspection at all times by wardens of the department.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 253 § 4, effective May 4, 1959.

§ 3087. Taxidermist's records

(a)(1) Every person who prepares, stuffs, or mounts the skin of any fish, reptile, amphibian, bird, or mammal for another person for a fee shall make and keep an accurate and detailed record, as prescribed by regulations of the commission, regarding all fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof that are acquired, possessed, or stored for taxidermy purposes.

(2) The record required by this section shall be made at the time the fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof, are received, and shall include the name and address of each person from and to whom fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof are received or delivered and the number and species of all fish, reptile, amphibian, bird, or mammal carcasses, skins, or parts thereof received or delivered. The record shall be open for inspection at all times pursuant to regulations adopted by the commission.

(b)(1) Where a taxidermist has prepared, stuffed, or mounted the skin of any fish, reptile, amphibian, bird, or mammal for another person and that person does not pay

the cost thereof, or take delivery thereof, the taxidermist may sell the skin only if the commission adopts regulations permitting the sale.

(2) The commission may adopt regulations permitting a sale pursuant to Chapter 6 (commencing with Section 3046) of Title 14 of Part 4 of Division 3 of the Civil Code, and may adopt any other regulations governing the sale, including, but not limited to, regulations that require a taxidermist to record, and provide to the department, the name and address of any person failing to pay for work performed on a skin, that list species of fish, reptiles, amphibians, birds, or mammals whose prepared skins shall not be sold, and that limit the sales price of prepared skins to the actual cost of preparation.

(3) The commission may adopt regulations permitting a sale of a prepared skin pursuant to this subdivision only if the commission also adopts regulations that require the posting of a notice or otherwise giving notice at the place of business of the taxidermist informing patrons of this subdivision and regulations adopted pursuant thereto.

HISTORY:
Added Stats 1974 ch 1046 § 1. Amended Stats 1976 ch 713 § 1; Stats 1990 ch 805 § 1 (AB 4010); Stats 2007 ch 285 § 64 (AB 1729), effective January 1, 2008.

CHAPTER 2. COMMERCIAL ACTIVITIES

ARTICLE 1. DOMESTICATED GAME BREEDING

§ 3200. Breeder's license

Any person engaged in raising or importing, or who keeps in captivity, in this state domesticated game birds or domesticated game mammals which normally exist in the wild in this state shall procure a domesticated game breeder's license if the birds or mammals are kept more than 30 days after acquisition. No license is, however, required of any of the following:

(a) Licensed pheasant clubs, except to the extent provided in Section 3283.

(b) Licensed domesticated migratory game bird shooting areas as defined in Article 4 (commencing with Section 3300) of Chapter 2 of Part 1 of Division 4.

(c) Keepers of hotels, restaurants, boardinghouses, or clubs serving the meat of those birds or mammals for actual consumption on the premises.

(d) Retail meat dealers selling such meat to customers for actual consumption.

(e) Public zoological gardens possessing those birds or mammals for exhibition purposes or for the purpose of disposing of the birds or mammals by sale, exchange, or donation to other public zoological gardens.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 296 § 1; Stats 1970 ch 1312 § 2; Stats 1971 ch 1592 § 2; Stats 1992 ch 244 § 1 (AB 2822).

§ 3201. License for sale of carcasses

No person shall sell the carcass of any domesticated game bird or mammal without first obtaining a domesticated game breeder's license from the department. The department may issue such a license upon terms and conditions as the commission may prescribe, and the commission may at any time revoke such a license for sufficient cause.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 234 § 1.

§ 3202. Classes of breeder's licenses

There are classes of domesticated game breeder's licenses, designated "class 1 and class 2".

(a) A class 1 domesticated game breeder's license authorizes the licensee to engage in all domesticated game breeding activities except that not more than 175 Chinese ringneck or Mongolian ringneck pheasants, or both, or hybrids thereof, may be sold under a class 1 license.

(b) A class 2 domesticated game breeder's license is required in order to sell more than 175 Chinese ringneck or Mongolian ringneck pheasants, or both, or hybrids thereof, and entitles the licensee to all the rights and privileges of a class 1 license.

HISTORY:
Enacted 1957. Amended Stats 1978 ch 1153 § 6; Stats 1981 ch 491 § 2; Stats 1992 ch 244 § 2 (AB 2822).

§ 3203. License fees

The department shall issue a class 1 domesticated game breeder's license upon the payment of a base fee of eight dollars ($8), as adjusted under Section 713, and a class 2 domesticated game breeder's license upon the payment of a base fee of forty dollars ($40), as adjusted under Section 713.

HISTORY:
Enacted 1957. Amended Stats 1978 ch 1153 § 7; Stats 1985 ch 1463 § 13; Stats 1986 ch 1368 § 10; Stats 1992 ch 244 § 3 (AB 2822); Stats 1993 ch 589 § 62 (AB 2211).

§ 3204. Term of license; Display

Licenses issued under the provisions of this article are valid for a term of one year from January 1st, or, if issued after the beginning of such term, for the remainder thereof.

A domesticated game breeder's license shall be conspicuously displayed on the property where the birds or mammals are held in captivity.

HISTORY:
Enacted 1957.

§ 3205. Transportation of live game

Carriers for hire may carry within the State live domesticated game birds and mammals upon such terms and conditions as the commission may prescribe.

HISTORY:
Enacted 1957.

§ 3206. Transportation or sale of dead game

No domesticated game bird or mammal shall be transported or sold dead unless each quarter and each loin of the carcass of each large mammal, the carcass of each bird, except as provided in Section 2401 for a domesticated game bird raised outside this State, and the carcass of each small mammal is tagged with a domesticated game breeder's tag or seal. The tag or seal shall not be removed until such quarter, loin, or carcass is prepared for consumption.

No tag so affixed shall be used again.

No tag or seal shall be sold by the department to anyone other than a person who is legally in possession of domesticated game.

HISTORY:
Enacted 1957.

§ 3207. Tag or seal; Cost

The department shall collect three cents ($0.03) for each tag or seal.

HISTORY:
Enacted 1957.

§ 3208. Annual report by licensee; Contents and verification

On or before January 31st of each year, every person to whom a domesticated game breeder's license has been issued shall report the following to the department on a form provided by the department:

(a) The total number of each species of game birds and mammals killed, sold, or shipped during the preceding year.

(b) The names of the persons to whom such game birds or mammals were sold or shipped.

(c) The name of the person in whose presence such game birds or mammals were tagged.

(d) A complete list of the game birds and mammals held in his possession at the time the report is made.

Such report shall be verified by the affidavit of the licensee.

HISTORY:
Enacted 1957.

§ 3209. Exemption from tag requirement for poultry processing plants; Recordkeeping requirements

(a) In lieu of the tag required by Section 3206, poultry processing plants licensed pursuant to Chapter 4 (commencing with Section 18650) or Chapter 4.1 (commencing with Section 18940) of Part 3 of Division 9 of the Food and Agricultural Code, which process domesticated game birds received from persons licensed pursuant to this article, may package each individual carcass in a nonreusable container clearly labeled on the outside with the species of bird and the wording "Product of a Licensed California Domesticated Game Breeder."

(b) Each processor receiving domesticated game birds shall keep a complete record of all birds received showing all of the following:

(1) The date received.

(2) The number and species of birds in each lot or shipment.

(3) The complete name, address, and domesticated game breeders' license number of the person from whom the birds were received.

(4) The disposition of processed birds, the date of sale or shipment, the quantity and species sold or shipped, and the person to whom the birds were sold or shipped.

(c) The records shall be retained by the processor for one year following date of processing. These records shall be subject to inspection upon demand by any officer of the department during hours the processing plant is in operation or open for business.

(d) This section does not affect the requirements of Section 3206 governing tagging domesticated game birds for transportation by those other than licensed poultry processors.

HISTORY:
Added Stats 1986 ch 65 § 1.

§ 3212. Sale of carcasses by hotel or restaurant to patron; Inspection; Tagging

The keeper of a hotel, restaurant, boardinghouse, or club may sell portions of a quarter or loin of a large mammal, or the carcass of a game bird or mammal raised or imported under a domesticated game breeder's license, to a patron for actual consumption on the premises only, and no license for that purpose shall be required of such keeper or club. All keepers of hotels, restaurants, boardinghouses, or clubs who sell any such game for consumption to a patron shall be required to submit to the inspection of their premises by the department and shall display for such inspection any carcass or parts thereof held in storage for sale. All such game shall be tagged under Section 3206.

HISTORY:
Enacted 1957.

§ 3213. Sale of carcasses by retail meat dealer to customer; Inspection; Tagging

A retail meat dealer may, without a license, sell portions of a quarter or loin of a large mammal or the carcass of a game bird or mammal raised or imported under a domesticated game breeder's license to a customer for actual consumption.

Retail dealers shall submit their premises to inspection by the department, and shall display at any authorized inspection any carcass or parts thereof held by them in storage. Such game meat or carcasses shall be tagged under Section 3206.

HISTORY:
Enacted 1957.

§ 3214. Confinement of game in escape-proof cages; Recapture of escaped animals

Domesticated game breeders or other persons holding domesticated game mammals in captivity shall confine the mammals in escape-proof cages or enclosures. In the event any of the mammals escape from the cages or enclosures, the owner shall immediately make every reasonable effort to recapture them. If the owner fails to recapture the escaped mammals, the department may capture the mammals or remove them from the wild by whatever means may be necessary if, in the opinion of the department, the mammals may conflict with native species of birds or mammals or cause damage to public or private property. The owner shall reimburse the department for all costs incurred in capturing or removing the mammals from the wild. The owner of the mammals shall be responsible for any damage they may cause to public or private property.

Any domesticated big game mammal may be marked with ear tags or other suitable markings or tags, as may be specified by the commission, which shall identify the owner of the mammals.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 527 § 1.

§ 3216. Method of slaughter; Exceptions

All domesticated game birds and mammals, excepting deer, sold under the provisions of this article, shall be killed otherwise than by shooting. This section does not apply to licensed pheasant clubs, licensed domesticated migratory game bird shooting areas, or to the training or practice of hunting dogs.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 721 § 1, ch 1312 § 3.

§ 3217. Shooting as evidence that game was not domesticated

The carcass of a game bird which shows that it has been killed by shooting shall constitute prima facie evidence that it was not a domesticated game bird. The fact that the bird has been tagged in accordance with Section 3206 of this code shall not alter this presumption.

HISTORY:
Enacted 1957.

§ 3218. Revocation of license

Any license issued under this article may be revoked by the commission upon conviction of the licensee of a violation of any provision of this code, and no similar license may be issued to the licensee during the same license year.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 234 § 2.

§ 3219. Importation and sale of reindeer

Domesticated reindeer may be imported into this State and sold only in accordance with regulations which the commission may prescribe.

HISTORY:
Enacted 1957.

ARTICLE 2. COMMERCIAL HUNTING CLUBS

§ 3240.5. Persons required to obtain commercial hunting club license

(a) For purposes of this article, the following terms have the following meanings:

(1) "Commercial hunting club" means property with respect to which a fee is imposed or collected for either of the following:

(A) Taking or attempting to take birds or mammals on the property.

(B) A type of entry or use permit that includes permission to take birds or mammals on the property.

(2) "Property" means a number of contiguous legal parcels owned by one or more owners and held out for a common purpose.

(b) A person, including, but not limited to, an owner, renter, or lessee, who is in possession or control of a commercial hunting club, shall procure a commercial hunting club license before a bird or mammal may be taken on the property.

(c) This article does not apply under any of the following circumstances:

(1) The fees described in paragraph (1) of subdivision (a) that are received by the owner, renter or lessee of the property are less than one hundred dollars ($100) per entrant and total less than one thousand dollars ($1,000) between July 1 and the following June 30. Pursuant to Section 713, department may adjust the threshold amounts established in this paragraph.

(2) The property is used in conjunction with the Shared Habitat Alliance for Recreational Enhancement (SHARE) program under Article 3 (commencing with Section 1570) of Chapter 5 of Division 2.

(3) A domesticated game bird hunting club licensed under Article 3 (commencing with Section 3270) operates on the property.

(4) A domesticated migratory game bird shooting area licensed under Article 4 (commencing with Section 3300) operates on the property.

(5) The property is used by a hunting club or program licensed under regulations adopted pursuant to this code.

(6) The property is used in conjunction with the private wildlife habitat enhancement and management program under Article 5 (commencing with Section 3400).

(7) The property is used for an officially sanctioned field trial event pursuant to regulations adopted pursuant to this code.

(8) The property is subject to a recorded state, federal, or nonprofit wildlife conservation or agricultural easement or is enrolled in a habitat protection or enhancement program under this code, including, but not limited to, Article 7 (commencing with Section 3460).

(d) This chapter does not apply to an owner of property that is rented or leased to a commercial hunting club, if the owner is not involved in the operation of the club and the club is licensed in accordance with this chapter.

HISTORY:
Added Stats 1970 ch 806 § 1, operative July 1, 1971. Amended Stats 1990 ch 1706 § 11 (AB 3158); Stats 2006 ch 396 § 1 (SB 1200), effective January 1, 2007; Stats 2009 ch 394 § 6 (AB 1423), effective January 1, 2010; Stats 2015 ch 154 § 68 (AB 1527), effective January 1, 2016.

§ 3241. Application for commercial hunting club license; Required information; Single application for multiple properties

(a) An application for a commercial hunting club license shall be submitted on a form furnished by the department. The application, which shall set forth all of the exemptions and conditions established in Section 3240.5, shall require the applicant to include all of the following information:

(1) The name of the club and the ownership.

(2) The business telephone number and mailing address of the club.

(3) The number of properties used by the club and the physical location of each property.

(4) The total acreage of the club property.

(5) A list of all species of game hunted on the club property.

(6) Information as to whether the club owner owns any of the properties used by the club.

(7) The name and address of each property owner, if the property owner is substantially involved in the operation of the club, but does not own the club.

(8) The signature and title of the applicant.

(9) Any other information the department may require.

(b) The department shall allow a commercial hunting club that leases or rents more than one property for hunting purposes to submit a single application listing each of the properties for which the club is seeking a license, if all of the information required for each property is submitted in a format approved by the department.

HISTORY:
Added Stats 2009 ch 394 § 8 (AB 1423), effective January 1, 2010.

§ 3242. Issuance of license; Fee

(a) The department may issue a commercial hunting club license to any person upon submission of a completed application and payment of the required fee, according to the number of properties used by the club, as follows:

(1) The fee for one property shall be two hundred dollars ($200).

(2) The fee for two to five properties shall be five hundred dollars ($500).

(3) The fee for six to 10 properties shall be one thousand dollars ($1,000).

(4) The fee for 11 or more properties shall be two thousand dollars ($2,000).

(b) The fees specified in this section are applicable to the 2010 license year, and shall be adjusted annually thereafter pursuant to Section 713.

HISTORY:
Added Stats 2009 ch 394 § 10 (AB 1423), effective January 1, 2010.

§ 3243.5. Transfer of license to new land of licensee

The commission may transfer a commercial hunting club license to other land owned or controlled by the licensee, in the same county as the originally licensed land, without an additional fee, if the commission finds the new land suitable for the purposes of the license and the transfer does not conflict with the public interest.

HISTORY:
Added Stats 1959 ch 1654 § 1. Amended Stats 2015 ch 154 § 69 (AB 1527), effective January 1, 2016.

§ 3245. Term of licenses; Privileges conferred

Commercial hunting club licenses are valid for a term of one year from July 1st, or, if issued after the beginning of such term, for the remainder thereof. A license authorizes the person to whom it is issued to maintain a hunting club in accordance with the provisions of this code and such regulations as the commission may prescribe.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 248 § 5, operative July 1, 1960.

§ 3246. Revocation of license

Any license issued under this article may be revoked by the commission at one of the commission's regularly scheduled meetings, or by a court of competent jurisdiction, upon the licensee's conviction of a violation of this code, and no new license may be issued to the licensee during the same license year.

HISTORY:
Enacted 1957. Amended Stats 1986 ch 1244 § 3.

ARTICLE 3. LICENSED DOMESTICATED GAME BIRD HUNTING CLUBS

§ 3270. Application for game bird license

(a) In order to provide additional hunting by stocking domestically propagated game birds, and to permit the taking of game birds under conditions that will not conflict with the public interest, any person who owns or controls the hunting rights on a tract of land may apply to the department for a game bird club license authorizing the taking of game birds upon that land in accordance with the regulations of the commission for the administration, including the implementation and enforcement, of this section.

(b) This section shall become operative on July 1, 1995.

HISTORY:
Added Stats 1994 ch 849 § 9 (SB 2113), operative July 1, 1995.

ARTICLE 4. LICENSED DOMESTICATED MIGRATORY GAME BIRD SHOOTING AREAS

§ 3300. License required to shoot migratory game birds

It is unlawful for any person to engage in the raising and releasing, or the releasing, of domesticated migratory game birds for shooting by persons who pay for that privilege, unless the person has a revocable nontransferable license issued by the department. The licenses may be issued annually by the department and shall be valid from July 1 through the following June 30, upon payment of a base fee of eighty dollars ($80), as adjusted under Section 713.

Any bird of a species included in the definition of migratory game birds, as defined in Section 3500, which has been held live in captivity is a "domesticated migratory game bird" for purposes of this section, except such a bird that has been released from captivity and any control before attaining six weeks of age.

HISTORY:
Added Stats 1970 ch 1312 § 5. Amended Stats 1977 ch 353 § 6; Stats 1985 ch 1463 § 16; Stats 1986 ch 1368 § 13.

§ 3301. Application for license; Signs on boundaries of licensed areas

The application for a license shall show the size and location of the area to be licensed. If an application is approved and a license is issued, the licensee shall post the boundaries of the licensed area with signs, at intervals of not more than 500 feet, which shall indicate that the area is licensed for the shooting of domesticated migratory game birds. Such signs shall be of a size not less than 12 by 18 inches.

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3302. Authority to prescribe additional regulations; Seasons and areas; Cancellation or revocation of license

The commission may prescribe additional regulations deemed necessary for the releasing and shooting of domesticated migratory game birds and shall set the season

and areas where such birds may be taken. If the licensee violates any of the provisions of this article or any regulations made pursuant thereto, the commission may cancel or revoke the license provided notice has been given to the licensee and he has been given an opportunity to be heard by the commission.

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3303. Care of birds; Sanitary conditions; Inspection

Where domesticated migratory game birds are reared or held for release by the licensee, the licensee shall provide proper and adequate care for the birds and shall raise and hold them only under sanitary conditions. Conditions for proper care and raising shall be prescribed by the commission. The licensee shall provide for the inspection of birds and facilities upon the request of the department.

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3304. [Section repealed 2008.]

HISTORY:
Added Stats 1970 ch 1312 § 5. Repealed Stats 2007 ch 285 § 66 (AB 1729), effective January 1, 2008. The repealed section related to annual minimum number of birds.

§ 3305. Requirements for birds released for shooting

All domesticated migratory game birds at time of release for shooting shall be at least 14 weeks of age, capable of strong and sustained flight, fully feathered, and otherwise in condition to survive in the wild. Birds that are altered in any manner which would, in the opinion of the department, render them incapable of normal sustained flight, or which are diseased, or show evidence of malnutrition or injury, shall not be released.

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3306. Requirements as to blinds; Minimum distance from release point for shooting or taking

Shooting shall be confined to blinds, except for shooting necessary to recover a downed and injured bird, and not more than three shooters shall occupy or use each blind. Such blinds shall be constructed to prevent the shooting of domestic migratory game birds over water and to insure maximum safety to occupants of adjoining blinds.

The blinds shall be so situated that the occupants of the blinds cannot see the release site.

The licensee shall not permit any shooting within 500 feet of a point where the birds are released, nor shall any birds be taken within such distance from the point of release.

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3307. Retrieval of killed or injured birds; Disposition of injured birds; Use of retrieving dogs

All birds killed or injured by shooters shall be retrieved without delay, and all injured birds shall be humanely dispatched. The licensee shall not permit injured birds to remain on a pond or feeding area, nor shall he knowingly permit such birds to be used in any subsequent release.

In order to prevent the loss of any dead or injured birds, the licensee shall provide the use of a retrieving dog, without cost, to all shooters, except that shooters may provide

their own retrieving dogs. The licensee shall not permit the shooting of any birds unless a retrieving dog is immediately available for use by all shooters.

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3308. Inspection fees

Licensees shall pay the department an inspection fee not to exceed five cents ($0.05) for each domesticated migratory game bird raised or used on a licensed area to insure proper adherence to these regulations.

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3309. Removal of dead birds; Seal; Fee

No dead, domesticated migratory game bird shall be removed from the premises of a licensed area until there is securely attached to the carcass a seal, and such seal shall remain attached to the carcass until it is finally prepared for consumption. Each such seal shall be supplied by the department at a fee set by the commission not to exceed five cents ($0.05).

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3310. Requirement of hunting license

It shall be unlawful for any person to shoot domesticated migratory game birds on a licensed area without having a valid hunting license as provided by Section 3031.

HISTORY:
Added Stats 1970 ch 1312 § 5.

§ 3311. Compliance with federal laws and regulations

The licensee shall comply with all applicable federal laws or regulations relating to the releasing and shooting of domesticated migratory game birds.

HISTORY:
Added Stats 1970 ch 1312 § 5.

ARTICLE 5. ENHANCEMENT AND MANAGEMENT OF FISH AND WILDLIFE AND THEIR HABITAT ON PRIVATE LANDS

§ 3400. State policy

It is the policy of the state actively to ensure the improvement of wildlife habitat on private land in order to encourage the propagation, utilization, and conservation of fish and wildlife resources on those lands now and for the future in cooperation with private landowners. The commission and the department may develop a private wildlife habitat enhancement and management program for the implementation of this article.

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1992 ch 818 § 1.5 (SB 1964).

§ 3401. Licensing of wildlife habitat enhancement and management areas; Hunting during rut

(a) The commission may authorize the department to issue revocable, nontransferable licenses for the operation of wildlife habitat enhancement and management areas on any private lands it determines are suitable for habitat enhancement, management, utili-

zation, propagation, and conservation of fish and wildlife resources of those lands. Any private lands affected by a habitat enhancement and management plan licensed pursuant to this article shall not be available for use by the general public without the consent of the landholders. No public access road shall be closed to the public under this article as a result of licensing a wildlife habitat enhancement and management area or implementing the wildlife habitat enhancement and management plan.

(b) The commission shall authorize hunting during the rut only in a wildlife habitat enhancement and management area when that hunting is consistent with the management plans prepared for that area or herd and does not result in an overall negative effect on the deer herd population in that area.

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1992 ch 818 § 2 (SB 1964).

§ 3402. Wildlife management license; Application; Approval; Fee

(a) A license for a wildlife habitat enhancement and management area may be issued to any landholder or combination of landholders upon approval by the commission of an application submitted by the landholder. As used in this article, "landholder" means any person who owns, leases, or has a possessory interest in land.

(b) Each license application shall be accompanied by a nonrefundable fee in an amount established by the commission which, in conjunction with the fees collected pursuant to Section 3407, is calculated to meet the department's actual costs in administering all aspects of the habitat enhancement and management program. The application shall be accompanied by a wildlife habitat enhancement and management plan and such other information about the proposed wildlife habitat enhancement and management area as may be required by the commission.

(c) An application for a license may be submitted by any number of landholders if all parcels to be included in the wildlife habitat enhancement and management area are contiguous and, in combination, are of a size suitable for the management of the species included in the wildlife habitat enhancement and management plan. The landholders shall designate one landholder who shall represent them in all dealings with the commission and the department. The designated landholder shall be responsible for the operation of the wildlife habitat enhancement and management area.

(d) A landholder who does not own the fee to the land may apply for a license pursuant to this article only if the owner signs the application.

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1984 ch 85 § 6, effective April 19, 1984; Stats 1992 ch 818 § 3 (SB 1964).

§ 3403. Posting boundaries of wildlife management area

The commission shall require the landowners of a wildlife habitat enhancement and management area to post all or part of its boundaries with public land. The commission may require the owners of a wildlife habitat enhancement and management area to post all or part of its boundaries with private land.

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1992 ch 818 § 3.5 (SB 1964).

§ 3404. Adoption of regulations; Revocation of license

(a) The commission may adopt regulations necessary for the administration of this article.

(b) After notice and a hearing, the commission may revoke the license for any violation of any provision of this code or any regulations adopted pursuant thereto or for any violation of the terms of the license.

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1984 ch 144 § 29.

§ 3406. Issuance of license for taking of fish, bird, or mammal; Annual review of management plan

(a) Upon approval of the wildlife habitat enhancement and management plan, the department shall issue a license, which shall be valid for five calendar years, authorizing the taking of those species of fish, game birds, and game mammals designated in the wildlife habitat enhancement and management plan, pursuant to the plan and regulations of the commission for the operation of the wildlife habitat enhancement and management area. Regulations adopted pursuant to this section may supersede any provision of this code designated by number in the regulation, but shall do so only to the extent specifically provided in the regulation.

(b) During the first year of operation of a wildlife habitat enhancement and management area under a wildlife habitat enhancement and management plan and, thereafter, until the operator demonstrates habitat enhancement in the area acceptable to the department, no person shall take, and the plan shall not authorize the taking, of deer except during the general open season and consistent with the bag and possession limits for the fish and game district or the zone in which the wildlife habitat enhancement and management area is located.

(c) The activities conducted pursuant to each wildlife habitat enhancement and management plan shall be reviewed annually by the department and reviewed by the commission at a public hearing. Each licensee shall annually submit information to the department about past activities and the activities intended to be conducted in the succeeding year. Any change to the wildlife habitat enhancement and management plan or the regulations applicable to the wildlife habitat enhancement and management area shall be proposed to the commission by the department or the licensee at the license review hearing.

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1992 ch 818 § 4 (SB 1964).

§ 3407. Marking of fish, bird, or mammal taken; Fees for tags and seals

The commission may require that any fish, bird, or mammal taken in a wildlife habitat enhancement and management area licensed pursuant to this article be marked for identification with a distinctive tag or seal issued by the department prior to being removed from the area. A deer tag shall be countersigned by a person who is authorized to countersign deer tags pursuant to Section 372 of Title 14 of the California Code of Regulations. Any fish, bird, or mammal so identified may be possessed and transported at any time during the period for which the tag or seal is valid. The fees for tags and seals shall be established by the commission in amounts which, in conjunction with fees collected pursuant to Section 3402, are calculated to meet the actual costs incurred by the department in administering all aspects of the habitat enhancement and management program.

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1984 ch 85 § 7, effective April 19, 1984; Stats 1992 ch 818 § 5 (SB 1964).

§ 3408. Exemption from license or fee

Any landholder who has paid the fee required by this article, has a valid license issued pursuant to this article, and who is conducting activities pursuant to an approved wildlife habitat enhancement and management plan that could be licensed or permitted pursuant to another provision of this code shall be exempt from any requirement to obtain that other license or permit or to pay any other fee. This section shall not, however, be construed to exempt anyone from any requirement pertaining to hunting and sport fishing licenses and stamps.

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1992 ch 818 § 6 (SB 1964).

§ 3409. [Section repealed 2013.]

HISTORY:
Added Stats 1983 ch 835 § 1. Amended Stats 1992 ch 818 § 7 (SB 1964); Stats 2001 ch 745 § 53 (SB 1191), effective October 12, 2001; Repealed Stats 2012 ch 728 § 47 (SB 71), effective January 1, 2013. The repealed section related to a report on the wildlife habitat enhancement and management program.

ARTICLE 6. MANAGEMENT OF FISH AND WILDLIFE ON MILITARY LANDS

§ 3450. Declaration of policy

It is the policy of the state to actively encourage the biologically sound management of fish and other wildlife resources on lands administered by the United States Department of Defense. The department may develop a program to implement this article in cooperation with the military services.

HISTORY:
Added Stats 1986 ch 591 § 1.

§ 3451. Coordination with Department of Defense

The department may coordinate and cooperate with all branches of the United States military service, Department of Defense, for the purpose of developing fish and wildlife management plans and programs on military installations. The plans and programs shall be designed to provide biologically optimum levels of fish and wildlife resource management and use compatible with the primary military use of those lands. Military lands involved in programs developed pursuant to this article shall not be available to the general public without the consent of the military service administering the lands.

HISTORY:
Added Stats 1986 ch 591 § 1.

§ 3452. Agreements with Department of Defense

The commission may adopt regulations and authorize the department to enter into agreements with the United States Department of Defense for the administration of this article.

HISTORY:
Added Stats 1986 ch 591 § 1.

§ 3453. Adoption of regulations

(a) Upon approval of specific management plans and programs, which reflect the recommendations of the department, the commission may authorize actions and adopt regulations governing those actions pursuant to this article.

(b) The provisions of Sections 457, 458, 459, and 460 do not apply to regulations adopted under this article.

(c) The activities conducted pursuant to this program shall be reviewed annually by the department and the commission.

HISTORY:
Added Stats 1986 ch 591 § 1.

ARTICLE 7. THE CALIFORNIA WATERFOWL HABITAT PROGRAM

§ 3460. Contracts to restrict land use; Priority

(a) Subject to appropriation pursuant to Section 3467, the director may enter into contracts with nonpublic entities which are owners of record, or with lessees, who have

the owners of record execute the contract, of land determined by the director to be important for the conservation of waterfowl. The contract shall enforceably restrict the use of the land for the conservation of waterfowl and their habitat consistent with Section 8 of Article XIII of the California Constitution.

(b) The director shall give priority to contracts that have the greatest potential for restoring, enhancing, and protecting high quality waterfowl habitat, especially that which is subject to destruction, drastic modification, or significant curtailment of habitat values.

(c) Contracts entered into pursuant to this section are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

HISTORY:
Added Stats 1987 ch 633 § 2. Amended Stats 1990 ch 1425 § 2 (AB 2849).

§ 3461. Terms of contract

Each contract shall be for an initial term of 10 years and shall include all of the following:

(a) The designation of the owner of record and any lessee, and the legal description and the assessor's parcel number of the land subject to the contract.

(b) An agreement by the owner and any lessee to restore, enhance, and protect the waterfowl habitat character of the described land and to carry out a waterfowl habitat management plan developed with the department.

(c) Specification of the amount and date in each year that the payment is to be made by the department to the owner or lessee, which shall be calculated at the rate or rates that the director determines to be fair and reasonable in consideration of the obligations undertaken by the owner or lessee.

(d) A requirement that the owner or lessee do either of the following:

(1) Refund to the state all payments received under the contract plus interest at the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or lessee's violation of the contract, or any extension thereof, if the director determines that the violation warrants termination of the contract and the director terminates the contract.

(2) Make refunds or accept payment adjustments that the director determines are appropriate, not to exceed the total amount paid by the state to the owner or lessee in the preceding calendar year plus interest at the legal rate, as specified in Section 3289 of the Civil Code, if the director determines that the violation by the owner or lessee does not warrant termination of the contract.

(e) A requirement that the department reduce the amount of any payment to the owner or lessee under subdivision (c) by an amount equal to the portion of any payment under the Federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) which the department determines to be in compensation for the same obligation undertaken by the owner under the water bank program.

(f) A requirement that the department monitor compliance with the management plan or contract with the United States Soil Conservation Service or other appropriate agency, entity, or person to monitor compliance with the management plan, and that the owner or lessee allows access for the monitoring.

(g) Any additional provisions that the director determines are desirable to effectuate the purposes of the program or to facilitate its administration.

HISTORY:
Added Stats 1987 ch 633 § 2.

§ 3462. Recording of contract; Fees

(a) Not later than 20 days after the director has entered into a contract pursuant to this division, a copy of the contract particularly describing the subject habitat as

required by subdivision (a) of Section 3461 shall be recorded by the department in the office of the county recorder in each county in which any portion of the areas subject to the contract is located. The contract shall be indexed by the recorder in the grantor-grantee index to the name of the owner of record as grantor and to the department as grantee.

(b) Notwithstanding Section 27383 of the Government Code, the department shall pay the fees for recording and indexing the contract, and the department shall deduct the amount paid from the amounts due to the owner under the contract.

HISTORY:
Added Stats 1987 ch 633 § 2.

§ 3464. Renewal of contract; Nonrenewal; Payment rate

The contract shall be automatically renewed in the same manner as contracts are renewed and extended, or noticed for nonrenewal, under the Williamson Act (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5 of the Government Code). Upon the request of the owner or lessee, the director shall reexamine the payment rate for the contract at five-year intervals, considering the then current management costs and, with the concurrence of the owner or lessee, make any needed adjustments in rates for the remainder of the contract term.

HISTORY:
Added Stats 1987 ch 633 § 2.

§ 3465. Divestiture during contract period; Application of contract to succeeding owners

(a) If during the contract period the owner or lessee is divested of the use of the waterfowl habitat subject to the contract, the owner or lessee shall notify the department concurrent with that divestment. Any unearned payment shall immediately be refunded by the owner or lessee to the department.

(b) If the owner or lessee divests himself or herself of the use of the area subject to a contract by sale or otherwise, the person succeeding to that use is subject to all of the terms and conditions of the contract.

HISTORY:
Added Stats 1987 ch 633 § 2.

§ 3466. Modification of terms of contract

The director and the owner or lessee may mutually agree to modify the terms and conditions of a contract under this division as the director may determine to be desirable to carry out the purposes of, or to facilitate administration of, the program.

HISTORY:
Added Stats 1987 ch 633 § 2.

§ 3467. Waterfowl Habitat Preservation Account

The California Waterfowl Habitat Preservation Account is hereby created in the Fish and Game Preservation Fund, and the money in the account shall be transferred to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Division 4 of Title 2 of the Government Code. The proceeds of the investment deposited in the account shall be available, upon appropriation by the Legislature, for expenditure pursuant to this article. However, not more than 7 percent of the money appropriated from the account for expenditure in any fiscal year shall be expended in that fiscal year for administrative costs of the department.

HISTORY:
Added Stats 1987 ch 633 § 2.

ARTICLE 7.5. THE CALIFORNIA WINTER RICE HABITAT INCENTIVE PROGRAM

§ 3469. Program established

(a) There is established the California Winter Rice Habitat Incentive Program subject to the requirements of this article.

(b) Subject to appropriation for purposes of this article, the director may enter into contracts with nonpublic entities that are owners of record***or with lessees ***of productive agricultural rice lands that are winter-flooded and that are determined by the director to be important for the conservation of waterfowl. The contract shall enforceably restrict the use of the land for the conservation of waterfowl and their habitat in a manner that allows for the use of the land for rice farming consistent with Section 8 of Article XIII of the California Constitution.

(c) The director shall give priority to contracts that have the greatest potential for restoring, enhancing, and protecting high-quality waterfowl habitat, especially that subject to destruction, drastic modification, or significant curtailment of habitat values. The director may give priority to contracts that provide additional environmental cobenefits, including cobenefits to species such as fish or snakes.

(d)(1) Before entering into a contract pursuant to this article, if the land proposed to be subject to the contract is located within five miles of a runway on a military base or international airport, the director shall consult with the applicable branch of the United States military or the operator of the international airport, as applicable.

(2) The department shall develop guidance and protocols regarding consultation conducted pursuant to paragraph (1) that addresses, at a minimum, notification, participation, and a procedure to request the director to reconsider ***a decision to enter into a contract pursuant to this article.

(e) Contracts entered into pursuant to this article are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

(f) For purposes of this article, "productive agricultural rice lands that are winter-flooded" means a field that has been farmed to rice ***during each growing season before each of the winter flooding seasons contracted for flooding and is intentionally maintained in a flooded state for at least 70 days between October 15 and March 15, inclusive, of the following year.

(g) To assist implementation of this article, the department may enter into agreements with qualified entities that possess demonstrated experience and understanding of California rice farming practices and wildlife-related conservation practices to administer the conservation contracts on behalf of the department.

HISTORY:

Added Stats 2018 ch 649 § 2 (AB 2348), effective January 1, 2019. Amended Stats 2019 ch 420 § 1 (AB 256), effective January 1, 2020.

§ 3469.2. Contracts

Each contract shall be for an initial term of three years and shall include the following:

(a) The designation of the owner of record ***or the lessee, and the legal description and the assessor's parcel number of the land subject to the contract.

(b) An agreement by the owner ***or the lessee to restore, enhance, and protect the waterfowl habitat character of ***an established number of acres of described land that may be annually rotated provided that the minimum contracted acreage amount is achieved for each of the contracted winter flooding seasons.

(c) Specification of the amount and date in each year that the payment is to be made by the department to the owner or lessee, which shall be calculated at the rate or rates

that the director determines to be fair and reasonable in consideration of the obligations undertaken by the owner or lessee.

(d) A requirement that the owner or lessee do either of the following:

(1) Refund to the state all payments received under the contract plus interest at the legal rate, as specified in Section 3289 of the Civil Code, upon the owner's or lessee's violation of the contract, or any extension thereof, if the director determines that the violation warrants termination of the contract and the director terminates the contract.

(2) Make refunds or accept payment adjustments that the director determines are appropriate, not to exceed the total amount paid by the state to the owner or lessee in the preceding calendar year plus interest at the legal rate, as specified in Section 3289 of the Civil Code, if the director determines that the violation by the owner or lessee does not warrant termination of the contract.

(e) A requirement that the department reduce the amount of any payment to the owner or lessee under subdivision (c) by an amount equal to the portion of any payment under the federal Water Bank Program (16 U.S.C. Sec. 1301 et seq.) that the department determines to be in compensation for the same obligation undertaken by the owner under the water bank program.

(f) In addition to subdivision (e), a requirement that the department reduce the amount of any payment to the owner or lessee under subdivision (c) by an amount equal to the portion of any payment that the department determines to be in compensation for the same obligation undertaken by the owner under any other governmental program.

(g) An authorization for the department to monitor compliance with the contract with the federal Natural Resources Conservation Service, a county agricultural commissioner, or other appropriate agency, entity, or person to monitor compliance with the contract, and a requirement that the owner or lessee allow access for the monitoring.

(h) Any additional provisions that the director determines are desirable to effectuate the purposes of the program or to facilitate its administration.

HISTORY:
Added Stats 2018 ch 649 § 2 (AB 2348), effective January 1, 2019. Amended Stats 2019 ch 420 § 2 (AB 256), effective January 1, 2020.

§ 3469.4. Divestiture of use of waterfowl habitat during contract period

If during the contract period the owner or lessee is divested of the use of the waterfowl habitat subject to the contract, the owner or lessee shall notify the department concurrent with that divestment. Any unearned payment shall immediately be refunded by the owner or lessee to the department.

HISTORY:
Added Stats 2018 ch 649 § 2 (AB 2348), effective January 1, 2019.

§ 3469.6. Modification of terms and conditions of contract

The director and the owner or lessee may mutually agree to modify the terms and conditions of a contract under this article as the director may determine to be desirable to carry out the purposes of, or to facilitate administration of, the program.

HISTORY:
Added Stats 2018 ch 649 § 2 (AB 2348), effective January 1, 2019.

§ 3469.8. California Winter Rice Habitat Incentive Program Account

The California Winter Rice Habitat Incentive Program Account is hereby created in the Fish and Game Preservation Fund. Funds deposited in the California Winter Rice Habitat Incentive Program Account shall be made available for expenditure, upon

appropriation by the Legislature, to the department. These funds shall be expended solely for the purposes set forth in this article. An amount that equals not more than 5 percent of the funds allocated for this program may be used to pay the administrative costs of the program and up to 10 percent of funds allocated may be used for planning and monitoring necessary to ensure the success of the program.

HISTORY:
Added Stats 2018 ch 649 § 2 (AB 2348), effective January 1, 2019.

ARTICLE 8. MANAGEMENT OF WILDLIFE AT PUBLIC USE AIRPORTS

§ 3470. State policy

It is the policy of the state to actively encourage the safe and biologically sound management of wildlife resources on California's public use airports as regulated by the Federal Aviation Administration (FAA) and its agents. The Legislature recognizes that public use airports serving in the United States are operated according to regulations and policies promulgated by the FAA and federal law that protect the health, safety, and welfare of the public in compliance with applicable FAA regulations, standards, policies, and guidance, wildlife hazard management plans, and associated permits.

HISTORY:
Added Stats 2009 ch 186 § 1 (SB 481), effective January 1, 2010.

§ 3471. Limited wildlife hazing, harassment, and depredation authorized

The Legislature recognizes that, in a public use airport's ongoing efforts to protect the health, safety, and welfare of the traveling public in compliance with Federal Aviation Administration (FAA) regulations, and specifically Section 337 of Part 139 of Title 14 of the Code of Federal Regulations, it is necessary to perform limited and authorized wildlife hazing, harassment, and depredation. The Legislature further recognizes that FAA certificated public use airports and their wildlife hazard management staff must harass, haze, or perform removal of species to protect the health, safety, and welfare of the public when authorized by a current, valid federal fish and wildlife depredation permit.

HISTORY:
Added Stats 2009 ch 186 § 1 (SB 481), effective January 1, 2010.

§ 3472. Lawful taking of birds

The taking of birds by a public use airport certificated by the Federal Aviation Administration to operate in California that has obtained, and is in compliance with, a federal depredation permit that authorizes, under specified conditions, the lawful taking of birds, does not violate any provision of this code or regulations adopted pursuant to this code if the taking is in compliance with the federal depredation permit for the purposes specified in Section 3472.1 and all of the following conditions are met:

(a) The taking occurs on lands owned or leased by the airport.

(b) The taking does not occur on lands owned or leased by the airport that are reserved for habitat mitigation or conservation purposes of the species being taken, including lands in a habitat conservation plan, or a natural communities conservation plan.

(c) There is no taking of a fully protected, candidate, threatened, or endangered species.

HISTORY:
Added Stats 2009 ch 186 § 1 (SB 481), effective January 1, 2010.

§ 3472.1. Specifications for taking

Take is authorized pursuant to this article only to relieve or prevent injurious situations affecting public safety and shall only be performed as part of an integrated wildlife management program that emphasizes nonlethal management techniques.

HISTORY:
Added Stats 2009 ch 186 § 1 (SB 481), effective January 1, 2010.

§ 3472.2. Federal depredation permits, federal reports, and reasonable access; Reimbursement

A public use airport certificated by the Federal Aviation Administration shall provide to the department any federal depredation permit and all federal reports required pursuant to any federal depredation permit or wildlife hazard management plan, or both, and shall also provide reasonable access to the department for purposes of ensuring compliance with this article. The department shall seek reimbursement from the public use airport for any reasonable costs associated with activities resulting from any violations of this article.

HISTORY:
Added Stats 2009 ch 186 § 1 (SB 481), effective January 1, 2010.

ARTICLE 9. NESTING BIRD HABITAT INCENTIVE PROGRAM

§ 3480. Establishment; Guidelines and criteria; Funding; Implementation

(a) The department shall establish the Nesting Bird Habitat Incentive Program, which may include direct payments or other incentives, to encourage landowners to voluntarily cultivate or retain upland cover crops or other upland vegetation on idled lands to provide waterfowl, upland game bird, and other wildlife habitat cover, including, but not limited to, for the purposes described in Section 1018 of the Water Code.

(b) The department may develop guidelines and criteria for the program established under subdivision (a) as it deems appropriate, but shall ensure that it is flexible enough to meet landowner needs. The program shall do all of the following:

(1) Prohibit a landowner who participates in the program and has committed to leaving the established upland cover crops or other upland vegetation in place after April 1 from engaging in practices such as discing, spraying of herbicides, mowing, chipping, or rolling any vegetation on those idled lands until after July 1, or as late as possible each year, to address waterfowl nesting, upland game bird habitat, and other wildlife needs.

(2) Give priority to contracts with landowners that do both of the following:

(A) Include lands adjacent to, or in proximity to, waterfowl brood habitat, including, but not limited to, areas flooded during the spring or summer for the cultivation of rice.

(B) Establish upland nesting cover over multiple years.

(3) Be consistent with waterfowl habitat breeding goals and objectives of the Central Valley Joint Venture Implementation Plan as it may be amended.

(4) Allow for one year or multiyear contracts with landowners.

(5) Allow for the rotation of fallowed fields to different areas of a landowner's property on an annual basis.

(6) Prohibit, in connection with the approval of a transfer, a landowner who participates in the program from diverting or using any water under any basis of right to irrigate land idled in order to provide water for transfer, unless the transfer is approved by the State Water Resources Control Board pursuant to Part 2 (commencing with Section 1200) of Division 2 of the Water Code, or by the Department of Water

Resources pursuant to Article 4 (commencing with Section 1810) of Chapter 11 of Part 2 of Division 2 of the Water Code, and the irrigation of the idled land is expressly authorized under that approval.

(7) Allow for activities undertaken or requested by mosquito control agencies to address mosquito production.

(c) The program may be supported with state or federal grants, state bond moneys, and private grants and donations. Funds may also be used as a state match for related federal conservation programs that provide waterfowl and upland game bird breeding habitat benefits.

(d) The department may utilize the assistance of the California Waterfowl Habitat Program in implementing the Nesting Bird Habitat Incentive Program, including, but not limited to, establishing program priorities, contract requirements, and monitoring and compliance activities. Nonprofit conservation organizations may also assist in the implementation and delivery of the program to the extent that the department deems appropriate.

(e) The program may also include agricultural lands not subject to water transfers or lands fallowed for any other legal purpose.

(f) The department may consult with the Wildlife Conservation Board, the United States Fish and Wildlife Service, the Natural Resources Conservation Service, and nonprofit waterfowl and upland game bird organizations before implementing this section to determine the optimal ways to increase and enhance waterfowl and upland game bird breeding habitat on idled lands.

(g) Landowners who take voluntary action to cultivate or retain irrigated or nonirrigated cover crops, natural vegetation, or other wildlife habitat on lands fallowed pursuant to the goals of the Sustainable Groundwater Management Act (Part 2.74 (commencing with Section 10720) of Division 6 of the Water Code) shall also be eligible to participate in the program described in subdivision (a).

(h) The program is established for waterfowl and other game bird breeding purposes and shall not be used to provide waterfowl wintering habitat, including managed wetland habitat, as defined in paragraph (1) of subdivision (a) of Section 1506.

(i) This section shall be implemented only if either of the following occur:

(1) The Water Supply and Water Quality Act of 2018 (Division 38 (commencing with Section 86000) of the Water Code) is approved by the voters at the November 6, 2018, statewide general election.

(2) A sufficient amount of federal grants or other funds are secured, as determined by the department, for the purposes of this section.

HISTORY:
Added Stats 2018 ch 588 § 1 (AB 2697), effective January 1, 2019.

PART 2. BIRDS

CHAPTER 1. GENERAL PROVISIONS

§ 3500. Resident and migratory game birds enumerated; "Game birds"

(a) Resident game birds are as follows:

(1) Doves of the genus Streptopelia, including, but not limited to, spotted doves, ringed turtledoves, and Eurasian collared-doves.

(2) California quail and varieties thereof.

(3) Gambel's or desert quail.

(4) Mountain quail and varieties thereof.

(5) Sooty or blue grouse and varieties thereof.

(6) Ruffed grouse.

(7) Sage hens or sage grouse.

(8) Hungarian partridges.
(9) Red-legged partridges including the chukar and other varieties.
(10) Ring-necked pheasants and varieties thereof.
(11) Wild turkeys of the order Galliformes.

(b) Migratory game birds are as follows:
(1) Ducks and geese.
(2) Coots and gallinules.
(3) Jacksnipe.
(4) Western mourning doves.
(5) White-winged doves.
(6) Band-tailed pigeons.

(c) References in this code to "game birds" means both resident game birds and migratory game birds.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 31; Stats 1961 ch 88 § 1; Stats 2007 ch 285 § 67 (AB 1729), effective January 1, 2008.

§ 3501. Driving game birds with motorized vehicles

It is unlawful to use any powerboat, motor vehicle, or airplane to drive any game bird toward another person with the intent that the other person shall take the bird.

HISTORY:
Enacted 1957.

§ 3502. Use of mammal or imitation as blind

It is unlawful to use any mammal (except a dog) or an imitation of a mammal as a blind in approaching or taking game birds.

HISTORY:
Enacted 1957.

§ 3503. Taking or destroying nests or eggs

It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto.

HISTORY:
Enacted 1957. Amended Stats 1971 ch 1470 § 8.

§ 3503.5. Taking, possessing, or destroying birds-of-prey or their eggs

It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.

HISTORY:
Added Stats 1985 ch 1334 § 6.

§ 3504. Sale or purchase of birds

Subject to the provisions of this code permitting the sale of domestically raised game birds, it is unlawful to sell or purchase a game bird or nongame bird.

HISTORY:
Enacted 1957. Amended Stats 1977 ch 1208 § 7; Stats 2015 ch 154 § 70 (AB 1527), effective January 1, 2016.

§ 3505. Taking, sale or purchase of aigrettes and other specified birds

It is unlawful to take, sell, or purchase any aigrette or egret, osprey, bird of paradise, goura, numidi, or any part of such a bird.

HISTORY:
Enacted 1957.

§ 3508. Training dogs on game birds during closed season prohibited; Exceptions

It is unlawful to break, train, hold field trials with, or practice dogs on any wild game bird or domesticated game bird during the closed season on that bird except as authorized by the commission.

HISTORY:
Added Stats 1963 ch 1754 § 1. Amended Stats 2002 ch 453 § 5 (AB 3055); Stats 2003 ch 62 § 98 (SB 600).

§ 3511. Prohibited taking or possession of fully protected birds; Collecting for scientific research; Enumeration of fully protected birds

(a)(1) Except as provided in this section, Section 2081.7, or Section 2835, a fully protected bird may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected bird, and no permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of a fully protected bird for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species, and may authorize the live capture and relocation of a fully protected bird pursuant to a permit for the protection of livestock. Before authorizing the take of a fully protected bird, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected bird may be possessed under a permit issued by the department.

(b) The following are fully protected birds:

(1) American peregrine falcon (Falco peregrinus anatum).
(2) Brown pelican.
(3) California black rail (Laterallus jamaicensis coturniculus).
(4) California clapper rail (Rallus longirostris obsoletus).
(5) California condor (Gymnogyps californianus).
(6) California least tern (Sterna albifrons browni).
(7) Golden eagle.
(8) Greater sandhill crane (Grus canadensis tabida).
(9) Light-footed clapper rail (Rallus longirostris levipes).
(10) Southern bald eagle (Haliaeetus leucocephalus leucocephalus).
(11) Trumpeter swan (Cygnus buccinator).
(12) White-tailed kite (Elanus leucurus).
(13) Yuma clapper rail (Rallus longirostris yumanensis).

HISTORY:
Added Stats 1970 ch 1036 § 4. Amended Stats 1974 ch 548 § 1; Stats 2002 ch 617 § 3 (SB 482); Stats 2003 ch 735 § 1 (SB 412); Stats 2011 ch 596 § 4 (SB 618), effective January 1, 2012; Stats 2015 ch 154 § 71 (AB 1527), effective January 1, 2016.

§ 3513. Taking or possession of migratory nongame birds as designated in federal Migratory Bird Treaty Act [Repealed effective January 1, 2026; Inoperative January 20, 2025]

(a) It is unlawful to take or possess any migratory nongame bird as designated in the ***federal*** Migratory Bird Treaty Act ***(16 U.S.C. Sec. 703 et seq.) before January 1, 2017, any additional migratory nongame bird that may be designated in that federal act after that date,*** or any part of ***a*** migratory nongame bird ***described in this section,*** except as provided by rules and regulations adopted by the ***United States*** Secretary of the Interior under ***that federal act before January 1, 2017, or subsequent rules or regulations adopted pursuant to that federal act, unless those rules or regulations are inconsistent with this code***.

(b) This section shall become inoperative on January 20, 2025, and, as of January 1, 2026, is repealed.

HISTORY:
Added Stats 1957 ch 1972 § 36. Amended Stats 1977 ch 1208 § 8; Stats 2019 ch 349 § 2 (AB 454), effective January 1, 2020, inoperative January 20, 2025, repealed January 1, 2026.

§ 3513. Taking or possession of migratory nongame birds as designated in federal Migratory Bird Treaty Act [Operative January 20, 2025]

(a) It is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act (16 U.S.C. Sec. 703 et seq.), or any part of a migratory nongame bird described in this section, except as provided by rules and regulations adopted by the United States Secretary of the Interior under that federal act.

(b) This section shall become operative on January 20, 2025.

HISTORY:
Added Stats 2019 ch 349 § 3 (AB 454), effective January 1, 2020, operative January 20, 2025.

§ 3514. Exotic nonresident game birds

Exotic nonresident game birds are those birds of the order Galliformes (pheasant, grouse, quail) which are not established as a wild resident population in this State.

HISTORY:
Added Stats 1959 ch 398 § 1.

§ 3515. Requirement of approval prior to release of exotic nonresident game birds in this State

Exotic nonresident game birds may be released in this State only on prior approval of the commission.

HISTORY:
Added Stats 1959 ch 398 § 2.

§ 3516. Exotic nonresident game birds; Regulations; Importation

The commission may adopt such regulations as it deems necessary to govern the release, taking, and possession of exotic nonresident game birds.

The commission may adopt such regulations as it deems necessary to govern the inspection of resident game birds imported into this State.

HISTORY:
Added Stats 1959 ch 398 § 3. Amended Stats 1963 ch 306 § 1.

CHAPTER 2. PARTICULAR VARIETIES

ARTICLE 1. PHEASANTS

§ 3660. Possession of pheasant carcass

It is unlawful for any person to have in his possession the carcass, in such condition that the sex or species cannot be easily determined, of any pheasant while in the field or forest or while upon any highway, train, car, boat, or other conveyance when returning from any hunting trip with gun or other hunting equipment.

HISTORY:
Enacted 1957.

ARTICLE 2. OTHER SPECIES

§ 3680. Taking of racing pigeons; Misdemeanor; Exceptions

Any person, other than the owner thereof, who at any time, by any means or in any manner, purposely takes any racing pigeon currently registered with a recognized organization, is guilty of a misdemeanor. However, the incidental take of registered racing pigeons with the shooting or taking of wild band-tailed pigeons or domestic pigeons (Columba livia), is not a violation of this section.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 68 (AB 1729), effective January 1, 2008.

§ 3681. Unlawful taking of ducks or geese in Districts 8 and 9

In Districts 8 and 9, it is unlawful to take ducks or geese in any manner below the incoming or outgoing tidewater's edge or from any blind, boat, floating device, island, islet, or exposed tidal flat except on Saturdays, Sundays, Wednesdays, holidays and the opening and closing days during the prescribed open season except that the use of boats is permitted to retrieve crippled or dead birds.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1122 § 2.

§ 3682. [Section repealed 2016.]

HISTORY:
Added Stats 1992 ch 452 § 3 (SB 452), operative July 1, 1993. Amended Stats 2001 ch 112 § 21 (AB 435). Repealed Stats 2015 ch 683 § 17 (SB 798), effective January 1, 2016. The repealed section related to the taking of upland game bird species, document issuance not through the Automated License Data System, and procurement of game bird stamp.

§ 3682.1. Taking of upland game bird species, document issuance through the Automated License Data System; Procurement of game bird stamp

(a) It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 3031, to take any upland game bird species without first procuring an upland game bird hunting validation, as provided in subdivision (b), and having the validation affixed to his or her valid hunting license.

(b) Upland game bird hunting validations may be obtained from the department or a licensed agent authorized pursuant to Section 1055.1 for a fee of six dollars and twenty-five cents ($6.25), adjusted pursuant to Section 713.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 22 (AB 435).

§ 3682.2. Procurement of upland game bird stamps upon full implementation of the Automated License Data System; Limited entitlements

(a) Upon full implementation of the Automated License Data System, the department shall continue to prepare, or have prepared, upland game bird stamps depicting upland game birds.

(b) Any person who obtains an upland game bird hunting validation pursuant to Section 3682.1 is entitled, upon request, to receive an upland game bird stamp at no additional charge.

(c) Any person may purchase an upland game bird stamp for a fee of six dollars and twenty-five cents ($6.25), as adjusted pursuant to Section 713.

(d) Possession of an upland game bird stamp obtained pursuant to this section does not entitle the holder to take any upland game bird species.

HISTORY:
Added Stats 2001 ch 112 § 23 (AB 435).

§ 3683. Birds included in upland game bird species

Upland game bird species include both of the following:

(a) All of the following resident game birds:

(1) Doves of the genus Streptopelia, including, but not limited to, spotted doves, ringed turtledoves, and Eurasian collared doves.

(2) California quail and varieties thereof.

(3) Gambel's or desert quail.

(4) Mountain quail and varieties thereof.

(5) Sooty or blue grouse.

(6) Ruffed grouse.

(7) Sage hens or sage grouse.

(8) White-tailed ptarmigan.

(9) Hungarian partridges.

(10) Red-legged partridges including the chukar and other varieties.

(11) Ring-necked pheasants and varieties thereof.

(12) Wild turkeys.

(b) All of the following migratory game birds:

(1) Jacksnipe.

(2) Western mourning doves.

(3) White-winged doves.

(4) Band-tailed pigeons.

HISTORY:
Added Stats 1992 ch 452 § 4 (SB 452), operative July 1, 1993. Amended Stats 2007 ch 285 § 69 (AB 1729), effective January 1, 2008.

§ 3684. Deposit of funds derived from sale of upland game bird hunting validations and stamps into Upland Game Bird Account; Expenditure; Grants; Review of funded projects by advisory committee

(a) The Upland Game Bird Account is hereby established within the Fish and Game Preservation Fund.

(b) All funds derived from the sale of upland game bird hunting validations and upland game bird stamps shall be deposited in the Upland Game Bird Account to permit separate accountability for the receipt and expenditure of these funds.

(c) Funds deposited in the Upland Game Bird Account shall be available for expenditure upon appropriation by the Legislature to the department. These funds shall be expended solely for the purpose of acquiring land, completing projects and implementing

programs to benefit upland game bird species, and expanding public hunting opportunities and related public outreach, including, but not limited to, enhancing upland game bird habitat. Any land acquired with funds from the Upland Game Bird Account shall be acquired in fee title or protected with a conservation easement and, to the extent possible, be open or provide access to the public for upland game bird hunting. The department may also use funds from the Upland Game Bird Account to pay for administrative and enforcement costs of the programs and activities described in this section. The amount allocated from the account for administrative costs shall be limited to the reasonable costs associated with administration of the programs and activities described in this section.

(d) The department may make grants to, reimburse, or enter into contracts or other agreements as defined in subdivision (a) of Section 1571 with, nonprofit organizations for the use of the funds from the Upland Game Bird Account to carry out the purposes of this section, including related habitat conservation projects.

(e) An advisory committee, as determined by the department, that includes interested nonprofit organizations that have goals and objectives directly related to the management and conservation of game bird species and primarily represent the interests of persons licensed pursuant to Section 3031 shall review and provide comments to the department on all proposed projects funded from the Upland Game Bird Account to help ensure that the requirements of this section have been met. The department shall post budget information and a brief description on its Internet Web site for all projects funded from the Upland Game Bird Account.

(f) Upland game bird projects authorized pursuant to this section are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(g) The department shall maintain the internal accountability necessary to ensure compliance with the collection, deposit, and expenditure of funds specified in this section.

HISTORY:
Added Stats 2010 ch 408 § 4 (SB 1058), effective January 1, 2011.

§ 3685. [Section repealed 2011.]

HISTORY:
Added Stats 1992 ch 452 § 6 (SB 452), operative July 1, 1993. Repealed Stats 2010 ch 408 § 5 (SB 1058), effective January 1, 2011. The repealed section related to appropriation of funds from sale of upland game bird stamps. See F & G C § 3684.

§ 3686. Law governing approved projects; Grants to or contracts with nonprofit organizations

Projects authorized pursuant to Section 3684 shall be governed by Section 1501.5. With the approval of the entity in control of property affected by a project, the department may make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of those projects, or the department may reimburse the controlling entity for its costs of accomplishing the project.

HISTORY:
Added Stats 1992 ch 452 § 7 (SB 452), operative July 1, 1993. Amended Stats 2010 ch 408 § 6 (SB 1058), effective January 1, 2011.

ARTICLE 3. MIGRATORY BIRDS

§ 3700. [Section repealed 2016.]

HISTORY:
Added Stats 1992 ch 452 § 9 (SB 452), operative July 1, 1993. Amended Stats 2001 ch 112 § 25 (AB 435). Repealed

Stats 2015 ch 683 § 18 (SB 798), effective January 1, 2016. The repealed section related to the requirement of state duck stamp, document issuance not through the Automated License Data System, and a fee.

§ 3700.1. Requirement of state duck hunting validation, document issuance through the Automated License Data System; Fee

(a) It is unlawful for any person, except a person licensed pursuant to paragraph (2) of subdivision (a) of Section 3031, to take any migratory game bird, except jacksnipe, coots, gallinules, western mourning doves, white-winged doves, and band-tailed pigeons, without first procuring a state duck hunting validation as provided in subdivision (b), and having that validation in his or her possession while taking those birds.

(b) State duck hunting validations shall be sold for a fee of ten dollars ($10) by the department and by license agents, who are authorized by the department pursuant to Section 1055.1, in the same manner as hunting licenses.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 26 (AB 435).

§ 3700.2. Procurement of state duck stamps upon full implementation of the Automated License Data System

(a) Upon full implementation of the Automated License Data System, the department shall continue to prepare, or have prepared, state duck stamps depicting migratory waterfowl.

(b) Any person who obtains a duck hunting validation pursuant to Section 3700.1 is entitled, upon request, to receive a state duck stamp, open edition, at no additional charge.

(c) Any person may purchase a state duck stamp, open edition, for a fee of ten dollars ($10).

(d) State duck stamps, Governor's edition, may be printed and sold on a bid basis, beginning at a minimum bid, as determined by the department or its representative.

(e) The commission shall determine the form of the state duck stamp.

(f) Possession of a state duck stamp obtained pursuant to this section does not entitle the holder to take any migratory bird, as defined in Section 3700.1.

(g) The department may prepare and sell artwork, posters, and other promotional materials related to the sale of duck stamps or waterfowl hunting and conservation.

HISTORY:
Added Stats 2001 ch 112 § 27 (AB 435).

§ 3701. Deposit of funds from sale of stamps; Administrative overhead

All funds derived from the sale of state duck hunting validations and state duck stamps, and related items authorized by subdivision (e) of Section 3700 or subdivision (g) of Section 3700.2, shall be deposited in the State Duck Stamp Account in the Fish and Game Preservation Fund to permit separate accountability for the receipt and expenditure of these funds. An amount not to exceed 6 percent of the amount annually deposited in the account may be used for administrative overhead related to the use of those funds and for implementation of the federal Migratory Bird Harvest Program.

HISTORY:
Added Stats 1992 ch 452 § 11 (SB 452), operative July 1, 1993. Amended Stats 2001 ch 112 § 28 (AB 435).

§ 3702. Authorized expenditures; Right to enter into contracts for use of funds

Funds deposited in the State Duck Stamp Account shall be used for projects or endowments approved by the commission for the purpose of protecting, preserving,

restoring, enhancing, and developing migratory waterfowl breeding and wintering habitat, evaluating habitat projects, and conducting waterfowl resource assessments and other waterfowl related research. These funds may be used to reimburse nonprofit organizations for completed habitat projects. Subject to Section 3704, the department may make grants or enter into contracts with nonprofit organizations for the use of these funds when it finds that the contracts are necessary for carrying out the purposes of this article.

HISTORY:
Added Stats 1992 ch 452 § 14 (SB 452), operative July 1, 1993. Amended Stats 2004 ch 713 § 1 (AB 2519).

§ 3702.1. Review of projects funded from State Duck Stamp Account by advisory committee

An advisory committee, as determined by the department, that includes interested nonprofit organizations that have goals and objectives directly related to the management and conservation of waterfowl species and primarily represent the interests of persons licensed pursuant to Section 3031 shall review and provide comments to the department on all proposed projects funded from the State Duck Stamp Account to help ensure that the requirements of Sections 3702, 3703, and 3704 have been met.

HISTORY:
Added Stats 2014 ch 259 § 2 (SB 1434), effective January 1, 2015.

§ 3702.5. Sale of prints of duck stamp related artwork

The department may permit individual artists to sell a limited number of prints of duck stamp related artwork or posters.

This section shall become operative on July 1, 1993.

HISTORY:
Added Stats 1992 ch 452 § 16 (SB 452), operative July 1, 1993.

§ 3703. Analysis of proposed projects; Recommendations

Before the commission may consider any project which proposes the use of funds from the State Duck Stamp Account, the department shall analyze such project and provide the commission with recommendations as to the project's feasibility and need.

HISTORY:
Added Stats 1970 ch 1582 § 1, operative July 1, 1971.

§ 3704. Allocation of funds for use in Canada; Use of available balance of funds

Two dollars and twenty-five cents ($2.25) of the amount collected by the department for each state duck stamp sold shall be allocated by the commission for the purposes of the North American Waterfowl Management Plan in those areas of Canada from which come substantial numbers of waterfowl migrating to, or through, California. These funds shall be matched with federal or private funds available for that purpose. The available balance of the funds shall be used for any project authorized pursuant to Section 3702 in California. However, any lands acquired in California with those funds shall be open to waterfowl hunting as a public shooting ground or wildlife management area.

This section shall become operative on July 1, 1993.

HISTORY:
Added Stats 1992 ch 452 § 18 (SB 452), operative July 1, 1993.

§ 3704.5. Waterfowl projects

Waterfowl projects authorized pursuant to Sections 3702 and 3460 are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or

Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code. With the approval of the entity in control of property affected by a project, the department may make grants to, or enter into contracts with, nonprofit organizations for the accomplishment of those projects, or the department may reimburse the controlling entity for its costs of accomplishing the project.

This section shall become operative on July 1, 1993.

HISTORY:
Added Stats 1992 ch 452 § 20 (SB 452), operative July 1, 1993.

§ 3705. Allocations of funds to projects outside state or United States; Requirements

Before allocating funds to any project to be undertaken outside the state, or outside the United States, the commission shall secure evidence that the project is acceptable to the government agency having jurisdiction over the lands and waters affected by such project.

HISTORY:
Added Stats 1970 ch 1582 § 1, operative July 1, 1971.

CHAPTER 3. NONGAME BIRDS

§ 3800. Nongame birds; Mitigation plans relating to mining operations

(a) All birds occurring naturally in California that are not resident game birds, migratory game birds, or fully protected birds are nongame birds. It is unlawful to take any nongame bird except as provided in this code or in accordance with regulations of the commission or, when relating to mining operations, a mitigation plan approved by the department.

(b)(1) Mitigation plans relating to mining operations approved by the department shall, among other criteria, require avoidance of take, where feasible, and include reasonable and practicable methods of mitigating the unavoidable take of birds and mammals. When approving mitigation plans, the department shall consider the use of the best available technology on a site-specific basis.

(2) Mitigation plans relating to mining operations approved by the department shall include provisions that address circumstances where mining operations contribute to bird deaths, including ponding of process solutions on heap leach pads and exposure of process solution channels, solution ponds, and tailing ponds.

(3) The mine operator shall prepare a mitigation plan that shall be submitted to the department for approval. For ongoing mining operations, the mitigation plan alone or in conjunction with regulations adopted by the commission shall result in an overall reduction in take of avian or mammal species. The department shall provide an opportunity for public review and comment on each mitigation plan during the department's approval process. The mitigation plan shall be prepared on a site-specific basis and may provide for offsite mitigation measures designed to reduce avian mortality. The mine operator shall submit monthly monitoring reports on avian mortality to the department to aid in evaluating the effectiveness of onsite mitigation measures.

(4) The mining operator shall reimburse the department for its direct costs to provide appropriate notice of the mitigation plan to affected local government entities and other affected parties. The mine operator shall provide the department a limited number of copies, as determined by the department, of the mitigation plan for public review.

(c) The department shall monitor and evaluate implementation of the mitigation plan by the mine operator and require modification of the plan or other remedial actions to be

taken if the overall reduction in take of avian or mammal species required pursuant to paragraph (3) is not being achieved.

HISTORY:
Added Stats 1971 ch 1470 § 13. Amended Stats 1994 ch 768 § 2 (SB 1656).

§ 3801. Taking of specified birds

Notwithstanding Section 3007 or any other provision of this code or regulations made pursuant thereto requiring the possession of a hunting license, a landowner or lessee or agent of either in immediate possession of written authority from the landowner or lessee, shall not be required to obtain a hunting license or a depredation permit to take the following nongame birds on land owned or leased by the landowner or lessee. Hunters otherwise taking the following nongame birds shall be licensed pursuant to Section 3007. The following nongame birds taken in compliance with this section may be taken and possessed by any person at any time, except as provided in Section 3000:

(a) English sparrows (Passer domesticus).

(b) Starlings (Sturnus vulgaris).

HISTORY:
Added Stats 1971 ch 1470 § 15. Amended Stats 1974 ch 1129 § 1; Stats 2007 ch 285 § 70 (AB 1729), effective January 1, 2008.

§ 3801.5. Permitted taking of birds injuring growing crops

Nongame birds not covered by the Migratory Bird Treaty Act which are found to be injuring growing crops or property may be taken by the owner or tenant of the premises. They may also be so taken by officers or employees of the Department of Food and Agriculture or by federal or county officers or employees when acting in their official capacities pursuant to the provisions of the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

Landowners and tenants taking birds in accordance with this section are exempt from Section 3007.

HISTORY:
Added Stats 1971 ch 1470 § 16. Amended Stats 1983 ch 101 § 34.

§ 3801.6. Prohibited possession of carcass, skin or parts; Seizure and disposition; Affirmative defense

(a) Except as otherwise provided in this code or regulations made pursuant thereto, it is unlawful to possess the carcass, skin, or parts of any nongame bird. The feathers, carcass, skin, or parts of any nongame bird possessed by any person in violation of any of the provisions of this code shall be seized by the department and delivered to a California Native American tribal government or a scientific or educational institution, used by the department, or destroyed.

(b)(1) It shall be an affirmative defense to a violation of this section if the possessor of feathers, carcass, skin, or parts of a nongame bird legally acquired the feathers, carcass, skin, or parts, possesses them for tribal, cultural, or spiritual purposes, and satisfies either of the following criteria:

(A) The possessor is an enrolled member of a federally recognized Native American tribe or nonfederally recognized California Native American tribe listed on the California Tribal Consultation List maintained by the Native American Heritage Commission who has, in his or her immediate possession, valid tribal identification or other irrefutable proof of current enrollment.

(B) The possessor has a certificate of degree of Indian blood issued by the United States Bureau of Indian Affairs in his or her immediate possession.

(2) Nothing in this section allows any person to sell nongame bird feathers, carcasses, skins, or parts. Native Americans meeting the affirmative defense requirements may salvage dead nongame birds so long as the person salvaging these birds does not possess, nor is in the company of any person who possesses, a firearm, BB device as defined in Section 16250 of the Penal Code, trap, snare, net archery equipment, device capable of discharging a projectile, or any apparatus designed to take birds. Salvaging shall not take place by any person involved in the take of the nongame bird to be salvaged, any person present at the time of the take, or by any person who received related information originating from any person present at the time of the take of the nongame bird. Salvaging pursuant to this subdivision shall not take place if a bird has been struck with any thrown or discharged projectile, trapped, netted, caught, or snared.

(c) Notwithstanding subdivisions (a) and (b), any officer deputized pursuant to this code may interrupt any ongoing salvaging of dead nongame carcasses, feathers, skins, or parts if, in the officer's judgment, the activity causes a public disruption, safety hazard, or is detrimental to the ability of the department to prevent a possible violation of this section. The officer may seize any of the salvaged feathers, carcasses, skins, or parts and has the option of returning them to the general location from where they were salvaged.

HISTORY:
Added Stats 1971 ch 1470 § 17. Amended Stats 1977 ch 1208 § 9; Stats 2007 ch 285 § 71 (AB 1729), effective January 1, 2008; Stats 2010 ch 178 § 30 (SB 1115), effective January 1, 2011, operative January 1, 2012.

§ 3802. Cooperative contracts with United States Fish and Wildlife Service

The department may enter into cooperative contracts with the United States Fish and Wildlife Service in the Department of the Interior in relation to the control or eradication of predatory birds, and for that purpose may expend any money made available to the department for expenditure for the control or eradication of predatory birds.

HISTORY:
Enacted 1957.

§ 3803. Taking by department of birds preying upon game

The department may take any individual bird individual bird, or birds of any species, that, in its opinion, are unduly preying upon any species of bird, mammal, reptile, amphibian, or fish.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 72 (AB 1729), effective January 1, 2008.

§ 3806. License for feeding migratory game birds; Fee

In order to aid in relieving widespread waterfowl depredation of agricultural crops, the department may issue licenses under regulations which the commission may prescribe to permit the feeding of migratory game birds. The commission may prescribe an annual fee for the license.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 1463 § 18; Stats 1986 ch 1368 § 15.

CHAPTER 4. CALIFORNIA CONDOR

§ 3850. Preservation project; Objectives

The department may carry out a California condor preservation project which has the following objectives:

(a) Habitat protection, consistent with the department's existing legal authority.

(b) Field research, including mortality studies.

(c) Captive breeding program.
(d) Condor release program.

HISTORY:
Added Stats 1988 ch 88 § 1, effective April 21, 1988.

§ 3851. Development of plan to respond to objectives

The department, jointly with the federal–state condor recovery team established pursuant to the federal Endangered Species Act shall develop a plan to respond to the objectives in Section 3850. Based on the plan, the department shall develop specific activities, studies, and programs to be administered by the department in the areas of habitat protection and field research. The department may contract for all or some of these activities, studies, and programs.

HISTORY:
Added Stats 1988 ch 88 § 1, effective April 21, 1988.

§ 3852. Funds for breeding programs in zoos

The department shall provide funds to the Zoological Society of San Diego and to the Los Angeles Zoo for a condor breeding program on the grounds of each zoo.

HISTORY:
Added Stats 1988 ch 88 § 1, effective April 21, 1988.

§ 3853. Contracts to zoos for release program

In addition to the programs in Section 3852, a condor release program administered by the department and the United States Fish and Wildlife Service may be contracted to the Zoological Society of San Diego and the Los Angeles Zoo.

HISTORY:
Added Stats 1988 ch 88 § 1, effective April 21, 1988.

§ 3854. Limitation on use of funding for administrative costs

Not more than 10 percent of the funds provided to the zoos under this chapter may be used for administrative costs of the program.

HISTORY:
Added Stats 1988 ch 88 § 1, effective April 21, 1988.

§ 3855. Monitoring of zoo programs by department

Both the breeding program and the release program, if authorized by the department, shall meet criteria established by the department and shall be monitored by the department. The zoos shall submit biannual reports to the department which describe progress made in the breeding program and the release program.

HISTORY:
Added Stats 1988 ch 88 § 1, effective April 21, 1988.

§ 3856. Report to Legislature

The department shall include copies of the biannual reports from the zoos in the annual report to the Legislature on the status of listed species required in Section 2079.

HISTORY:
Added Stats 1988 ch 88 § 1, effective April 21, 1988.

§ 3857. Augmentation of state funds from other sources

To the extent possible, the department shall seek private sector funding and any federal funds which may be available to augment state funds for the purposes of this chapter.

HISTORY:
Added Stats 1988 ch 88 § 1, effective April 21, 1988.

§ 3858. Authorization of take of California condors under Northern California Condor Restoration Program

(a) For purposes of this section, the term "Northern California Condor Restoration Program" means the California condor restoration program in northern California associated with the California Condor Recovery Plan published by the United States Fish and Wildlife Service in April 1996, or a subsequent revision of that plan.

(b) Notwithstanding Section 3511, if the take of California condors under the Northern California Condor Restoration Program is exempt from further authorization or approval under Chapter 1.5 (commencing with Section 2050) of Division 3 pursuant to Section 2080.5 or 2080.6, and the director finds the enhancement of survival permit described in subdivision (a) of Section 2080.5 or federal regulations described in paragraph (1) of subdivision (b) of Section 2080.6, as applicable, to be consistent with the objectives and plans developed pursuant to this chapter, the take or possession of California condors under the Northern California Condor Restoration Program shall also be exempt from the prohibitions in Section 3511.

HISTORY:
Added Stats 2018 ch 586 § 2 (AB 2640), effective January 1, 2019.

CHAPTER 5. AVIAN INFLUENZA WILDLIFE SURVEILLANCE ACT

§ 3860. Citation of chapter

This chapter shall be known, and may be cited, as the Avian Influenza Wildlife Surveillance Act.

HISTORY:
Added Stats 2006 ch 708 § 1, effective September 29, 2006.

§ 3861. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) Avian influenza and other emerging diseases of wildlife are a serious threat to the people of California.

(b) California is home to large populations of migratory birds and other wildlife species.

(c) California is a central part of the Pacific Flyway, and a seasonal home to species of birds that migrate to and from Asia, Central America, South America, and other regions.

(d) Surveillance of wild birds and animals across the state is a key element among efforts to prevent avian influenza and other emerging wildlife diseases from harming the people and the natural resources of the state.

(e) In the interest of public health, the state shall support a surveillance program for avian influenza in wild bird and animal populations.

HISTORY:
Added Stats 2006 ch 708 § 1 (AB 874), effective September 29, 2006.

§ 3862. Development and implementation of plan for surveillance, monitoring, sampling, diagnostic testing and reporting of avian influenza in wild birds and animals

The Natural Resources Agency, in consultation with the department, the Department of Food and Agriculture, the State Department of Public Health, the Office of Emergency

Services, and the University of California, shall develop and implement a plan for the surveillance, monitoring, sampling, diagnostic testing, and reporting of avian influenza in wild birds and animals in the state. The Natural Resources Agency shall consult with the United States Fish and Wildlife Service and the United States Department of Food and Agriculture in developing the plan.

HISTORY:
Added Stats 2006 ch 708 § 1 (AB 874), effective September 29, 2006. Amended Stats 2010 ch 618 § 15 (AB 2791), effective January 1, 2011; Stats 2013 ch 352 § 96 (AB 1317), effective September 26, 2013, operative July 1, 2013.

§ 3863. Establishment of Avian Influenza Working Group authorized; Membership; Duties

(a) The Secretary of the Natural Resources Agency shall formally establish the Avian Influenza Working Group to assist in the development of the plan described in Section 3862. The Avian Influenza Working Group shall utilize, as guidance for early detection, the national protocol that has been developed to guide states in developing state-specific plans, known as the Early Detection System for Asian H5N1 Highly Pathogenic Avian Influenza in Wild Migratory Birds. The Avian Influenza Working Group shall also continue, enhance, and facilitate the work already begun by the department, other state departments, and the University of California, to coordinate communication of information and response plans for highly pathogenic avian influenza in wild birds.

(b) The Avian Influenza Working Group shall be composed of all of the following members:

(1) The Secretary of the Natural Resources Agency, or a designee.

(2) The director, or a designee.

(3) The Secretary of Food and Agriculture, or a designee.

(4) The State Public Health Officer, or a designee.

(5) The Director of Emergency Services, or a designee.

(6) One representative appointed by the Regents of the University of California.

(7) Two representatives from a qualified research organization or other qualified nongovernmental organization appointed by the Secretary of the Natural Resources Agency.

(c) The director shall chair the Avian Influenza Working Group.

(d) A majority of the Avian Influenza Working Group shall constitute a quorum for the transaction of business.

(e) The duties of the Avian Influenza Working Group shall include all of the following:

(1) Developing strategies for the detection of, and response to, the avian influenza virus in wild birds in California.

(2) Fostering communication among state and federal agencies regarding the avian influenza surveillance program.

(3) Developing strategies for public outreach and education.

(f) The Avian Influenza Working Group may consult with other public and nonprofit groups potentially affected by avian influenza in wild birds.

HISTORY:
Added Stats 2006 ch 708 § 1 (AB 874), effective September 29, 2006. Amended Stats 2010 ch 618 § 16 (AB 2791), effective January 1, 2011; Stats 2013 ch 352 § 97 (AB 1317), effective September 26, 2013, operative July 1, 2013.

§ 3864. [Section repealed 2013.]

HISTORY:
Added Stats 2006 ch 708 § 1 (AB 874), effective September 29, 2006. Repealed Stats 2012 ch 728 § 48 (SB 71), effective January 1, 2013. The repealed section related to a report on development and implementation of an avian influenza decision and response plan for wild birds.

PART 3. MAMMALS

CHAPTER 1. GAME MAMMALS

§ 3950. Game mammals enumerated

(a) Game mammals are: deer (genus Odocoileus), elk (genus Cervus), prong-horned antelope (genus Antilocapra), wild pigs, including feral pigs and European wild boars (genus Sus), black and brown or cinnamon bears (genus Euarctos), mountain lions (genus Felis), jackrabbits and varying hares (genus Lepus), cottontails, brush rabbits, pigmy rabbits (genus Sylvilagus), and tree squirrels (genus Sciurus and Tamiasciurus).

(b) Nelson bighorn sheep (subspecies Ovis canadensis nelsoni) are game mammals only for the purposes of sport hunting described in subdivision (b) of Section 4902.

HISTORY:

Added Stats 1982 ch 610 § 3, operative January 1, 1986. Amended Stats 1986 ch 745 § 1; Stats 1988 ch 160 § 40, operative until January 1, 1993; Stats 1991 ch 998 § 1 (SB 819), operative until January 1, 1993; Stats 1992 ch 1370 § 8 (AB 3193), effective October 27, 1992.

§ 3950.1. Mountain lion not to be considered game mammal

(a) Notwithstanding Section 3950 or any other provision of this code, the mountain lion (genus Felis) shall not be listed as, or considered to be, a game mammal by the department or the commission.

(b) Section 219 does not apply to this section. Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes this section.

HISTORY:

Addition adopted by voters, Prop 117 § 2, effective June 6, 1990.

§ 3951. Authorization to take tule elk; Relocation; Maximum number; Management plan

The commission may authorize the taking of tule elk pursuant to Section 332. When relocating tule elk, the department shall relocate the elk in areas suitable to them in the state and shall cooperate to the maximum extent possible with federal and local agencies and private property owners in relocating tule elk in suitable areas under their jurisdiction or ownership. When property or environmental damage occurs, emphasis shall be placed on managing each tule elk herd at a biologically sound level through the use of relocation, regulated hunting, or other appropriate methods, individually or in combination, as determined by the department in accordance with the statewide elk management plan developed pursuant to Section 3952, after consulting with local landowners.

The number of tule elk in the Owens Valley shall not be permitted to increase beyond 490, or any greater number hereafter determined by the department to be the Owens Valley's holding capacity in accordance with game management principles.

HISTORY:

Added Stats 1971 ch 1250 § 2. Amended Stats 1987 ch 1229 § 2; Stats 2001 ch 745 § 54 (SB 1191), effective October 12, 2001; Stats 2003 ch 291 § 2 (AB 1420).

§ 3952. Statewide elk management plan

The department shall develop a statewide elk management plan, consistent with the state's wildlife policy as set forth in Section 1801. The statewide elk management plan shall emphasize maintaining sufficient elk populations in perpetuity, while considering all of the following:

(a) Characteristics and geographic range of each elk subspecies within the state, including Roosevelt elk, Rocky Mountain elk, and tule elk.

(b) Habitat conditions and trends within the state.

(c) Major factors affecting elk within the state, including, but not limited to, conflicts with other land uses.

(d) Management activities necessary to achieve the goals of the plan and to alleviate property damage.

(e) Identification of high priority areas for elk management.

(f) Methods for determining population viability and the minimum population level needed to sustain local herds.

(g) Description of the necessary contents for individual herd management plans prepared for high priority areas.

HISTORY:
Added Stats 2003 ch 291 § 3 (AB 1420).

§ 3953. Deposit of revenue from sale of big game tags into Big Game Management Account; Expenditure; Grants; Review of funded projects by advisory committee

(a) The Big Game Management Account is hereby established within the Fish and Game Preservation Fund.

(b) Except as provided in Section 709, all revenues from the sale of antelope, elk, deer, wild pig, bear, and sheep tags, including any fundraising tags, shall be deposited in the Big Game Management Account to permit separate accountability for the receipt and expenditure of these funds. Within 30 days of the date of the sale, the selling nonprofit organization shall send the department 95 percent of the total auction sale price of the tag, with an itemized receipt showing the sale price and the 5-percent reduction retained by the nonprofit organization as a vendor's fee.

(c) Funds deposited in the Big Game Management Account shall be available for expenditure upon appropriation by the Legislature to the department. These funds shall be expended solely for the purposes set forth in this section and Sections 3951 and 3952, and Chapter 5 (commencing with Section 450) of Division 1, Chapter 7 (commencing with Section 4650), and Chapter 11 (commencing with Section 4900), including acquiring land, completing projects, and implementing programs to benefit antelope, elk, deer, wild pigs, bear, and sheep, and expanding public hunting opportunities and related public outreach. Any land acquired with funds from the Big Game Management Account shall be acquired in fee title or protected with a conservation easement and, to the extent possible, be open or provide access to the public for antelope, elk, deer, wild pig, bear, or sheep hunting. The department may also use funds from the Big Game Management Account to pay for administrative and enforcement costs of the programs and activities described in this section. The amount allocated from the account for administrative costs shall be limited to the reasonable costs associated with administration of the programs and activities described in this section.

(d) The department may make grants to, reimburse, or enter into contracts or other agreements, as defined in subdivision (a) of Section 1571, with nonprofit organizations for the use of the funds from the Big Game Management Account to carry out the purposes of this section, including related habitat conservation projects.

(e) An advisory committee, as determined by the department, that includes interested nonprofit organizations that have goals and objectives directly related to the management and conservation of big game species and primarily represent the interests of persons licensed pursuant to Section 3031 shall review and provide comments to the department on all proposed projects funded from the Big Game Management Account to help ensure that the requirements of this section have been met. The department shall post budget information and a brief description on an Internet Web site for all projects funded from the Big Game Management Account.

(f) Big game projects authorized pursuant to this section are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code or Article 6

(commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

(g) The department shall maintain the internal accountability necessary to ensure compliance with the collection, deposit, and expenditure of funds specified in this section.

HISTORY:
Added Stats 2010 ch 408 § 7 (SB 1058), effective January 1, 2011. Amended Stats 2014 ch 467 § 3 (AB 2105), effective January 1, 2015.

§ 3960. Prohibition of using dog to pursue big game mammal, bear, or bobcat; Authority of department

(a) As used in this section:

(1) "Pursue" means pursue, run, or chase.

(2) "Bear" means any black bear (Ursus americanus) found in the wild in this state.

(b) It is unlawful to permit or allow any dog to pursue any big game mammal during the closed season on that mammal, to pursue any fully protected, rare, or endangered mammal at any time, to pursue any bear or bobcat at any time, or to pursue any mammal in a game refuge or ecological reserve if hunting within that refuge or ecological reserve is unlawful.

(c)(1) The department may take any of the following actions:

(A) Capture any dog not under the reasonable control of its owner or handler, when that uncontrolled dog is pursuing, in violation of this section, any big game mammal, any bear or bobcat, or any fully protected, rare, or endangered mammal.

(B) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any big game mammal during the closed season on that mammal, and the department may capture or dispatch any dog inflicting injury or immediately threatening to inflict injury on any bear or bobcat at any time, or any fully protected, rare, or endangered mammal at any time.

(C) Capture or dispatch any dog inflicting injury or immediately threatening to inflict injury to any mammal in a game refuge or ecological reserve if hunting within that refuge or ecological reserve is unlawful.

(2) No criminal or civil liability shall accrue to any department employee as a result of enforcement of this section.

(3) This section does not apply to the use of dogs to pursue bears or bobcats by federal, state, or local law enforcement officers, or their agents or employees, when carrying out official duties as required by law.

(4) Owners of dogs with identification, that have been captured or dispatched, shall be notified within 72 hours after capture or dispatch.

HISTORY:
Added Stats 1969 ch 383 § 1. Amended Stats 1973 ch 509 § 1; Stats 2012 ch 595 § 2 (SB 1221), effective January 1, 2013.

§ 3960.2. Use of dogs to pursue bears or bobcats pursuant to depredation permit; Conditions; Holder of depredation permit

(a) As used in this section, the terms "bear" and "pursue" have the same meanings as defined in Section 3960.

(b) Notwithstanding Section 3960, not more than three dogs may be used to pursue bears or bobcats pursuant to a depredation permit issued by the department, if all of the following conditions are met:

(1) The applicant demonstrates, in writing, that nonlethal and avoidance measures were undertaken prior to requesting the depredation permit.

(2) The applicant demonstrates, in writing, the specific need for the use of dogs in carrying out the depredation permit.

(3) The depredation permit authorizing the use of dogs is valid for the take of one bear or one bobcat.

(4) The depredation permit authorizing the use of dogs is valid for a period not to exceed 20 consecutive days.

(5) The depredation permit specifies the name and address of any dog handler who will be utilized in the pursuit or taking.

(6) The dog handler has the depredation permit in his or her possession at all times during the pursuit or taking.

(7) The dog handler does not pursue a bear or bobcat more than one mile off the property on which the depredation activity occurred.

(c) After any taking of a bear, the applicant is required to submit the skull to the department as described in the department's Black Bear Management Plan. No part of any bear taken pursuant to a depredation permit may be sold, purchased, or possessed for sale, as described in Section 4758.

(d) No holder of a depredation permit may solicit or receive compensation from any person in exchange for carrying out the terms of the permit. For these purposes, "compensation" means remuneration paid in money, property, or anything else of value.

(e) The holder of a depredation permit, within 30 days of its issuance, shall report to the department detailing the use of the permit and the results of any pursuits, including information about bear or bobcat pursued and whether the bear or bobcat was or was not harmed, but not killed.

HISTORY:
Added Stats 2012 ch 595 § 3 (SB 1221), effective January 1, 2013.

§ 3960.4. Use of dogs to pursue bears or bobcats for scientific research; Memorandum of understanding; Notice

(a) As used in this section, the terms "bear" and "pursue" have the same meanings as defined in Section 3960.

(b) Notwithstanding Section 3960, the department may authorize qualified individuals, educational institutions, governmental agencies, or nongovernmental organizations to use dogs to pursue bears or bobcats for the purpose of scientific research, provided that the research project is designed to do all of the following:

(1) Contribute to knowledge of natural wildlife ecosystems.

(2) Follow best practices and minimize disruptions in the lives and movements of bears, bobcats, and other wildlife, as well as impacts to the habitat while maintaining the applicant's objectives.

(3) Directly or indirectly support the sustainability and survival of bear or bobcat populations and healthy ecosystems.

(4) Not include the intentional injury or killing of any bear or bobcat.

(5) Not include the intentional relocation of any bear or bobcat other than to areas suitable to them in the state. Any relocation shall comply with the requirements of Section 4190.

(c) Any research project authorized pursuant to subdivision (b) shall be undertaken pursuant to a memorandum of understanding between the department and the authorized research entity that addresses all of the following:

(1) Trapping and anesthetizing of the animals pursued, collection of diagnostic samples, attaching or surgically implanting monitoring or recognition devices or markings, and providing veterinary care or euthanasia, as required, for the health, safety, and humane treatment of the animals.

(2) Qualifications of onsite field supervisors necessary for carrying out authorized research procedures.

(3) Immediate reporting of any incidental mortality or injury to a bear or bobcat as a result of authorized research activities. Reports of any incidental mortality or injury to a bear or bobcat shall be made available to the public upon request.

(4) Filing of annual and final progress reports of research involving pursuit by dogs. Annual and final progress reports shall be made available to the public upon request.

(d) The department shall provide notice to the public of any bear or bobcat research project authorized pursuant to subdivision (b) at least 30 days prior to its initiation, and, upon request, shall make available to the public copies of the memorandum of understanding between the department and the authorized research entity required pursuant to subdivision (c).

HISTORY:
Added Stats 2012 ch 595 § 4 (SB 1221), effective January 1, 2013.

§ 3960.6. Pursuit of bears or bobcats by dogs guarding or protecting livestock or crops

(a) As used in this section, the terms "bear" and "pursue" have the same meanings as defined in Section 3960.

(b) Notwithstanding Section 3960, the pursuit of bears or bobcats by dogs that are guarding or protecting livestock or crops on property owned, leased, or rented by the owner of the dogs, is not prohibited if the dogs are maintained with, and remain in reasonable proximity to, the livestock or crops being guarded or protected.

HISTORY:
Added Stats 2012 ch 595 § 5 (SB 1221), effective January 1, 2013.

§ 3961. Authority of property owner to seize or dispatch dog

Whenever an employee of the department is not present to carry out the provisions of Section 3960 with respect to any dog inflicting injury or immediately threatening to inflict injury to any deer, elk, or prong-horned antelope during the closed season for these mammals, any property owner, lessee, person holding a permit for the purpose of grazing livestock, or his or her employee, may seize or dispatch the dog if it is found on his or her land or premises without the permission of the person who is in immediate possession of the land. If the dog has on it any readily visible identification tag or license tag as prescribed by Section 30951 of the Food and Agricultural Code, and the dog is found in the act of immediately threatening to injure deer, elk, or prong-horned antelope, the dog may only be dispatched under this section if the dog has, and the owner has been notified that the dog has, previously threatened any of these species.

No action, civil or criminal, shall be maintained for a dog lawfully seized or dispatched pursuant to this article.

The owner of a dog shall be notified within 72 hours of the seizure or dispatching of that dog under this section if it had the identification tag or license tag which is required pursuant to Section 30951 of the Food and Agricultural Code.

HISTORY:
Added Stats 1981 ch 1072 § 1.

CHAPTER 2. FUR-BEARING MAMMALS

ARTICLE 1. TRAPPING PROVISIONS

§ 4000. Fur-bearing mammals enumerated

The following are fur-bearing mammals: pine marten, fisher, mink, river otter, gray fox, red fox, kit fox, raccoon, beaver, badger, and muskrat.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 42; Stats 1967 ch 100 § 1; Stats 2007 ch 285 § 73 (AB 1729), effective January 1, 2008.

§ 4001. Trapping fur-bearing mammal for recreation or commerce purposes prohibited

Notwithstanding any other provision of this code or regulations adopted pursuant to

this code, it is unlawful for any person to trap any fur-bearing mammal for purposes of recreation or commerce in fur. The raw fur of a fur-bearing mammal otherwise lawfully taken pursuant to this code or regulations adopted pursuant to this code may not be sold.

HISTORY:
Added Stats 2019 ch 216 § 5 (AB 273), effective January 1, 2020.

§ 4002. Methods of taking

Fur-bearing mammals may be taken only with a trap, a firearm, bow and arrow, poison under a proper permit, or with the use of dogs.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 980 § 1.

§ 4003. Permit to use poison

It is unlawful to use poison to take fur-bearing mammals without a permit from the department. The department may issue such a permit upon a written application indicating the kind of poison desired to be used and the time and place of use.

HISTORY:
Enacted 1957.

§ 4004. Prohibited traps; Required signs when conibear trap set; Prohibited methods of killing trapped mammals

It is unlawful to do any of the following:

(a) Use a steel-jawed leghold trap, or use any trap with saw-toothed or spiked jaws.

***

(b) Set or maintain traps that do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, county, or city agency, bear the name of that agency, except that traps set pursuant to Section 4152 or 4180 shall bear an identifying mark in a manner specified by the department. No registration fee shall be charged pursuant to this subdivision.

(c) Fail to visit and remove all animals from traps at least once daily. If the trapping is done pursuant to Section 4152 or 4180, the inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

(d) Use a conibear trap that is larger than 6 inches by 6 inches, unless partially or wholly submerged in water. Unless prohibited by the department as a permit condition, a lawfully set conibear trap that is 10 inches by 10 inches or less may be set pursuant to subdivision (g) of Section 465.5 of Title 14 of the California Code of Regulations.

(e) When any conibear trap is set on publicly owned land or land expressly open to public use, fail to post signs at every entrance and exit to the property indicating the presence of conibear traps and at least four additional signs posted within a radius of 50 feet of the trap, one in each cardinal direction, with lettering that is a minimum of three inches high stating: "Danger! Traps Set For Wildlife. Keep Out." Signs shall be maintained and checked daily.

(f) Kill any trapped mammal in accordance with this section by intentional drowning, injection with any chemical not sold for the purpose of euthanizing animals, or thoracic compression, commonly known as chest crushing. This subdivision shall not be construed to prohibit the use of lawfully set conibear traps set partially or wholly submerged in water for beaver or muskrat or the use of lawfully set colony traps set in water for muskrat.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 939 § 1; Stats 1982 ch 1534 § 1; Stats 1983 ch 703 § 1, effective September 11, 1983; Stats 1988 ch 450 § 1; Stats 1989 ch 890 § 1; Stats 2013 ch 155 § 1 (AB 789), effective January 1, 2014; Stats 2019 ch 216 § 6 (AB 273), effective January 1, 2020.

§ 4005. Persons required to procure trapping license; Qualifications

(a) Except as otherwise provided in this section, every person***who traps fur-bearing mammals or nongame mammals, designated by the commission***, ***shall procure a trapping license. Raw fur of fur-bearing and nongame mammals may not be sold. For purposes of this article,*** "raw fur" means any fur, pelt, or skin that has not been tanned or cured, except that salt-cured or sun-cured pelts are raw furs.

(b) The department shall develop standards that are necessary to ensure the competence and proficiency of applicants for a trapping license. ***A person shall ***not*** be issued a license until ***the person*** has passed a test of ***their*** knowledge and skill in this field.

(c) Persons trapping mammals in accordance with Section 4152 or 4180 are not required to procure a trapping license except when providing trapping services for profit.

(d) No raw furs taken by persons providing trapping services for profit may be sold.

(e) The license requirement imposed by this section does not apply to any of the following:

(1) Officers or employees of federal, county, or city agencies or the department, when acting in their official capacities, or officers or employees of the Department of Food and Agriculture when acting pursuant to the Food and Agricultural Code pertaining to pests or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code.

(2) Structural pest control operators licensed pursuant to Chapter 14 (commencing with Section 8500) of Division 3 of the Business and Professions Code, when trapping rats, mice, voles, moles, or gophers.

(3) Persons and businesses licensed or certified by the Department of Pesticide Regulation pursuant to Chapter 4 (commencing with Section 11701) and Chapter 8 (commencing with Section 12201) of Division 6 of, and Chapter 3.6, (commencing with Section 14151) of Division 7 of, the Food and Agricultural Code, when trapping rats, mice, voles, moles, or gophers.

(f) Except for species that are listed pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 or Chapter 8 (commencing with Section 4700), nothing in this code or regulations adopted pursuant thereto shall prevent or prohibit a person from trapping any of the following animals:

(1) Gophers.
(2) House mice.
(3) Moles.
(4) Rats.
(5) Voles.

HISTORY:

Enacted 1957. Amended Stats 1974 ch 939 § 2; Stats 1979 ch 701 § 2; Stats 1982 ch 1534 § 2; Stats 1989 ch 890 § 2; Stats 2002 ch 571 § 1 (SB 1645); Stats 2006 ch 406 § 1 (AB 87), effective January 1, 2007; Stats 2007 ch 285 § 75 (AB 1729), effective January 1, 2008; Stats 2019 ch 216 § 7 (AB 273), effective January 1, 2020.

§ 4006. Issuance of class I trapping license; Fees

(a) A trapping license shall be issued as follows:

(1) To any resident of this state over the age of 16 years upon payment of a base fee of forty-five dollars ($45), as adjusted under Section 713.

(2) To any resident of this state under the age of 16 years upon payment of a base fee of fifteen dollars ($15), as adjusted under Section 713.

(3) To any person not a resident of this state upon payment of a base fee of two hundred twenty-five dollars ($225), as adjusted under Section 713.

(b) A license shall not be issued to a nonresident if the state in which he or she resides does not provide for issuance of a nonresident trapping license to California residents. Also, a nonresident issued a license under this subdivision may take only those species, and may take or possess only that quantity of a species that a resident of California may

take or possess under a nonresident trapping license or permit in the state of residence of that nonresident.

(c) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 248 § 6, operative July 1, 1960, ch 270 § 6, operative July 1, 1960; Stats 1974 ch 939 § 3; Stats 1982 ch 1534 § 1; Stats 1985 ch 1463 § 19; Stats 1986 ch 1368 § 16; Stats 1988 ch 450 § 2; Stats 2012 ch 565 § 17 (SB 1148), effective January 1, 2013.

§ 4007. Rights conferred under trapping license

A trapping license authorizes the person to whom it is issued to take*** fur-bearing mammals and nongame mammals for a term of one year from July 1st, or if issued after the beginning of ****the* term, for the remainder ****of the term*.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 939 § 4; Stats 1979 ch 701 § 3; Stats 2019 ch 216 § 8 (AB 273), effective January 1, 2020.

§ 4008. Annual statement of licensee

No trapping license shall be issued to any applicant within one year following the expiration of any trapping license previously issued to such applicant unless ****the applicant* has submitted to the department a sworn statement showing the number of each kind of fur-bearing mammals and nongame mammals taken under the previous license***.

HISTORY:
Enacted 1957. Amended Stats 1968 ch 76 § 1; Stats 1974 ch 939 § 5; Stats 2019 ch 216 § 9 (AB 273), effective January 1, 2020.

§ 4009. Removal or disturbance of traps

It is unlawful to remove or disturb the trap of any licensee while the trap is being used by the licensee on public land or on land where the licensee has permission to trap. This section does not apply to any employee of the department while engaged in the performance of official duties.

HISTORY:
Enacted 1957. Amended Stats 1983 ch 1048 § 2, effective September 26, 1983.

§ 4009.5. Regulations for taking of fur-bearing mammals or nongame mammals

The commission may adopt ***regulations as it determines to be necessary to regulate the taking ***of fur-bearing mammals or nongame mammals taken under a trapping license.

HISTORY:
Added Stats 1974 ch 939 § 6. Amended Stats 2019 ch 216 § 10 (AB 273), effective January 1, 2020.

§ 4010. Application of chapter to confined animals

The provisions of this chapter do not apply to, or prohibit the propagation of, fur-bearing mammals which are confined in accordance with the regulations of the commission.

HISTORY:
Enacted 1957.

§ 4011. Officials authorized to take mammals involved in disease outbreaks

(a) Fur-bearing mammals, game mammals, and nongame mammals, when involved in dangerous disease outbreaks, may be taken by duly constituted officials of any of the following:

(1) The United States Department of Agriculture.
(2) The United States Department of the Interior.
(3) The United States Department of Health and Human Services.
(4) The Department of Food and Agriculture.
(5) The State Department of Public Health.
(6) The department.

(b) A county official may take fur-bearing mammals, game mammals, and nongame mammals pursuant to this section, upon the prior approval of the director or his or her designee and in a manner approved by the director or his or her designee.

HISTORY:
Added Stats 1957 ch 1972 § 43. Amended Stats 1971 ch 1593 § 48, operative July 1, 1973; Stats 1974 ch 939 § 7; Stats 1977 ch 1252 § 86, operative July 1, 1978; Stats 2009 ch 294 § 12 (AB 1442), effective January 1, 2010.

§ 4012. Protection of foxes

It is unlawful to take any red fox for profitmaking purposes.

HISTORY:
Added Stats 1974 ch 15 § 1. Amended Stats 2007 ch 285 § 76 (AB 1729), effective January 1, 2008.

ARTICLE 2. FUR DEALER LICENSE [REPEALED]

HISTORY: Division 4, Birds and Mammals—Part 3, Mammals—Chapter 2, Fur-bearing Mammals—Article 2, Fur Dealer License; Article added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4030. Persons required to procure fur dealer license [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4031. Fee for revocable fur dealer license [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Amended Stats 1985 ch 1463 § 20; Stats 1986 ch 1368 § 17; Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4032. Fur agents; License required [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4033. Fee for revocable fur agent license [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Amended Stats 1985 ch 1463 § 21; Stats 1986 ch 1368 § 18; Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4034. Privileges of fur dealer license [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4035. License to be shown on request of authorized person [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4036. Prohibition against fur dealers' purchase of raw fur from unlicensed person [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4037. Record of transfer of raw furs [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4038. Inspection of records [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4040. Submission of annual report [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4041. Confidentiality of receipts, records, and reports [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4042. Business regulated under fur dealer license [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

§ 4043. Revocation of license [Repealed]

HISTORY:
Added Stats 1979 ch 701 § 4. Amended Stats 1986 ch 1244 § 5. Repealed Stats 2019 ch 216 § 11 (AB 273), effective January 1, 2020.

CHAPTER 3. NONGAME MAMMALS AND DEPREDATORS

ARTICLE 1. NONGAME MAMMALS

§ 4150. Definitions; Restricted taking or possessing

(a) A mammal occurring naturally in California that is not a game mammal, fully protected mammal, or fur-bearing mammal is a nongame mammal. A nongame mammal may not be taken or possessed except as provided in this code or in accordance with regulations adopted by the commission.

(b) Notwithstanding any other provision of this code or regulations adopted pursuant to this code, it is unlawful for any person to trap any nongame mammal for purposes of recreation or commerce in fur. The raw fur of a nongame mammal otherwise lawfully taken pursuant to this code or regula-

tions adopted pursuant to this code shall not be sold. For purposes of this subdivision, "raw fur" has the same meaning as defined in Section 4005.

HISTORY:
Added Stats 1971 ch 1470 § 21. Amended Stats 1977 ch 1208 § 10; Stats 2015 ch 154 § 72 (AB 1527), effective January 1, 2016; Stats 2019 ch 216 § 12 (AB 273), effective January 1, 2020.

§ 4151. Status of house cat on fish and game refuge

Any house cat (Felis domesticus) found within the limits of any fish and game refuge is a nongame mammal, unless it is in the residence of its owner or upon the grounds of the owner adjacent to such residence.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 47; Stats 1971 ch 1470 § 22.

§ 4152. Permitted taking of nongame mammals injuring crops or other property; Exemption from requirements of license or permit

(a) Except as provided in Section 4005, nongame mammals and black-tailed jackrabbits, muskrats, subspecies of red fox that are not the native Sierra Nevada red fox (Vulpes vulpes necator), and red fox squirrels that are found to be injuring growing crops or other property may be taken at any time or in any manner in accordance with this code and regulations adopted pursuant to this code by the owner or tenant of the premises or employees and agents in immediate possession of written permission from the owner or tenant thereof. They may also be taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city officers or employees when acting in their official capacities pursuant to the Food and Agricultural Code pertaining to pests, or pursuant to Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from Section 3007, except when providing trapping services for a fee. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

(c) This section does not apply to bobcats.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 48; Stats 1971 ch 1470 § 23; Stats 1974 ch 939 § 8; Stats 1982 ch 1534 § 4; Stats 1983 ch 703 § 2, effective September 11, 1983, ch 1048 § 3, effective September 26, 1983; Stats 1989 ch 890 § 3; Stats 2002 ch 571 § 2 (SB 1645); Stats 2007 ch 285 § 77 (AB 1729), effective January 1, 2008; Stats 2019 ch 766 § 1 (AB 1254), effective January 1, 2020.

§ 4153. Power of department; Cooperative agreements; Taking of predatory mammal

(a) The department may enter into cooperative agreements with any agency of the state or the United States for the purpose of controlling harmful nongame mammals.

(b) The department may take any mammal ******that***, in its opinion, is unduly preying upon any bird, mammal, or fish.

(c) This section does not apply to bobcats.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1972 § 49; Stats 1971 ch 1470 § 24; Stats 2019 ch 766 § 2 (AB 1254), effective January 1, 2020.

§ 4154. Cooperative contracts with federal service, and expenditure of money

(a) The department may enter into cooperative contracts with the United States Fish and Wildlife Service in the Department of the Interior in relation to the control of

nongame mammals and for that purpose may expend any money made available to the department for expenditure for ***the*** control or eradication of nongame mammals.

(b) This section does not apply to bobcats.

HISTORY:

Enacted 1957. Amended Stats 1957 ch 1972 § 50; Stats 1971 ch 1470 § 25; Stats 2019 ch 766 § 3 (AB 1254), effective January 1, 2020.

§ 4155. Bobcat Protection Act of 2013

(a) Beginning January 1, 2014, it shall be unlawful to trap a bobcat, or attempt to do so, or to sell or export a bobcat taken in the area surrounding Joshua Tree National Park, defined as follows: East and South of State Highway 62 from the intersection of Interstate 10 to the intersection of State Highway 177; West of State Highway 177 from the intersection of State Highway 62 to the intersection with Interstate 10; North of Interstate 10 from State Highway 177 to State Highway 62.

(b)(1) Through the commission's next regularly scheduled mammal hunting and trapping rulemaking process occurring after January 1, 2014, the commission shall amend its regulations to prohibit the trapping of bobcats adjacent to the boundaries of each national or state park and national monument or wildlife refuge in which bobcat trapping is prohibited.

(2) Commencing January 1, 2016, the commission shall consider whether to prohibit bobcat trapping within, and adjacent to, preserves, state conservancies, and any additional public or private conservation areas identified to the commission by the public as warranting protection. The commission, as necessary, shall amend its regulations through its next subsequently scheduled mammal hunting and trapping rulemaking process to prohibit bobcat trapping in any area determined by the commission to warrant protection.

(3) The commission shall delineate the boundaries of an area in which bobcat trapping is prohibited pursuant to paragraph (1) or (2) using readily identifiable features, such as highways or other major roads, such as those delineated for Joshua Tree National Park in subdivision (a).

(c) The prohibition on the trapping of bobcats in the areas designated pursuant to subdivisions (a) and (b) shall not apply to the taking of a bobcat by an employee of the department acting in an official capacity, to a taking in accordance with the conditions of a scientific, educational, or propagation permit pursuant to Section 1002 by the holder of that permit, or to the lawful taking of a bobcat found to be injuring crops or other property, pursuant to Section 4152, another provision of this code, or a regulation adopted pursuant to this code.

(d) Notwithstanding Section 2016 or any other provision of this code, on and after January 1, 2014, it shall be unlawful to trap a bobcat, or attempt to do so, on private land not belonging to the trapper without the express written consent of the owner of that property. The placing or possession of a trap or the possession of a bobcat on land is prima facie evidence of a violation of this subdivision.

(e) Consistent with the requirements of subdivision (c) of Section 4006, the commission shall set trapping license fees and associated fees, including, but not limited to, shipping tags required pursuant to Section 479 of Chapter 6 of Subdivision 2 of Division 1 of Title 14 of the California Code of Regulations, for the 2014-15 season, and any subsequent seasons in which bobcat trapping is allowed, at the levels necessary to fully recover all reasonable administrative and implementation costs of the department and the commission associated with the trapping of bobcats in the state, including, but not limited to, enforcement costs.

(f) This section does not limit the ability of the department or the commission to impose additional requirements, restrictions, or prohibitions related to the taking of bobcats, including a complete prohibition on the trapping of bobcats pursuant to this code.

HISTORY:
Added Stats 2013 ch 748 § 3 (AB 1213), effective January 1, 2014. Amended Stats 2015 ch 154 § 73 (AB 1527), effective January 1, 2016.

§ 4156. Hunting, trapping, or otherwise taking bobcats unlawful; Exceptions

(a) Except as provided in Section 4157 and notwithstanding any other law, it is unlawful for a person to hunt, trap, or otherwise take a bobcat.

(b) The prohibitions of this section shall not apply to any of the following:

(1) The take of a bobcat by a law enforcement officer or licensed veterinarian acting in the course and scope of official duty.

(2) The take of a bobcat based on a good faith belief that the take was necessary to protect a person from immediate bodily harm from the bobcat if both of the following conditions are met:

(A) The person who committed the take notifies the department within five days after the take.

(B) A bobcat or part of the bobcat taken pursuant to this subdivision is not retained, sold, or removed from the site of the take without the authorization from the department.

(3) The take of a bobcat pursuant to Section 3960.2, 3960.6, or 4181.

(4) The take of a bobcat pursuant to Section 1002 or 3960.4.

(5) The take of a bobcat pursuant to Chapter 2 (commencing with Section 2116) of Division 3.

(6) The take of a bobcat by the department for the protection of a species listed as endangered or threatened under the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3).

HISTORY:
Added Stats 2019 ch 766 § 4 (AB 1254), effective January 1, 2020.

§ 4157. Bobcat hunting season; Requirements

(a) Upon appropriation of funds by the Legislature for purposes of this section, commencing January 1, 2025, the commission may open a bobcat hunting season in any area determined by the commission to require a hunt.

(b) Before opening a bobcat hunting season in any area, the commission shall do all of the following:

(1) Consider the potential impacts of a bobcat hunting season, including the effects on all of the following:

(A) Bobcat populations.

(B) Bobcats' wild prey.

(C) Disease abatement, including, but not limited to, hantavirus.

(D) The control of invasive species, especially nutria.

(2) Require the implementation of effective nonlethal management strategies to address public safety and livestock conflicts related to bobcats.

(3) Adopt the bobcat management plan developed by the department pursuant to Section 4158.

(4) Consider state residents' values with regard to the trophy hunting of bobcats.

(5) Assess the costs to the department and the commission associated with bobcat hunting, including the administrative, implementation, and enforcement costs.

(c) Consistent with the requirements of Section 3031 and pursuant to Sections 713 and 1050, the commission shall set hunting license fees and associated fees for any subsequent seasons in which bobcat hunting is allowed, at the levels necessary to fully recover all the reasonable administrative and implementation costs of the department and the commission associated with the hunting of bobcats in the state.

(d) This section does not limit the ability of the department or the commission to impose additional requirements, restrictions, or prohibitions related to the take of bobcats.

HISTORY:
Added Stats 2019 ch 766 § 5 (AB 1254), effective January 1, 2020.

§ 4158. Bobcat management plan; Report

(a) Before opening a bobcat hunting season pursuant to Section 4157, the department, in consultation with other relevant state agencies, local governments, federal agencies, nongovernmental organizations, landowners, and scientific entities, shall develop, upon appropriation by the Legislature, a bobcat management plan to inform and coordinate management decisions regarding bobcat populations. The bobcat management plan shall use credible science and utilize an ecosystem-based approach. The bobcat management plan shall be submitted by the department to the commission and the Legislature and shall include all of the following:

(1) A current statewide bobcat population estimate based on the best available science.

(2) An assessment of the overall health of the statewide bobcat population.

(3) A comprehensive strategy to manage bobcat populations and their habitat throughout the state, including, but not limited to, an assessment of the effects of climate change, such as from drought and wildfires; rodenticides; and human development on the state's bobcats, the bobcats' prey, and the bobcats' habitats. The comprehensive strategy shall utilize the principles of adaptative management and incorporate recommendations for monitoring.

(4) An investigation of efficacious nonlethal solutions to prevent bobcat predation on livestock, primarily chickens or other domestic animals that the Department of Food and Agriculture deems needing widespread protections from bobcats.

(5) Recommendations for regulatory or statutory changes necessary to implement the bobcat management plan.

(b) A report to be submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

HISTORY:
Added Stats 2019 ch 766 § 6 (AB 1254), effective January 1, 2020.

ARTICLE 2. DEPREDATORS

§ 4180. Taking of fur-bearing mammals injuring property

(a) Except as provided for in Section 4005, fur-bearing mammals that are injuring property may be taken at any time and in any manner in accordance with this code or regulations made pursuant to this code. Raw furs, as defined in Section 4005, that are taken under this section, shall not be sold.

(b) Traps used pursuant to this section shall be inspected and all animals in the traps shall be removed at least once daily. The inspection and removal shall be done by the person who sets the trap or the owner of the land where the trap is set or an agent of either.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 939 § 9; Stats 1989 ch 890 § 4; Stats 2002 ch 571 § 3 (SB 1645); Stats 2007 ch 285 § 78 (AB 1729), effective January 1, 2008.

§ 4180.1. Unlawful removal or killing in den of immature depredator mammal

It is unlawful to use snares, hooks, or barbed wire to remove from the den, or fire to kill in the den, any immature depredator mammal.

Nothing in this section shall prohibit the use of fire-ignited gas cartridges or other products registered or permitted under the Federal Insecticide, Rodenticide, and Fungicide Act (7 U.S.C. 135 et seq.).

HISTORY:
Added Stats 1979 ch 701 § 5.

§ 4181. Permit to kill animals damaging or destroying land or property; Sale or shipment of animals; Traps; Permit for taking bears or bobcats; Information on options for wild pig control; Procedures regarding elk

(a) Except as provided in Section 4181.1, any owner or tenant of land or property that is being damaged or destroyed or is in danger of being damaged or destroyed by elk, bear, ***bobcat,*** beaver, wild pig, wild turkeys, or gray squirrels***may apply to the department for a permit to kill the animals. Subject to the limitations in subdivisions (b) and (d), the department, upon satisfactory evidence of the damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of the animals under regulations adopted by the commission. The permit shall include a statement of the penalties that may be imposed for a violation of the permit conditions. Animals so taken shall not be sold or shipped from the premises on which they are taken except under instructions from the department. ***An iron-jawed or steel-jawed or any type of metal-jawed trap shall ***not*** be used to take any bear ***or bobcat*** pursuant to this section. ***Poison of any type ***shall not*** be used to take any gray squirrel or wild turkey pursuant to this section. The department shall designate the type of trap to be used to ensure the most humane method is used to trap gray squirrels. The department may require trapped squirrels to be released in parks or other nonagricultural areas. It is unlawful for any person to violate the terms of any permit issued under this section.

(b) The permit issued for taking bears ***or bobcats*** pursuant to subdivision (a) shall contain the following facts:

(1) Why the issuance of the permit was necessary.

(2) What efforts were made to solve the problem without killing the bears ***or bobcats***.

(3) What corrective actions should be implemented to prevent ***a*** reoccurrence.

(c) With respect to wild pigs, the department shall provide an applicant for a depredation permit to take wild pigs or a person who reports taking wild pigs pursuant to subdivision (b) of Section 4181.1 with written information that sets forth available options for wild pig control, including, but not limited to, depredation permits, allowing periodic access to licensed hunters, and holding special hunts authorized pursuant to Section 4188. The department may maintain and make available to these persons lists of licensed hunters interested in wild pig hunting and lists of nonprofit organizations that are available to take possession of depredating wild pig carcasses.

(d) With respect to elk, the following procedures shall apply:

(1) ***Before issuing a depredation permit pursuant to subdivision (a), the department shall do all of the following:

(A) Verify the actual or immediately threatened damage or destruction.

(B) Provide a written summary of corrective measures necessary to immediately alleviate the problem.

(C) Determine the viability of the local herd, and determine the minimum population level needed to maintain the herd.

(D) Ensure the permit will not reduce the local herd below the minimum.

(E) Work with affected landowners to develop measures to achieve long-term resolution***while maintaining viability of the herd.

(2) After completing the statewide elk management plan pursuant to Section 3952, the department shall use the information and methods contained in the plan to meet the requirements of subparagraphs (C), (D), and (E) of paragraph (1).

HISTORY:
Enacted 1957. Amended Stats 1957 ch 463 § 2; Stats 1965 ch 1119 § 1; Stats 1967 ch 310 § 1.5; Stats 1970 ch 882 § 1; Stats 1984 ch 1365 § 1; Stats 1990 ch 687 § 4, (AB 3200); Stats 1991 ch 998 § 1.6 (SB 819); Stats 1997 ch 481 § 1 (SB 329); Stats 2003 ch 291 § 4 (AB 1420); Stats 2004 ch 480 § 1 (SB 1153); Stats 2019 ch 766 § 7 (AB 1254), effective January 1, 2020.

§ 4181.1. Taking of bear or wild pig inflicting injury to livestock; Conditions; Permit

(a) Any bear that is encountered while in the act of inflicting injury to, molesting, or killing, livestock may be taken immediately by the owner of the livestock or the owner's employee if the taking is reported no later than the next working day to the department and the carcass is made available to the department.

(b) Notwithstanding Section 4652, any wild pig that is encountered while in the act of inflicting injury to, molesting, pursuing, worrying, or killing livestock or damaging or destroying, or threatening to immediately damage or destroy, land or other property, including, but not limited to, rare, threatened, or endangered native plants, wildlife, or aquatic species, may be taken immediately by the owner of the livestock, land, or property or the owner's agent or employee, or by an agent or employee of any federal, state, county, or city entity when acting in his or her official capacity. The person taking the wild pig shall report the taking no later than the next working day to the department and shall make the carcass available to the department. Unless otherwise directed by the department and notwithstanding Section 4657, the person taking a wild pig pursuant to this subdivision, or to whom the carcass of a wild pig taken pursuant to this subdivision is transferred pursuant to subdivision (c), may possess the carcass of the wild pig. The person in possession of the carcass shall make use of the carcass, which may include an arrangement for the transfer of the carcass to another person or entity, such as a nonprofit organization, without compensation. The person who arranges this transfer shall be deemed to be in compliance with Section 4304. A violation of this subdivision is punishable pursuant to Section 12000. It is the intent of the Legislature that nothing in this subdivision shall be interpreted to authorize a person to take wild pigs pursuant to this subdivision in violation of a state statute or regulation or a local zoning or other ordinance that is adopted pursuant to other provisions of law and that restricts the discharge of firearms.

(c) The department shall make a record of each report made pursuant to subdivision (a) or (b) and may have an employee of the department investigate the taking or cause the taking to be investigated. The person taking a wild pig shall provide information as deemed necessary by the department. Upon completion of the investigation, the investigator may, upon a finding that the requirements of this section have been met with respect to the particular bear or wild pig taken under subdivision (a) or (b), issue a written statement to the person confirming that the requirements of this section have been met. The person who took the wild pig may transfer the carcass to another person without compensation.

(d) Notwithstanding Section 4763, any part of any bear lawfully possessed pursuant to this section is subject to Section 4758.

(e) Nothing in this section prohibits federal, state, or county trappers from killing or trapping bears when the bears are killing or molesting livestock, but no iron-jawed or steel-jawed or any type of metal-jawed trap shall be used to take the bear, and no person, including employees of the state, federal, or county government, shall take bear with iron-jawed or steel-jawed or any type of metal-jawed traps.

HISTORY:
Added Stats 1984 ch 1365 § 2. Amended Stats 1997 ch 481 § 2 (SB 329).

§ 4181.2. "Damage"; Guidelines for determining damage caused by wild pigs

For the purposes of this article relating to damage caused by wild pigs, "damage" means loss or harm resulting from injury to person or property. The department shall

develop statewide guidelines to aid in determining the damage caused by wild pigs. The guidelines shall consider various uses of the land impacted by pigs.

HISTORY:
Added Stats 1997 ch 481 § 3 (SB 329).

§ 4181.5. Revocable permit for taking of deer damaging property; Permitted type of weapons to be used

(a) Any owner or tenant of land or property that is being damaged or destroyed or is in immediate danger of being damaged or destroyed by deer may apply to the department for a permit to kill those deer. The department, upon satisfactory evidence of that damage or destruction, actual or immediately threatened, shall issue a revocable permit for the taking and disposition of those deer for a designated period not to exceed 60 days under regulations promulgated by the commission.

(b) The regulations of the commission shall include provisions concerning the type of weapons to be used to kill the deer. The weapons shall be those as will ensure humane killing, but the regulations of the commission shall provide for the use of a sufficient variety of weapons to permit the designation of particular types to be used in any particular locality commensurate with the need to protect persons and property. Firearms using .22-caliber rimfire cartridges may be used only when authorized by the director or his designee. No pistols shall be used. The caliber and type of weapon to be used by each permittee shall be specified in each permit by the issuing officer who shall take into consideration the location of the area, the necessity for clean kills, the safety factor, local firearms ordinances, and other factors that apply. Rifle ammunition used shall have expanding bullets; shotgun ammunition shall have only single slugs, or, if authorized by the department, 0 or 00 buckshot.

(c) The department shall issue tags similar to those provided for in Section 4331 at the same time the permit is issued. A permittee under this section shall carry the tags while hunting deer, and upon the killing of any deer, shall immediately fill out both parts of the tag and punch out clearly the date of the kill. One part of the tag shall be immediately attached to the antlers of antlered deer or to the ear of any other deer and kept attached until 10 days after the permit has expired. The other part of the tag shall be immediately sent to the department after it has been countersigned by any person authorized by Section 4341.

(d) A permit issued pursuant to this section may be renewed only after a finding by the department that further damage has occurred or will occur unless that permit is renewed. A person seeking renewal of the permit shall account for all prior tags issued at the time he or she received any prior permits, and if any tags are unused, he or she shall show either that any deer killed could not reasonably be tagged or why the killing was not accomplished within the allotted time and why that killing would be accomplished under a new time period.

HISTORY:
Added Stats 1965 ch 1119 § 2. Amended Stats 2007 ch 285 § 81 (AB 1729), effective January 1, 2008.

§ 4185. Taking bears in San Bernardino and Riverside Counties within fence surrounding beehives; Signs

In any district or part of a district within San Bernardino and Riverside Counties, bears may be taken at any time with traps within a good and substantial fence, as such fence is described in Section 17121 of the Food and Agricultural Code, surrounding beehives, if no part of the fence is at a distance greater than 50 yards from a beehive, and if a conspicuous sign is posted and maintained at each entrance to the enclosed premises to give warning of the presence of the traps. No iron or steel-jawed or any type of metal-jawed trap shall be used to take bear under this section.

HISTORY:
Enacted 1957. Amended Stats 1967 ch 310 § 3; Stats 1968 ch 64 § 1; Stats 1983 ch 101 § 35.

§ 4186. Taking of cottontail or brush rabbits by landowner or tenant; Transportation and sale

Nothing in this code prohibits the owner or tenant of land, or any person authorized in writing by that owner or tenant, from taking cottontail or brush rabbits during any time of the year when damage to crops or forage is being experienced on that land. Any person other than the owner or tenant of the land shall have in possession when transporting rabbits from the property, written authority from the owner or tenant of land where those rabbits were taken. Rabbits taken under this section shall not be sold.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 82 (AB 1729), effective January 1, 2008.

§ 4188. Option for allowing licensed hunters to take wild pigs, wild turkeys or deer damaging or threatening to damage property

(a) If a landowner or tenant applies for a permit under Section 4181 for wild pigs or wild turkeys, or under Section 4181.5 for deer, the department shall notify the landowner or tenant about available options for allowing access by licensed hunters, including, but not limited to, access authorized pursuant to Article 3 (commencing with Section 1570) of Chapter 5 of Division 2 to control wild pigs, wild turkeys, and deer.

(b) The commission, in lieu of a permit as described in subdivision (a), and with the consent of, or upon the request of, the landowner or tenant, under appropriate regulations, may authorize the issuance of permits to persons holding valid hunting licenses to take wild pigs, wild turkeys, or deer in sufficient numbers to stop the damage or threatened damage. Before issuing permits to licensed hunters, the department shall investigate and determine the number of permits necessary, the territory involved, the dates of the proposed hunt, the manner of issuing the permits, and the fee for the permit.

HISTORY:
Added Stats 1957 ch 2017 § 2 as § 4187. Renumbered Stats 1959 ch 619 § 1. Amended Stats 1965 ch 1169 § 3; Stats 1967 ch 122 § 7; Stats 1977 ch 839 § 7; Stats 1991 ch 998 § 2 (SB 819); Stats 2004 ch 480 § 2 (SB 1153).

§ 4190. Identification of relocated depredatory mammals

The department shall tag, brand, or otherwise identify in a persistent and distinctive manner any large depredatory mammal relocated by, or relocated with the approval of, the department for game management purposes.

HISTORY:
Added Stats 1984 ch 1365 § 4. Amended Stats 2006 ch 538 § 184 (SB 1852), effective January 1, 2007.

CHAPTER 4. DEER

ARTICLE 1. TAKING DEER

§ 4301. Sale or purchase of deer meat; Importation, and inspection

(a) Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase, or transport for the purpose of sale, any deer meat in this state whether fresh, smoked, canned, or preserved by any means, except fallow deer meat processed by a slaughterer in accordance with Chapter 4 (commencing with Section 18650) of, and Chapter 4.1 (commencing with Section 18940) of, Part 3 of Division 9 of the Food and Agricultural Code, and except that deer meat may be imported into this state from a foreign country for the purpose of processing (manufacturing) and selling a product commonly known as venison or deer jerky or

venison or deer salami, properly labeled as such, for human consumption. All deer meat imported into this state shall meet all of the sanitary and inspection requirements for wholesomeness, except an antemortem inspection, but including a postmortem inspection, as required for other meat imported for human consumption. The deer meat shall be in an identifiable condition and accompanied by a bill of lading, showing the name of the consignor, the consignee, and the weight of the deer meat shipped. A copy of the bill of lading shall be delivered to the nearest office of the department either prior to, or not later than, two days from the date of receipt of the deer meat. No such deer meat imported into this state may leave the premises of the original consignee unless written permission is received from the department, or unless it is processed into the form of the product commonly known as jerky or salami.

(b) As used in this section, "deer" includes any animal of the family Cervidae.

HISTORY:
Enacted 1957. Amended Stats 1967 ch 1570 § 1; Stats 2000 ch 373 § 1 (AB 1173).

§ 4302. Retention of deer head; Production upon demand

Any person taking any deer shall retain in his possession during the open season thereon, and for 15 days thereafter, that portion of the head which in adult males normally bears the antlers, and shall produce the designated portion of the head upon the demand of any officer authorized to enforce the provisions of this code.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 111 § 1.

§ 4303. Sale, purchase or use of deer skin; Donation to veterans' organizations

The skin or hide of any deer lawfully taken may be sold, purchased, tanned, or manufactured into articles for sale.

Skins or hides of deer lawfully taken may be donated at any time to veterans' organizations or veterans' service committees for use by veterans for rehabilitation purposes.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 111 § 2.

§ 4304. Capture or destruction of deer for only head, hide or horns; Neglect of game mammal or game bird; Waste of meat

No person shall at any time capture or destroy any deer and detach or remove from the carcass only the head, hide, antlers, or horns; nor shall any person at any time leave through carelessness or neglect any game mammal or game bird which is in his possession, or any portion of the flesh thereof usually eaten by humans, to go needlessly to waste. The provisions of this section shall not apply to game mammals taken under the authority of Sections 4152 and 4183 of this code.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 866 § 1.

ARTICLE 2. LICENSE TAGS

§ 4330. Unlawful taking of deer

It is unlawful to take any deer without first procuring a deer tag or permit authorizing the taking of that deer.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 83 (AB 1729), effective January 1, 2008.

§ 4331. Design and makeup of tag

The commission may determine the design and makeup of the deer tag and prescribe the procedures for issuance and use.

HISTORY:

Enacted 1957. Amended Stats 1977 ch 839 § 8; Stats 2007 ch 285 § 84 (AB 1729), effective January 1, 2008.

§ 4332. Procurement; Fees; Deposit of revenues into Big Game Management Account

(a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one tag for the taking of one deer by one person during the current license year, upon payment of the base fee of ten dollars ($10) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid hunting license, may procure one tag for the taking of one deer by one person during the current license year, upon payment of the base fee of one hundred dollars ($100) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(c) If provided in regulations adopted by the commission under Section 200, any resident of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag for the taking of one additional deer during the current license season, upon payment of the base fee of twelve dollars and fifty cents ($12.50) for the license years beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(d) If provided in regulations adopted by the commission under Section 200, any nonresident of this state, 12 years of age or over, who possesses a deer tag may procure one additional deer tag for the taking of one additional deer during the current license season, upon payment of the base fee of one hundred dollars ($100) for the license year beginning July 1, 1986, and the base fee as adjusted under Section 713 for subsequent license years.

(e) All revenues pursuant to this section shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

HISTORY:

Added Stats 1978 ch 855 § 9, operative July 1, 1980. Amended Stats 1983 ch 1117 § 6; Stats 1984 ch 1411 § 2, operative July 1, 1985; Stats 1993 ch 804 § 7 (AB 1432); Stats 2007 ch 285 § 85 (AB 1729), effective January 1, 2008; Stats 2010 ch 408 § 8 (SB 1058), effective January 1, 2011.

§ 4333. Term of validity

Tags are valid only during that portion of the current hunting license year in which deer may be taken or possessed in any area.

HISTORY:

Enacted 1957. Amended Stats 2007 ch 285 § 86 (AB 1729), effective January 1, 2008.

§ 4334. Authorization of sale of deer tags for fundraising

(a) The commission shall annually direct the department to authorize, pursuant to Section 1054.8, the sale of not more than 10 deer tags for the purpose of raising funds for programs and projects as set forth in Section 3953. All revenue from the sale of tags pursuant to this section shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(b) These tags may be sold to residents or nonresidents of the State of California at auction or by any other method and are not subject to the fees prescribed by Section 4332.

(c) These funds shall augment, not supplant, any other funds appropriated to the department for the preservation, restoration, utilization, and management of deer. All revenues derived from the sale of these tags shall be remitted to the department by the seller.

HISTORY:
Added Stats 2010 ch 408 § 10 (SB 1058), effective January 1, 2011.

§ 4336. Method of use; Remission to department; Possession of untagged deer

(a) The person to whom a deer tag has been issued shall carry the tag while hunting deer. Upon the killing of any deer, that person shall immediately fill out the tag completely, legibly, and permanently, and cut out or punch out and completely remove notches or punch holes for the month and date of the kill. The deer tag shall be immediately attached to the antlers of antlered deer or to the ear of any other deer and kept attached during the open season and for 15 days thereafter. The holder of the deer tag shall immediately, upon harvesting a deer, notify the department in a manner specified by the commission.

(b) Except as otherwise provided by this code or regulation adopted pursuant to this code, it is unlawful to possess any untagged deer.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 111 § 3; Stats 1994 ch 248 § 1 (AB 1390); Stats 2001 ch 112 § 30 (AB 435); Stats 2007 ch 285 § 88 (AB 1729), effective January 1, 2008.

§ 4340. Forfeiture

(a) Any person who is convicted of a violation of any provision of this code, or of any rule, regulation, or order made or adopted under this code, relating to deer shall forfeit his or her deer tags, and no new deer tags shall be issued to that person during the then current license year for hunting licenses.

(b) No person described in subdivision (a) may apply for deer tags for the following license year.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 203 § 1; Stats 2007 ch 285 § 89 (AB 1729), effective January 1, 2008.

§ 4341. Countersigning before transporting deer

Any person legally killing a deer in this state shall have the tag countersigned by a person employed in the department, a person designated for this purpose by the commission, or by a notary public, postmaster, postmistress, peace officer, or an officer authorized to administer oaths, before transporting such deer, except for the purpose of taking it to the nearest person authorized to countersign the tag, on the route being followed from the point where the deer is taken.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 88 § 2; Stats 1998 ch 931 § 156 (SB 2139), effective September 28, 1998; Stats 2007 ch 285 § 90 (AB 1729), effective January 1, 2008.

ARTICLE 3. ARCHERY DEER HUNTING

§ 4370. Establishment of archery season for taking deer; Season; Carrying or using firearms

(a) In every area in which deer may lawfully be taken during the general open season there is an archery season for the taking of deer with bow and arrow. The season for each area shall be as the commission may prescribe, with a minimum interposing interval of three days immediately preceding the regular open season on deer in that area. Except

as provided in subdivision (b), a person taking or attempting to take deer during such archery season shall neither carry, nor have under his or her immediate control, any firearm of any kind.

(b) A peace officer listed in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, whether active or honorably retired, may carry a firearm capable of being concealed on his or her person while engaged in the taking of deer with bow and arrow in accordance with subdivision (a), but shall not take or attempt to take deer with the firearm.

HISTORY:
Enacted 1957. Amended Stats 1977 ch 839 § 10; Stats 2012 ch 711 § 1 (SB 1367), effective January 1, 2013.

§ 4371. Application of code to taking of deer with bow and arrow

The provisions of this code relating to deer shall be applicable to the taking of deer with bow and arrow.

HISTORY:
Enacted 1957.

CHAPTER 5. MARINE MAMMALS

§ 4500. Prohibited taking of "marine mammals"; Federal laws or regulations

(a) It is unlawful to take any marine mammal except in accordance with provisions of the Marine Mammal Protection Act of 1972 (Chapter 31 (commencing with Section 1361) of Title 16 of the United States Code) or provisions of Title 50 of the Code of Federal Regulations, or pursuant to subdivision (b) of this section.

(b) At such time as federal laws or regulations permit the state to assume jurisdiction over marine mammals, the commission may adopt regulations governing marine mammals and the taking thereof.

(c) For purposes of this chapter, "marine mammals" means sea otters, whales, dolphins, porpoises, seals, and sea lions.

HISTORY:
Enacted 1957. Amended Stats 1971 ch 1200 § 1; Stats 1975 ch 786 § 3.

§ 4501. Sea Otter mortality related to cat feces; Statements of proper disposal to be placed on cat litter offered for sale

(a) The Legislature finds and declares that several types of nonpoint source pollution are harmful to sea otters, and that scientific studies point to links between cat feces, the pathogen T-gondii, and sea otter mortality. The Legislature further finds and declares that efforts to reduce the flushing of cat litter and cat feces are steps toward better water quality in the sea otters' natural habitat.

(b) Any cat litter offered for sale in this state shall contain one of the following statements:

(1) "Encouraging your cat to use an indoor litter box, or properly disposing of outdoor cat feces, is beneficial to overall water quality. Please do not flush cat litter in toilets or dispose of it outdoors in gutters or storm drains."

(2) A general statement that encourages the disposal of cat feces in trash and discourages flushing cat feces in toilets or disposing of them in drains.

HISTORY:
Added Stats 2006 ch 296 § 2 (AB 2485), effective January 1, 2007.

§ 4502.5. California Orca Protection Act; Prohibited activities with respect to an orca; Violation; Applicability

This section shall be known, and may be cited, as the California Orca Protection Act.

(a) It is unlawful for any person to do any of the following:

(1)(A) Except as provided in subparagraph (B) and subdivision (c), hold in captivity an orca, whether wild-caught or captive-bred, for any purpose, including, but not limited to, display, performance, or entertainment purposes.

(B) An orca located in the state on January 1, 2017, may continue to be held in captivity for its current purpose and after June 1, 2017, may continue to be used for educational presentations.

(2) Breed or impregnate any orca held in captivity in the state.

(3) Export, collect, or import the semen, other gametes, or embryos of an orca held in captivity for the purpose of artificial insemination.

(4) Export, transport, move, or sell an orca located in the state to another state or country unless otherwise authorized by federal law or if the transfer is to another facility within North America that meets standards comparable to those provided under the Animal Welfare Act (7 U.S.C. Sec. 2131 and following).

(b) A person, corporation, or institution that intentionally or negligently violates subdivision (a) is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed one hundred thousand dollars ($100,000).

(c) This section does not apply to an orca that is held by a bona fide educational or scientific institution for rehabilitation after a rescue or stranding or for research purposes. However, the department shall be notified immediately upon the rescue or acquisition of any orca, and an orca that is held for rehabilitation or research purposes shall be returned to the wild whenever possible. If return to the wild is not possible, the orca may be used for educational presentations, but shall not be used for breeding, performance, or entertainment purposes.

(d) As used in this section, the following terms are defined as follows:

(1) "Educational presentation" means a live, scheduled orca display in the presence of spectators that includes natural behaviors, enrichment, exercise activities, and a live narration and video content that provides science-based education to the public about orcas.

(2) "Orca" means a killer whale (Orcinus orca).

(3) "Bona fide educational or scientific institution" means an institution that establishes through documentation any of the following:

(A) Educational or scientific tax exemption from the Internal Revenue Service or the institution's national, state, or local tax authority.

(B) Accreditation as an educational or scientific institution from a qualified national, regional, state, or local authority for the institution's location.

(C) Accreditation by a nationally or internationally recognized zoological or aquarium accreditation organization.

(e) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

HISTORY:
Added Stats 2016 ch 340 § 8 (SB 839), effective September 13, 2016.

CHAPTER 6. BURROS

§ 4600. Killing or capturing of undomesticated burro

(a) It is unlawful to kill, wound, capture, or have in possession any undomesticated burro, except as provided in Section 53074.5 of the Government Code.

(b) As used in this section, "undomesticated burro" means a wild burro or a burro which has not been tamed or domesticated for a period of three years after its capture. The fact that a burro was killed, wounded, or captured on publicly owned land, or on land owned by a person other than the person who killed, wounded, or captured the burro is prima facie evidence that the burro was an undomesticated burro at the time it was killed, wounded, or captured.

(c) Neither the commission nor any other department or agency has any power to modify the provisions of this section by any order, rule, or regulation.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1496 § 4; Stats 1998 ch 485 § 75 (AB 2803); Stats 2007 ch 128 § 1 (AB 222), effective July 27, 2007.

CHAPTER 7. WILD PIGS

§ 4650. "Wild pigs"

Wild pigs, as used in this chapter, means free-roaming pigs not distinguished by branding, ear marking, or other permanent identification methods.

HISTORY:
Added Stats 1991 ch 998 § 5 (SB 819).

§ 4651. Plan for management of wild pigs

(a) The department shall prepare a plan for the management of wild pigs. Under the plan, the status and trend of wild pig populations shall be determined and management units shall be designated within the state. The plan may establish pig management zones to address regional needs and opportunities. In preparing the plan, the department shall consider available, existing information and literature relative to wild pigs.

(b) The plan may include all of the following:

(1) The distribution and abundance of wild pigs, as described in Section 3950.

(2) A survey of range conditions.

(3) Recommendations for investigations and utilization of wild pigs.

(4) Encouraging mitigation of depredation by sport hunting pursuant to this chapter.

(5) Live trapping and relocation of wild pigs to areas suitable and accessible to mitigation of depredation, with the consent of the landowner and after prior consultation with adjacent landowners who, in the department's opinion may be impacted, pursuant to this chapter.

HISTORY:
Added Stats 1991 ch 998 § 6 (SB 819). Amended Stats 1997 ch 481 § 4 (SB 329).

§ 4652. Taking without tag

It is unlawful to take any wild pig, except as provided in Section 4181, without first procuring a tag authorizing the taking of that wild pig in accordance with this chapter.

HISTORY:
Added Stats 1991 ch 998 § 7 (SB 819), operative July 1, 1992. Amended Stats 2007 ch 285 § 91 (AB 1729), effective January 1, 2008.

§ 4653. Information on wild pig tag

The department may determine the design and type of information to be included on the wild pig tag and prescribe the procedures for the issuance and use of the tag.

HISTORY:
Added Stats 1991 ch 998 § 8 (SB 819). Amended Stats 2007 ch 285 § 92 (AB 1729), effective January 1, 2008.

§ 4654. Who may procure tags

(a) Any resident of this state, 12 years of age or older, who possesses a valid hunting license, may procure the number of wild pig tags corresponding to the number of wild pigs that may legally be taken by one person during the license year upon payment of a base fee of fifteen dollars ($15), for each wild pig tag.

(b) Any nonresident, 12 years of age or older, who possesses a valid California nonresident hunting license, may procure the number of wild pig tags corresponding to the number of wild pigs that may legally be taken by one person during the license year upon payment of a base fee of fifty dollars ($50), for each wild pig tag.

(c) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

HISTORY:
Added Stats 1991 ch 998 § 9 (SB 819), operative July 1, 1992. Amended Stats 2001 ch 112 § 31 (AB 435); Stats 2003 ch 741 § 9 (SB 1049).

§ 4655. Validity of tags

Wild pig tags are valid only during that portion of the current hunting license year in which wild pigs may be taken or possessed in any area of the state.

HISTORY:
Added Stats 1991 ch 998 § 10 (SB 819), operative July 1, 1992. Amended Stats 2007 ch 285 § 93 (AB 1729), effective January 1, 2008.

§ 4656. Deposit of funds

Revenues received pursuant to this chapter shall be deposited in the Big Game Management Account established in Section 3953. These funds shall be available for expenditure by the department as set forth in Section 3953. The department shall maintain all internal accounting measures necessary to ensure that all restrictions on these funds are met.

HISTORY:
Added Stats 1991 ch 998 § 11 (SB 819). Amended Stats 2010 ch 408 § 11 (SB 1058), effective January 1, 2011.

§ 4657. Procedure to be completed prior to taking

The holder of a wild pig tag shall keep the tag in his or her possession while hunting wild pig. Before the taking of any wild pig, the holder of a wild pig tag, except for wild pig tags issued through the Automated License Data System, shall legibly write or otherwise affix his or her hunting license number to the wild pig tag. Upon the killing of any wild pig, the date of the kill shall be clearly marked by the holder of the tag on both parts of the tag. Before transporting the pig, a tag shall be attached to the carcass by the holder of the tag. The holder of the wild pig tag shall immediately, upon harvesting a pig, notify the department in a manner specified by the commission.

HISTORY:
Added Stats 1991 ch 998 § 12 (SB 819), operative January 1, 1992. Amended Stats 2001 ch 112 § 32 (AB 435); Stats 2007 ch 285 § 94 (AB 1729), effective January 1, 2008.

CHAPTER 8. FULLY PROTECTED MAMMALS

§ 4700. Enumeration of fully protected mammals; Prohibition against taking; Power to authorize collecting for scientific research

(a)(1) Except as provided in this section, Section 2081.7, or Section 2835, a fully protected mammal may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected mammal, and no permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of a fully protected mammal for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected mammal, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed

authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected mammal may be possessed under a permit issued by the department.

(b) The following are fully protected mammals:

(1) Morro Bay kangaroo rat (Dipodomys heermanni morroensis).

(2) Bighorn sheep (Ovis canadensis), except Nelson bighorn sheep (subspecies Ovis canadensis nelsoni) as provided by subdivision (b) of Section 4902.

(3) Northern elephant seal (Mirounga angustirostris).

(4) Guadalupe fur seal (Arctocephalus townsendi).

(5) Ring-tailed cat (genus Bassariscus).

(6) Pacific right whale (Eubalaena sieboldi).

(7) Salt-marsh harvest mouse (Reithrodontomys raviventris).

(8) Southern sea otter (Enhydra lutris nereis).

(9) Wolverine (Gulo luscus).

HISTORY:

Added Stats 1970 ch 1036 § 6. Amended Stats 1981 ch 714 § 141; Stats 1986 ch 745 § 2; Stats 1992 ch 1370 § 10 (AB 3193), effective October 27, 1992; Stats 2002 ch 617 § 4 (SB 482); Stats 2003 ch 735 § 2 (SB 412); Stats 2011 ch 596 § 5 (SB 618), effective January 1, 2012; Stats 2015 ch 154 § 74 (AB 1527), effective January 1, 2016.

CHAPTER 9. BEAR

§ 4750. Necessity of license tag before taking bear

It is unlawful to take any bear with firearm, trap, or bow and arrow without first procuring a tag authorizing the taking of that bear in accordance with this chapter, but no iron or steel-jawed or any type of metal-jawed trap shall be used to take any bear.

HISTORY:

Added Stats 1957 ch 1916 § 2. Amended Stats 1959 ch 250 § 1; Stats 1967 ch 310 § 4; Stats 2007 ch 285 § 95 (AB 1729), effective January 1, 2008.

§ 4751. Procurement of bear tags; Fee; Deposit [Inoperative July 1, 2025; Repealed effective January 1, 2026]

(a) Any resident of this state, 18 years of age or older, who possesses a valid hunting license, may procure the number of bear tags corresponding to the number of bear that may legally be taken by one person during the current license year, upon payment of a base fee of fifteen dollars ($15), as adjusted under Section 713, for each bear tag.

(b) Any resident of this state, who possesses a valid junior hunting license and is at least 12 years of age, may procure the number of bear tags corresponding to the number of bear that may legally be taken by one person during the current license year, upon payment of a base fee of twenty dollars ($20), as adjusted under Section 713, for each bear tag.

(c) Any nonresident of this state, 12 years of age or older, who possesses a valid California hunting license, may procure the number of bear tags corresponding to the number of bear that may be legally taken by one person during the current license year upon payment of the base fee of one hundred five dollars ($105), as adjusted under Section 713, for each bear tag.

(d) Fee revenues collected pursuant to this section shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

HISTORY:
Added Stats 1981 ch 760 § 2, operative January 1, 1983. Amended Stats 1983 ch 1117 § 7; Stats 1985 ch 1463 § 22; Stats 1986 ch 1368 § 19; Stats 2007 ch 285 § 96 (AB 1729), effective January 1, 2008; Stats 2010 ch 408 § 12 (SB 1058), effective January 1, 2011; Stats 2018 ch 295 § 8 (AB 2151), effective January 1, 2019, operative July 1, 2019, repealed January 1, 2026.

§ 4751. Procurement of bear tags; Fee; Deposit [Operative July 1, 2025]

(a) Any resident of this state, 12 years of age or older, who possesses a valid hunting license, may procure the number of bear tags corresponding to the number of bear that may legally be taken by one person during the current license year, upon payment of a base fee of fifteen dollars ($15), as adjusted under Section 713, for each bear tag. Fee revenues collected pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(b) Any nonresident of this state, 12 years of age or older, who possesses a valid California hunting license, may procure the number of bear tags corresponding to the number of bear that may be legally taken by one person during the current license year upon payment of the base fee of one hundred five dollars ($105), as adjusted under Section 713, for each bear tag. Fee revenues collected pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(c) This section shall become operative on July 1, 2025.

HISTORY:
Added Stats 2018 ch 295 § 9 (AB 2151), effective January 1, 2019, operative July 1, 2025.

§ 4752. Term of validity of tag

Bear tags are valid only during that portion of the current hunting license year in which bear may be taken or possessed in any district.

HISTORY:
Added Stats 1957 ch 1916 § 2. Amended Stats 2007 ch 285 § 97 (AB 1729), effective January 1, 2008.

§ 4753. License tag to be carried; Use and disposition of tag upon killing bear; Possession of untagged bear

The person to whom a bear tag has been issued shall carry the tag while hunting bear. Upon the killing of any bear, that person shall immediately fill out the tag completely, legibly, and permanently, and cut out or punch out and completely remove notches or punch holes for the month and the date of the kill. One part of the tag shall be immediately attached to the ear of the bear and kept attached during the open season and for 15 days thereafter. The holder of the bear tag shall immediately, upon harvesting a bear, notify the department in a manner specified by the commission. Except as otherwise provided by this code or regulations adopted pursuant to this code, it is unlawful to possess any untagged bear.

HISTORY:
Added Stats 1957 ch 1916 § 2. Amended Stats 2001 ch 112 § 33 (AB 435); Stats 2007 ch 285 § 98 (AB 1729), effective January 1, 2008.

§ 4754. Forfeiture of tag on violation of chapter

(a) Any person who is convicted of a violation of any provision of this code, or of any rule, regulation, or order made or adopted under this code, relating to bears shall forfeit

his or her bear tags, and new bear tags shall not be issued to that person during the then current license year for hunting licenses.

(b) A person described in subdivision (a) shall not apply for bear tags for the following license year.

HISTORY:
Added Stats 1957 ch 1916 § 2. Amended Stats 1988 ch 556 § 1; Stats 2007 ch 285 § 99 (AB 1729), effective January 1, 2008.

§ 4755. Countersigning tag upon killing bear; Persons authorized

Any person legally killing a bear in this state shall have the tag countersigned by a fish and game commissioner, a person employed in the department, a person designated for this purpose by the commission, or by a notary public, postmaster, postmistress, peace officer or by an officer authorized to administer oaths, before transporting that bear except for the purpose of taking it to the nearest officer authorized to countersign the tag, on the route being followed from the point where the bear is taken.

HISTORY:
Added Stats 1957 ch 1916 § 2. Amended Stats 1998 ch 931 § 157 (SB 2139), effective September 28, 1998; Stats 2007 ch 285 § 100 (AB 1729), effective January 1, 2008.

§ 4756. [Section repealed 2013.]

HISTORY:
Added Stats 1957 ch 1916 § 2. Amended Stats 1971 ch 513 § 1. Repealed Stats 2012 ch 595 § 6 (SB 1221), effective January 1, 2013. The repealed section related to use of dogs to hunt, pursue, or molest bears.

§ 4757. Retention of head and skin; Production upon demand

Any person taking any bear must retain in his possession during the open season thereon, and for 15 days thereafter, the skin and portion of the head bearing the ears, and must produce the skin and portion of the head upon the demand of any officer authorized to enforce the provisions of this code.

HISTORY:
Added Stats 1957 ch 1916 § 2.

§ 4758. Sale or purchase of bear meat or other parts

(a) Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase, or possess for sale, the meat, skin, hide, teeth, claws, or other parts of any bear in this state.

(b) The possession of more than one bear gall bladder is prima facie evidence that the bear gall bladders are possessed for sale.

(c) Nothing in this section prohibits a sale authorized pursuant to Section 3087.

HISTORY:
Added Stats 1957 ch 1916 § 2. Amended Stats 1977 ch 1208 § 11; Stats 1988 ch 556 § 2.

§ 4759. Taking and possessing bear skin or other parts; Donation to veterans' organizations; Receipt

The skin, hide, teeth, claws, or other parts of any bear lawfully taken and possessed for the period provided in Section 4757 may be tanned or utilized for personal use only. Notwithstanding the provisions of Section 4757, the skin, hide, teeth, claws, or other parts of any bear lawfully taken may be donated any time to veterans' organizations or veterans' service committees for use by veterans for rehabilitation purpose. The donor shall obtain a receipt which shall be retained during the period stipulated by Section 4757.

HISTORY:
Added Stats 1957 ch 1916 § 2. Amended Stats 1972 ch 60 § 1; Stats 1977 ch 1208 § 12.

§ 4760. Application of provisions to bear taken outside State

The provisions of this chapter relating to the possession of bear apply to bear taken outside this State and transported into this State.

HISTORY:
Added Stats 1957 ch 1916 § 2.

§ 4763. Application of chapter to taking of bear to protect livestock or property from damage

The provisions of this chapter do not apply to the taking of bear which is otherwise authorized to protect livestock, land, or property from damage or threatened damage from bear.

HISTORY:
Added Stats 1957 ch 1916 § 2.

CHAPTER 10. MOUNTAIN LIONS

§ 4800. Mountain lion as specially protected mammal; Prohibition against taking; Punishment for violation; Exceptions

(a) The mountain lion (genus Puma) is a specially protected mammal under the laws of this state.

(b)(1) It is unlawful to take, injure, possess, transport, import, or sell a mountain lion or a product of a mountain lion, except as specifically provided in this chapter or in Chapter 2 (commencing with Section 2116) of Division 3.

(2) This chapter does not prohibit the sale or possession of a mountain lion or a product of a mountain lion, when the owner can demonstrate that the mountain lion, or product of a mountain lion, was in the person's possession on June 6, 1990.

(3) This chapter does not prohibit the possession of a mountain lion carcass or a product of a mountain lion carcass, if all of the following requirements are met:

(A) The carcass or carcass product is prepared or being prepared for display, exhibition, or storage, for a bona fide scientific or educational purpose, at a nonprofit museum or government-owned facility generally open to the public or at an educational institution, including a public or private postsecondary institution.

(B) The mountain lion was taken in California consistent with the requirements of this chapter and any other applicable law.

(C) The department has authorized the possession of the carcass or carcass product for the purposes of this paragraph.

(c) A violation of this section is a misdemeanor punishable by imprisonment in the county jail for not more than one year, or a fine of not more than ten thousand dollars ($10,000), or by both that fine and imprisonment. An individual is not guilty of a violation of this section if it is demonstrated that, in taking or injuring a mountain lion, the individual was acting in self-defense or in defense of others.

(d) Section 219 does not apply to this chapter. Neither the commission nor the department shall adopt any regulation that conflicts with or supersedes a provision of this chapter.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990. Amended Stats 2011 ch 388 § 1 (SB 769), effective September 30, 2011; Stats 2015 ch 154 § 75 (AB 1527), effective January 1, 2016.

§ 4801. Removal or taking of mountain lion perceived to be threat to public health or safety

The department may remove or take any mountain lion, or authorize an appropriate

local agency with public safety responsibility to remove or take any mountain lion, that is perceived to be an imminent threat to public health or safety or that is perceived by the department to be an imminent threat to the survival of any threatened, endangered, candidate, or fully protected sheep species.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990. Amended Stats 1999 ch 435 § 1 (AB 560), effective September 17, 1999.

§ 4801.5. Protection of mountain lions

(a) Unless authorized in this chapter, nonlethal procedures shall be used when removing or taking any mountain lion that has not been designated as an imminent threat to public health or safety.

(b) For purposes of this chapter, "imminent threat to public health or safety" means a situation where a mountain lion exhibits one or more aggressive behaviors directed toward a person that is not reasonably believed to be due to the presence of responders.

(c) For purposes of this chapter, "nonlethal procedures" means procedures that may include, but are not limited to, capturing, pursuing, anesthetizing, temporarily possessing, temporarily injuring, marking, attaching to or surgically implanting monitoring or recognition devices, providing veterinary care, transporting, hazing, rehabilitating, releasing, or taking no action.

(d) The department may, as the department determines is necessary to protect mountain lions or the public, authorize qualified individuals, educational institutions, governmental agencies, or nongovernmental organizations to implement nonlethal procedures on a mountain lion in accordance with subdivision (a).

HISTORY:
Added Stats 2013 ch 208 § 1 (SB 132), effective January 1, 2014.

§ 4802. Report of injury to property or livestock

Any person, or the employee or agent of a person, whose livestock or other property is being or has been injured, damaged, or destroyed by a mountain lion may report that fact to the department and request a permit to take the mountain lion.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990.

§ 4803. Confirmation of report

Upon receipt of a report pursuant to Section 4802, the department, or any animal damage control officer specifically authorized by the department to carry out this responsibility, shall immediately take the action necessary to confirm that there has been depredation by a mountain lion as reported. The confirmation process shall be completed as quickly as possible, but in no event more than 48 hours after receiving the report. If satisfied that there has been depredation by a mountain lion as reported, the department shall promptly issue a permit to take the depredating mountain lion.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990.

§ 4804. Issuance of permits; Conditions

In order to ensure that only the depredating mountain lion will be taken, the department shall issue the permit pursuant to Section 4803 with the following conditions attached:

(a) The permit shall expire 10 days after issuance.

(b) The permit shall authorize the holder to begin pursuit not more than one mile from the depredation site.

(c) The permit shall limit the pursuit of the depredating mountain lion to within a 10-mile radius from the location of the reported damage or destruction.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990.

§ 4805. Authorization for pursuit after and taking of depredating mountain lion

Whenever immediate authorization, will materially assist in the pursuit of the particular mountain lion believed to be responsible for the depredation reported pursuant to Section 4802, the department or the animal damage control officer may orally authorize the pursuit and taking of the depredating mountain lion, and the department shall issue a written permit for the period previously authorized as soon as practicable after the oral authorization.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990.

§ 4806. Report of capture, injuring, or killing of mountain lion

Any person issued a permit pursuant to Section 4803 or 4805 shall report, by telephone within 24 hours, the capturing, injuring, or killing of any mountain lion to an office of the department or, if telephoning is not practicable, in writing within five days after the capturing, injuring, or killing of the mountain lion. At the time of making the report of the capturing, injuring, or killing, the holder of the permit shall make arrangements to turn over the mountain lion or the entire carcass of the mountain lion which has been recovered to a representative of the department and shall do so in a timely manner.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990.

§ 4807. Immediate taking of mountain lion encountered while injuring or killing livestock or domestic animals; Report

(a) Any mountain lion that is encountered while in the act of pursuing, inflicting injury to, or killing livestock, or domestic animals, may be taken immediately by the owner of the property or the owner's employee or agent. The taking shall be reported within 72 hours to the department. The department shall investigate the depredation, and, if the mountain lion was captured, injured, or killed, the mountain lion or the entire carcass of the mountain lion which has been recovered shall be turned over to the department. Upon satisfactorily completing the investigation and receiving the mountain lion or the carcass, if recovered, the department shall issue a permit confirming that the requirements of this section have been met with respect to the particular mountain lion taken under these circumstances.

(b) The department shall undertake a complete necropsy on any returned mountain lion carcass and report the findings to the commission. The commission shall compile the reported findings and prepare an annual written report that shall be submitted to the Legislature not later than the January 15 next following the year in which the mountain lion was taken.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990.

§ 4808. "Agent"

As used in this chapter, "agent" means the agent or employee of the owner of the damaged or destroyed property, any county or city predator control officer, any employee of the Animal Damage Control Section of the United States Department of Agriculture,

any departmental personnel, or any authorized or permitted houndsman registered with the department as possessing the requisite experience and having no prior conviction of any provision of this code or regulation adopted pursuant to this code. A plea of nolo contendere is a conviction for purposes of this section.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990.

§ 4809. Manner of taking

Mountain lions authorized to be taken pursuant to this chapter shall be taken by the most effective means available to take the mountain lion causing the damage or destruction, except that no mountain lion shall be taken by means of poison, leg-hold or metal-jawed traps, and snares.

HISTORY:
Addition adopted by voters, Prop 117 § 6, effective June 6, 1990.

§ 4810. Scientific research; Implant of monitoring or recognition devices; Authorized research project governed by Scientific Collecting Permit; Methods; Notice; Reports; Injuries

(a) As used in this section:

(1) "Authorized research project" means a research project involving mountain lions subject to a Scientific Collecting Permit issued in accordance with this section.

(2) "Permitholder" means a person to whom the department has issued a Scientific Collecting Permit in accordance with this section.

(3) "Scientific Collecting Permit" or "permit" means a permit issued pursuant to Section 1002 for a research project involving mountain lions in accordance with this section.

(b) The department may authorize qualified individuals, educational institutions, governmental agencies, or nongovernmental organizations to conduct scientific research involving mountain lions pursuant to a Scientific Collecting Permit as provided in Section 1002.

(c) The department may authorize a permitholder to pursue, capture, temporarily possess, temporarily injure, mark, surgically implant a monitoring or recognition device in or attach such a device to, provide veterinary care to, and transport, a mountain lion or a product of a mountain lion.

(d) In addition to the requirements in Section 1002, an authorized research project shall be designed to do the following:

(1) Contribute to the knowledge of natural wildlife ecosystems.

(2) Minimize disruptions in the lives and movements of mountain lions and other wildlife, as well as impacts to mountain lion or other wildlife habitat, while maintaining the permitholder's research objectives.

(3) Directly or indirectly support the sustainability and survival of mountain lion populations and healthy ecosystems.

(4) Prevent the permanent injury or killing of a mountain lion.

(e) An authorized research project shall be governed by the Scientific Collecting Permit. The permit shall include, at a minimum, proposed research methods and recordkeeping procedures that address the following:

(1) The capture of, anesthetization of, collection of diagnostic samples from, and transport of, a mountain lion or a product of a mountain lion.

(2) Attaching monitoring or recognization devices to, surgically implanting those devices in, or marking, animals affected by the research project.

(3) Providing veterinary care as required for the health, safety, and humane treatment of animals affected by the research project.

(4) The recording of the adverse effects of authorized research procedures on mountain lions and other wildlife.

(5) The qualifications of onsite personnel necessary for carrying out authorized research procedures. A permit applicant shall submit verifiable documentation demonstrating that at least one onsite staff person has at least one year of experience in proposed research methods that involve activities described in subdivision (c).

(6) Annual and final reports to the department.

(f) The department shall notify the public at least 30 days prior to the issuance of a permit, and, upon request, shall make available to the public copies of the permit and annual and final reports.

(g) The department shall handle mortality or permanent injury to a mountain lion as a result of research authorized pursuant to this section in a manner consistent with the reporting and processing requirements imposed in Section 4807.

HISTORY:
Added Stats 2012 ch 115 § 1 (AB 1784), effective July 13, 2012. Amended Stats 2015 ch 154 § 76 (AB 1527), effective January 1, 2016.

CHAPTER 11. BIGHORN SHEEP

§ 4900. Legislative declaration

The Legislature declares that bighorn sheep are an important wildlife resource of the state to be managed and maintained at sound biological levels. Therefore, it is hereby declared to be the policy of the state to encourage the preservation, restoration, utilization, and management of California's bighorn sheep population. The management shall be in accordance with the policy set forth in Section 1801.

HISTORY:
Added Stats 1986 ch 745 § 3.

§ 4901. Management unit plans

The department shall determine the status and the trend of bighorn sheep populations by management units. A plan shall be developed for each of the management units. The plan for each management unit shall include all of the following:

(a) Data on the numbers, age, sex ratios, and distribution of bighorn sheep within the management unit.

(b) A survey of range conditions and a report on the competition that may exist as a result of human, livestock, wild burro, or any other mammal encroachment.

(c) An assessment of the need to relocate or reestablish bighorn populations.

(d) A statement on the prevalence of disease or parasites within the population.

(e) Recommendations for achieving the policy objective of Section 4900.

HISTORY:
Added Stats 1986 ch 745 § 3.

§ 4902. Regulations for management and sport hunting; Tag; Fee; Deposit; Prehunt hunter familiarization and orientation [Inoperative July 1, 2025; Repealed effective January 1, 2026]

(a) The commission may adopt all regulations necessary to provide for biologically sound management of Nelson bighorn sheep (subspecies Ovis canadensis nelsoni).

(b)(1) After the plans developed by the department pursuant to Section 4901 for the management units have been submitted, the commission may authorize sport hunting of mature Nelson bighorn rams. Before authorizing the sport hunting, the commission shall take into account the Nelson bighorn sheep population statewide, including the population in the management units designated for hunting.

(2) Notwithstanding Section 219, the commission shall not, however, adopt regulations authorizing the sport hunting in a single year of more than 15 percent of the mature Nelson bighorn rams in a single management unit, based on the department's annual estimate of the population in each management unit.

(c) The fee for a bighorn ram tag for a resident of the state, except for a bighorn ram tag issued to a resident junior hunter, to take a Nelson bighorn ram shall be four hundred dollars ($400), as adjusted pursuant to Section 713. The fee for a bighorn ram tag for a resident junior hunter to take a Nelson bighorn ram shall be twenty dollars ($20), as adjusted under Section 713. On or before July 1, 2015, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than one thousand five hundred dollars ($1,500), which shall be adjusted annually pursuant to Section 713. Fee revenues shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(d) The commission shall annually direct the department to authorize not more than three of the tags available for issuance that year to take Nelson bighorn rams for the purpose of raising funds for programs and projects to benefit Nelson bighorn sheep. These tags may be sold to residents or nonresidents of the State of California at auction or by another method and shall not be subject to the fee limitation prescribed in subdivision (c). Commencing with tags sold for the 1993 hunting season, if more than one tag is authorized, the department shall designate a nonprofit organization organized pursuant to the laws of this state, or the California chapter of a nonprofit organization organized pursuant to the laws of another state, as the seller of not less than one of these tags. The number of tags authorized for the purpose of raising funds pursuant to this subdivision, if more than one, shall not exceed 15 percent of the total number of tags authorized pursuant to subdivision (b). All revenue from the sale of tags pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) No tag issued pursuant to this section shall be valid unless and until the licensee has successfully completed a prehunt hunter familiarization and orientation and has demonstrated to the department that he or she is familiar with the requisite equipment for participating in the hunting of Nelson bighorn rams, as determined by the commission. The orientation shall be conducted by the department at convenient locations and times preceding each season, as determined by the commission.

(f) This section shall become inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

HISTORY:

Added Stats 1986 ch 745 § 3. Amended Stats 1990 ch 1620 § 4 (AB 2848); Stats 1991 ch 371 § 1 (AB 977); Stats 1992 ch 1370 § 12 (AB 3193), effective October 27, 1992; Stats 2007 ch 285 § 101 (AB 1729), effective January 1, 2008; Stats 2010 ch 408 § 13 (SB 1058), effective January 1, 2011; Stats 2014 ch 467 § 4 (AB 2105), effective January 1, 2015; Stats 2018 ch 295 § 10 (AB 2151), effective January 1, 2019, operative July 1, 2019, repealed January 1, 2026.

§ 4902. Regulations for management and sport hunting; Tag; Fee; Deposit; Prehunt hunter familiarization and orientation [Operative July 1, 2025]

(a) The commission may adopt all regulations necessary to provide for biologically sound management of Nelson bighorn sheep (subspecies Ovis canadensis nelsoni).

(b)(1) After the plans developed by the department pursuant to Section 4901 for the management units have been submitted, the commission may authorize sport hunting of mature Nelson bighorn rams. Before authorizing the sport hunting, the commission shall take into account the Nelson bighorn sheep population statewide, including the population in the management units designated for hunting.

(2) Notwithstanding Section 219, the commission shall not, however, adopt regulations authorizing the sport hunting in a single year of more than 15 percent of the

mature Nelson bighorn rams in a single management unit, based on the department's annual estimate of the population in each management unit.

(c) The fee for a bighorn ram tag to take a Nelson bighorn ram shall be four hundred dollars ($400) for a resident of the state, which shall be adjusted annually pursuant to Section 713. On or before July 1, 2015, the commission shall, by regulation, fix the fee for a nonresident of the state at not less than one thousand five hundred dollars ($1,500), which shall be adjusted annually pursuant to Section 713. Fee revenues shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(d) The commission shall annually direct the department to authorize not more than three of the tags available for issuance that year to take Nelson bighorn rams for the purpose of raising funds for programs and projects to benefit Nelson bighorn sheep. These tags may be sold to residents or nonresidents of the State of California at auction or by another method and shall not be subject to the fee limitation prescribed in subdivision (c). Commencing with tags sold for the 1993 hunting season, if more than one tag is authorized, the department shall designate a nonprofit organization organized pursuant to the laws of this state, or the California chapter of a nonprofit organization organized pursuant to the laws of another state, as the seller of not less than one of these tags. The number of tags authorized for the purpose of raising funds pursuant to this subdivision, if more than one, shall not exceed 15 percent of the total number of tags authorized pursuant to subdivision (b). All revenue from the sale of tags pursuant to this subdivision shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section.

(e) No tag issued pursuant to this section shall be valid unless and until the licensee has successfully completed a prehunt hunter familiarization and orientation and has demonstrated to the department that he or she is familiar with the requisite equipment for participating in the hunting of Nelson bighorn rams, as determined by the commission. The orientation shall be conducted by the department at convenient locations and times preceding each season, as determined by the commission.

(f) This section shall become operative on July 1, 2025.

HISTORY:

Added Stats 2018 ch 295 § 11 (AB 2151), effective January 1, 2019, operative July 1, 2025.

§ 4903. Fee revenues for program

Revenue from the fees authorized by this chapter shall be deposited in the Big Game Management Account established in Section 3953 and, upon appropriation by the Legislature, shall be expended as set forth in that section. Administrative overhead shall be limited to the reasonable costs associated with the direct administration of the program. These funds shall be used to augment, and not to replace, moneys appropriated from existing funds available to the department for the preservation, restoration, utilization, and management of bighorn sheep. The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met.

HISTORY:

Added Stats 1986 ch 745 § 3. Amended Stats 1988 ch 1455 § 2; Stats 1991 ch 371 § 2 (AB 977); Stats 2010 ch 408 § 14 (SB 1058), effective January 1, 2011.

§ 4904. [Section repealed 2013.]

HISTORY:

Added Stats 1986 ch 745 § 3. Amended Stats 1990 ch 1620 § 5 (AB 2848); Stats 2001 ch 745 § 55 (SB 1191), effective October 12, 2001; Stats 2007 ch 285 § 102 (AB 1729), effective January 1, 2008; Repealed Stats 2012 ch 728 § 49 (SB 71), effective January 1, 2013. The repealed section related to a biennial report on the management of Nelson bighorn sheep.

DIVISION 5. PROTECTED REPTILES AND AMPHIBIANS

CHAPTER 1. TURTLES

ARTICLE 1. DESERT TORTOISES

§ 5000. Prohibited sale, purchase, capture, etc., of tortoise

It is unlawful to sell, purchase, harm, take, possess, transport, or shoot a projectile at, a tortoise (Gopherus). This section does not apply to the taking of a tortoise when authorized by the department.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 267 § 1; Stats 1972 ch 301 § 1; Stats 1977 ch 1208 § 14; Stats 2015 ch 154 § 77 (AB 1527), effective January 1, 2016.

§ 5001. Authorized possession; Identification and approved transfer

The provisions of Section 5000 do not prohibit the possession of any tortoise (Gopherus) when the owner can demonstrate that such tortoise was legally acquired and possessed before the effective date of this section. The owner of a tortoise which may be possessed under this section shall mark or otherwise identify such tortoise to the satisfaction of the department, and shall not transfer such tortoise to any other person without prior approval of the department.

HISTORY:
Added Stats 1972 ch 301 § 2.

§ 5002. Permits for possession by certain institutions

The department may issue permits, subject to any terms and conditions prescribed by the commission, authorizing the possession of a tortoise (Gopherus) or product of a tortoise by an educational or scientific institution or a public zoological garden.

HISTORY:
Added Stats 1972 ch 301 § 3. Amended Stats 2015 ch 154 § 78 (AB 1527), effective January 1, 2016.

ARTICLE 2. TERRAPIN

§ 5020. [Section repealed 2008.]

HISTORY:
Enacted 1957. Repealed Stats 2007 ch 285 § 103 (AB 1729), effective January 1, 2008. The repealed section related to unlawful taking of diamond-back terrapin.

CHAPTER 2. FULLY PROTECTED REPTILES AND AMPHIBIANS

§ 5050. Enumeration of fully protected reptiles and amphibians; Prohibition against taking; Collection for scientific research; Permit

(a)(1) Except as provided in this section, or Section 2081.7, 2081.9, 2081.12, or 2835, a fully protected reptile or amphibian may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected reptile or amphibian, and no permit or license previously issued shall have any force or effect for that purpose. However, the department may authorize the taking of a fully protected reptile or amphibian for

necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected reptile or amphibian, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected reptile or amphibian may be possessed under a permit issued by the department.

(b) The following are fully protected reptiles and amphibians:

(1) Blunt-nosed leopard lizard (Gambelia sila).

(2) San Francisco garter snake (Thamnophis sirtalis tetrataenia).

(3) Santa Cruz long-toed salamander (Ambystoma macrodactylum croceum).

(4) Limestone salamander (Hydromantes brunus).

(5) Black toad (Bufo boreas exsul).

HISTORY:
Added Stats 1970 ch 1036 § 7. Amended Stats 2002 ch 617 § 5 (SB 482); Stats 2003 ch 735 § 3 (SB 412); Stats 2011 ch 596 § 6 (SB 618), effective January 1, 2012; Stats 2012 ch 121 § 2 (AB 1973), effective January 1, 2013; Stats 2015 ch 154 § 79 (AB 1527), effective January 1, 2016; Stats 2018 ch 224 § 3 (SB 495), effective August 27, 2018.

CHAPTER 3. COMMERCIAL USE OF REPTILES

§ 5060. "Native reptiles"

"Native reptiles" as used in this chapter means snakes, lizards, turtles, or any other members of the class reptilia native to California.

HISTORY:
Added Stats 1974 ch 605 § 8.

§ 5061. Rules and regulations

The commission shall establish rules and regulations for the commercial take, sale, transport, export, or import of native reptiles.

HISTORY:
Added Stats 1974 ch 605 § 8.

§ 5062. Permits for operation of farms for alligators or any species of crocodilidae

Notwithstanding any other provision of law, no permit shall be issued for the operation of a farm for alligators or any species of the family crocodilidae if the animals are kept for the use and sale of the meat or hides. No permit for the operation of a farm for alligators or any species of the family crocodilidae shall be renewed if the animals are kept for the use and sale of the meat or hides.

HISTORY:
Added Stats 1991 ch 776 § 1 (SB 1013).

DIVISION 6. FISH

PART 1. GENERALLY

CHAPTER 1. MISCELLANEOUS

§ 5500. Use of explosives

It is unlawful to use explosives in the waters of this state inhabited by fish, except under a permit first obtained by the user from the department consistent with terms and conditions set by the commission, or except in case of emergency, to remove an accidental obstruction to the flow of water. Any person may appeal the department's decision to grant or deny a permit to the commission.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 121 § 1.

§ 5501. Taking of predatory fish; Permit authorized

The department may take any fish which, in its opinion, is unduly preying upon any bird, mammal, or fish. The commission may prescribe the terms of a permit to take any fish which, in the opinion of the department, is harmful to other species of fish and which should be reduced in numbers.

HISTORY:
Enacted 1957.

§ 5502. [Section repealed 2008.]

HISTORY:
Enacted 1957. Repealed Stats 2007 ch 285 § 104 (AB 1729), effective January 1, 2008. The repealed section related to unlawful taking of fish near fishway, dam or screen.

§ 5503. Taking fish for eggs; Progeny from wild brook stock

It is unlawful to take any fish for the sole purpose of removing its eggs except for the purpose of developing a brood stock for aquaculture purposes under Division 12 (commencing with Section 15000) pursuant to regulations promulgated by the Fish and Game Commission.

The commission shall also determine ownership and regulate distribution of progeny taken from wild brood stock, other than those obtained pursuant to Section 15300.

HISTORY:
Enacted 1957. Amended Stats 1981 ch 153 § 1; Stats 1982 ch 1486 § 8.

§ 5505. Release or use for bait of mollusks, crustaceans, and amphibia

Mollusks, crustaceans, and amphibia may be used for bait or released in the same water wherein taken.

HISTORY:
Enacted 1957.

§ 5507. Possession of spear or gaff near lake or stream; Gaff accessory to angling

It is unlawful for any person to possess, except in his home, any fish spear or gaff within 300 feet of any lake or stream in this State, at any time when spearing is prohibited in such lake or stream. This section does not apply to the possession of a gaff carried as an accessory while angling.

HISTORY:
Enacted 1957.

§ 5508. Bringing ashore fish whose size or weight cannot be determined; Regulations

It is unlawful to possess on any boat or to bring ashore any fish upon which a size or weight limit is prescribed in such a condition that its size or weight cannot be determined.

The commission may adopt regulations, under which fish other than whole fish may be brought ashore, which establish sizes or weights for cleaned or otherwise cut fish equivalent to sizes or weights for whole fish.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1212 § 1; Stats 1967 ch 534 § 1.

§ 5509. Possession in boat or bringing ashore fish in condition that species cannot be determined

It is unlawful to possess on any boat or to bring ashore any fish in such a condition that the species cannot be determined, except as otherwise provided in this code or regulations adopted pursuant thereto. The commission, subject to the provisions of Section 5508, may adopt regulations whereby fish taken by persons fishing from a vessel licensed pursuant to Section 7920 may be brought ashore in such a condition that the species cannot be determined.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 1078 § 1.

§ 5510. Prevention of deterioration; Disposal of offal

The commission may adopt regulations to prevent deterioration and waste of fish taken for purposes other than profit, and to regulate the disposal of the offal of such fish.

HISTORY:
Added Stats 1976 ch 362 § 1.

§ 5511. Fish cultural operations unlawful above state hatchery; Permit exceptions

Except under permit of the department, it is unlawful to carry on any fish cultural operations on any stream above the point where water is diverted for the use and operation of a state fish hatchery.

HISTORY:
Enacted 1957.

§ 5514. Protection of salmon and steelhead

(a) It is unlawful to kill or retain in possession any chinook, coho, or kokanee salmon or any steelhead that has not taken the bait or lure in its mouth, in inland waters.

(b) Any chinook, coho, or kokanee salmon or any steelhead hooked other than in its mouth in inland waters shall be released unharmed.

HISTORY:
Added Stats 1961 ch 956 § 1. Amended Stats 2007 ch 285 § 105 (AB 1729), effective January 1, 2008.

§ 5515. Enumeration of fully protected fish; Prohibition against taking; Exception

(a)(1) Except as provided in this section or Section 2081.4, 2081.6, 2081.7, 2081.10, 2081.11, 2089.7, or 2835, a fully protected fish shall not be taken or possessed at any

time. No provision of this code or any other law shall be construed to authorize the issuance of a permit or license to take a fully protected fish, and no permit or license previously issued shall have force or effect for that purpose. However, the department may authorize the taking of a fully protected fish for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of a fully protected fish, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an email address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide relevant information and comments on the proposed authorization.

(2) As used in this subdivision, "scientific research" does not include an action taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) A legally imported fully protected fish may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

(1) Colorado River squawfish (Ptychocheilus lucius).
(2) Thicktail chub (Gila crassicauda).
(3) Mohave chub (Gila mohavensis).
(4) Lost River sucker (Deltistes luxatus and Catostomus luxatus).
(5) Modoc sucker (Catostomus microps).
(6) Shortnose sucker (Chasmistes brevirostris).
(7) Humpback sucker (Xyrauchen texanus).
(8) Owens pupfish (Cyprinodon radiosus).
(9) Unarmored threespine stickleback (Gasterosteus aculeatus williamsoni).
(10) Rough sculpin (Cottus asperrimus).

HISTORY:
Added Stats 1970 ch 1036 § 8. Amended Stats 2002 ch 617 § 6 (SB 482); Stats 2003 ch 735 § 4 (SB 412); Stats 2011 ch 596 § 7 (SB 618), effective January 1, 2012; Stats 2015 ch 154 § 80 (AB 1527), effective January 1, 2016, ch 620 § 3.5 (AB 353), effective October 8, 2015, operative January 1, 2016; Stats 2016 ch 293 § 3 (AB 1845), effective January 1, 2017; Stats 2016 ch 387 § 3 (AB 2488), effective January 1, 2017; Stats 2016 ch 515 § 2.3 (AB 2001), effective January 1, 2017 (ch 515 prevails); Stats 2018 ch 586 § 3 (AB 2640), effective January 1, 2019.

§ 5516. Posting of waters restricted to use of artificial flies or lures required

Any river, stream, lake, or other body of water restricted by the commission to the use of artificial flies or artificial lures only for fishing shall be posted by the department at logical places of entry so as to inform persons fishing in such waters as to the nature of the restrictions.

HISTORY:
Added Stats 1974 ch 524 § 2.

§ 5517. Taking of white sharks

It is unlawful to take any white shark (Carcharodon carcharias), except under permits issued pursuant to Section 1002 for scientific or educational purposes.

HISTORY:
Added Stats 1993 ch 1174 § 2 (AB 522), operative until January 1, 1999. Amended Stats 1997 ch 186 § 1 (SB 144).

§ 5520. Legislative intent as to abalone management

It is the intent of the Legislature that the commission undertake management of abalone in a manner consistent with the abalone recovery and management plan submitted pursuant to Section 5522.

HISTORY:
Added Stats 1997 ch 787 § 1 (SB 463).

§ 5521. Abalone moratorium in designated waters

A moratorium is imposed on the taking, possessing, or landing of abalone (genus Haliotis) for commercial or recreational purposes in ocean waters of the state south of a line drawn due west magnetic from the center of the mouth of the San Francisco Bay, including all islands offshore the mainland of California, including, but not limited to, the Farallon Islands and the Southern California Channel Islands. It is unlawful to take, possess, or land abalone for commercial or recreational purposes in those ocean waters while the moratorium is in effect.

HISTORY:
Added Stats 1997 ch 787 § 2 (SB 463).

§ 5521.5. Unlawful taking of abalone for commercial purposes in designated districts

(a) In addition to the moratorium imposed by Section 5521, and notwithstanding any other provision of law, it is unlawful to take abalone for commercial purposes in District 6, 7, 16, 17, or 19A, in District 10 north of Point Lobos, or in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island.

(b) For a person who is required to obtain a license pursuant to Section 7145, the possession of more than 12 individual abalone or abalone in excess of the annual bag limit is prima facie evidence that the person possesses the abalone for commercial purposes.

HISTORY:
Added Stats 1997 ch 787 § 3 (SB 463). Amended Stats 2000 ch 388 § 2 (AB 2941); Stats 2001 ch 753 § 5 (AB 1673); Stats 2007 ch 328 § 1 (AB 1187), effective January 1, 2008.

§ 5521.6. Aquaculturist collecting abalone

Notwithstanding Sections 5521 and 5521.5, a registered aquaculturist may collect abalone for broodstock, in accordance with subdivision (b) of Section 15301.

HISTORY:
Added Stats 1999 ch 483 § 6 (AB 76).

§ 5522. Abalone recovery and management plan

(a) On or before January 1, 2003, the department shall submit to the commission a comprehensive abalone recovery and management plan. The plan shall contain all of the following:

(1) An explanation of the scientific knowledge regarding the biology, habitat requirements, and threats to abalone.

(2) A summary of the interim and long-term recovery goals, including a range of alternative interim and long-term conservation and management goals and activities. The department shall report why it prefers the recommended activities.

(3) Alternatives for allocating harvest between sport and commercial divers if the allocation of the abalone harvest is warranted.

(4) An estimate of the time and costs required to meet the interim and long-term recovery goals for the species, including available or anticipated funding sources, and an initial projection of the time and costs associated with meeting the final recovery goals. An implementation schedule shall also be included.

(5) An estimate of the time necessary to meet the interim recovery goals and triggers for review and amendment of strategy.

(6) A description of objective measurable criteria by which to determine whether the goals and objectives of the recovery strategy are being met and procedures for

recognition of successful recovery. These criteria and procedures shall include, but not be limited to, the following:

(A) Specified abundance and size frequency distribution criteria for former abalone beds within suitable habitat not dominated by sea otters.

(B) Size frequency distributions exhibiting multiple size classes as necessary to ensure continued recruitment into fishable stock.

(C) The reproductive importance to the entire ecosystem of those areas proposed for reopening to harvest and the potential impact of each reopening on the recovery of abalone population in adjacent areas.

(b) Where appropriate, the recovery and management plan may include the following:

(1) A network of no-take abalone reserves.

(2) A total allowable catch, reflecting the long-term yield each species is capable of sustaining, using the best available science and bearing in mind the ecological importance of the species and the variability of marine ecosystems.

(3) A permanent reduction in harvest.

(c) Funding to prepare the recovery and management plan and any planning and scoping meetings shall be derived from the fees collected for the abalone stamp.

(d) On or before January 1, 2008, and following the adoption of the recovery and management plan by the commission, the department may apply to the commission to reopen sport or commercial fishing in all or any portion of the waters described in Section 5521. If the commission makes a finding that the resource can support additional harvest activities and that these activities are consistent with the abalone recovery plan, all or a portion of the waters described in Section 5521 may be reopened and management measures prescribed and implemented, as appropriate. The commission may close or, where appropriate, may establish no-take marine refuges in any area opened pursuant to this section if it makes a finding that this action is necessary to comply with the abalone management plan.

(e) If the commission determines that commercial fishing is an appropriate management measure, priority for participation in the fishery shall be given to those persons who held a commercial abalone permit during the 1996–97 permit year.

HISTORY:
Added Stats 1997 ch 787 § 4 (SB 463).

§ 5523. Area closure due to high level of toxic substances; Delay in opening of Dungeness crab season

(a)(1) If the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines, based on thorough and adequate scientific evidence, that any species or subspecies of fish is likely to pose a human health risk from high levels of toxic substances, the Director of Fish and Wildlife may order the closure of any waters or otherwise restrict the taking in state waters of that species.

(2) After the Director of Fish and Wildlife orders the closure of any waters or restricts the taking of any species of fish pursuant to paragraph (1), he or she shall notify the commission and request that the commission schedule a public discussion of the closure or restriction at its next scheduled full commission meeting.

(b)(1) When the Director of Environmental Health Hazard Assessment, in consultation with the State Public Health Officer, determines that a health risk no longer exists, the Director of Environmental Health Hazard Assessment shall notify the Director of Fish and Wildlife and shall request that any waters closed pursuant to subdivision (a) be reopened for fishing and any restrictions imposed pursuant to subdivision (a) be lifted.

(2) Upon receiving the notification and request pursuant to paragraph (1), the Director of Fish and Wildlife shall open any waters closed pursuant to subdivision (a)

and lift any restrictions imposed pursuant to subdivision (a) in a manner that promotes a fair and orderly fishery.

(c) It is unlawful to take any fish from any closed waters or to otherwise violate any restriction on take imposed pursuant to this section.

(d) If there is a delay in the opening of any waters for Dungeness crab season pursuant to this section, the Director of Fish and Wildlife may further delay opening those waters in order to provide 72-hours notice before a gear setting period. If, with 72-hours notice, the gear setting period would begin on a federal holiday, a state holiday, the day before Thanksgiving Day, December 24, or December 31, the director may delay opening those waters for the additional time that is necessary to begin the gear setting period on the next day that is not one of those days.

(e) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to actions taken pursuant to this section.

HISTORY:

Added Stats 1989 ch 486 § 1. Supplemented by Governor's Reorganization Plan No. 1 of 1991 § 7, effective July 17, 1991. Amended Stats 2000 ch 144 § 1 (AB 2872), effective July 19, 2000. Amended and renumbered from Cal Fish & G Code § 7715 by Stats 2016 ch 542 § 3 (SB 1287), effective January 1, 2017. Amended Stats 2018 ch 663 § 1 (SB 1310), effective September 21, 2018.

CHAPTER 2. POLLUTION

ARTICLE 1. GENERAL

§ 5650. Prohibition on discharge of specified substances; Exceptions; Affirmative defense

(a) Except as provided in subdivision (b), it is unlawful to deposit in, permit to pass into, or place where it can pass into the waters of this state any of the following:

(1) Any petroleum, acid, coal or oil tar, lampblack, aniline, asphalt, bitumen, or residuary product of petroleum, or carbonaceous material or substance.

(2) Any refuse, liquid or solid, from any refinery, gas house, tannery, distillery, chemical works, mill, or factory of any kind.

(3) Any sawdust, shavings, slabs, or edgings.

(4) Any factory refuse, lime, or slag.

(5) Any cocculus indicus.

(6) Any substance or material deleterious to fish, plant life, mammals, or bird life.

(b) This section does not apply to a discharge or a release that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a waste discharge requirement pursuant to Section 13263 of the Water Code or a waiver issued pursuant to subdivision (a) of Section 13269 of the Water Code issued by the State Water Resources Control Board or a regional water quality control board after a public hearing, or that is expressly authorized pursuant to, and in compliance with, the terms and conditions of a federal permit for which the State Water Resources Control Board or a regional water quality control board has, after a public hearing, issued a water quality certification pursuant to Section 13160 of the Water Code. This section does not confer additional authority on the State Water Resources Control Board, a regional water quality control board, or any other entity.

(c) It shall be an affirmative defense to a violation of this section if the defendant proves, by a preponderance of the evidence, all of the following:

(1) The defendant complied with all applicable state and federal laws and regulations requiring that the discharge or release be reported to a government agency.

(2) The substance or material did not enter the waters of the state or a storm drain that discharges into the waters of the state.

(3) The defendant took reasonable and appropriate measures to effectively mitigate the discharge or release in a timely manner.

(d) The affirmative defense in subdivision (c) does not apply and may not be raised in an action for civil penalties or injunctive relief pursuant to Section 5650.1.

(e) The affirmative defense in subdivision (c) does not apply and may not be raised by any defendant who has on two prior occasions in the preceding five years, in any combination within the same county in which the case is prosecuted, either pleaded nolo contendere, been convicted of a violation of this section, or suffered a judgment for a violation of this section or Section 5650.1. This subdivision shall apply only to cases filed on or after January 1, 1997.

(f) The affirmative defense in subdivision (c) does not apply and may not be raised by the defendant in any case in which a district attorney, city attorney, or Attorney General alleges, and the court finds, that the defendant acted willfully.

HISTORY:

Enacted 1957. Amended Stats 1996 ch 1122 § 1 (SB 649); Stats 1997 ch 766 § 1 (AB 11), effective October 8, 1997; Stats 2006 ch 296 § 3 (AB 2485), effective January 1, 2007; Stats 2007 ch 130 § 96 (AB 299), effective January 1, 2008.

§ 5650.1. Civil penalties; Civil actions; Temporary restraining orders and injunctions; Disposition of penalties

(a) A person who violates Section 5650 is subject to a civil penalty of not more than twenty-five thousand dollars ($25,000) for each violation.

(b) The civil penalty imposed for each separate violation pursuant to this section is separate, and in addition to, any other civil penalty imposed for a separate violation pursuant to this section or any other provision of law, except as provided in subdivision (j).

(c) In determining the amount of a civil penalty imposed pursuant to this section, the court shall take into consideration all relevant circumstances, including, but not limited to, the nature, circumstance, extent, and gravity of the violation. In making this determination, the court shall consider the degree of toxicity and volume of the discharge, the extent of harm caused by the violation, whether the effects of the violation may be reversed or mitigated, and with respect to the defendant, the ability to pay, the effect of any civil penalty on the ability to continue in business, any voluntary cleanup efforts undertaken, any prior history of violations, the gravity of the behavior, the economic benefit, if any, resulting from the violation, and any other matters the court determines justice may require.

(d) Every civil action brought under this section shall be brought by the Attorney General upon complaint by the department, or by the district attorney or city attorney in the name of the people of the State of California, and any actions relating to the same violation may be joined or consolidated.

(e) In a civil action brought pursuant to this chapter in which a temporary restraining order, preliminary injunction, or permanent injunction is sought, it is not necessary to allege or prove at any stage of the proceeding that irreparable damage will occur if the temporary restraining order, preliminary injunction, or permanent injunction is not issued, or that the remedy at law is inadequate.

(f) After the party seeking the injunction has met its burden of proof, the court shall determine whether to issue a temporary restraining order, preliminary injunction, or permanent injunction without requiring the defendant to prove that it will suffer grave or irreparable harm. The court shall make the determination whether to issue a temporary restraining order, preliminary injunction, or permanent injunction by taking into consideration, among other things, the nature, circumstance, extent, and gravity of the violation, the quantity and characteristics of the substance or material involved, the extent of environmental harm caused by the violation, measures taken by the defendant to remedy the violation, the relative likelihood that the material or substance involved may pass into waters of the state, and the harm likely to be caused to the defendant.

(g) The court, to the maximum extent possible, shall tailor a temporary restraining order, preliminary injunction, or permanent injunction narrowly to address the violation

in a manner that will otherwise allow the defendant to continue business operations in a lawful manner.

(h) All civil penalties collected pursuant to this section shall not be considered fines or forfeitures as defined in Section 13003 and shall be apportioned in the following manner:

(1) Fifty percent shall be distributed to the county treasurer of the county in which the action is prosecuted. Amounts paid to the county treasurer shall be deposited in the county fish and wildlife propagation fund established pursuant to Section 13100.

(2) Fifty percent shall be distributed to the department for deposit in the Fish and Game Preservation Fund. These funds may be expended to cover the costs of legal actions or for any other law enforcement purpose consistent with Section 9 of Article XVI of the California Constitution.

(i) Except as provided in subdivision (j), in addition to any other penalty provided by law, a person who violates Section 5650 is subject to a civil penalty of not more than ten dollars ($10) for each gallon or pound of material discharged. The total amount of the civil penalty shall be reduced for every gallon or pound of the illegally discharged material that is recovered and properly disposed of by the responsible party.

(j) A person shall not be subject to a civil penalty imposed under this section and to a civil penalty imposed pursuant to Article 9 (commencing with Section 8670.57) of Chapter 7.4 of Division 1 of Title 2 of the Government Code for the same act or failure to act.

HISTORY:

Added Stats 1991 ch 844 § 2 (AB 1386). Amended Stats 1996 ch 1122 § 2 (SB 649); Stats 2016 ch 349 § 1 (AB 1842), effective January 1, 2017.

§ 5651. Report and correction of continuing condition of pollution

Whenever it is determined by the department that a continuing and chronic condition of pollution exists, the department shall report that condition to the appropriate regional water quality control board, and shall cooperate with the board in obtaining correction or abatement in accordance with any laws administered by the board for the control of practices for sewage and industrial waste disposal.

HISTORY:

Enacted 1957. Amended Stats 1985 ch 1429 § 1, effective October 1, 1985.

§ 5652. Illegal deposit of refuse in waters of state; Presumption on abandonment of motor vehicle, and liability for cost of removal; Exceptions

(a) It is unlawful to deposit, permit to pass into, or place where it can pass into the waters of the state, or to abandon, dispose of, or throw away, within 150 feet of the high water mark of the waters of the state, any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.

(b) The abandonment of any motor vehicle in any manner that violates this section shall constitute a rebuttable presumption affecting the burden of producing evidence that the last registered owner of record, not having complied with Section 5900 of the Vehicle Code, is responsible for that abandonment and is thereby liable for the cost of removal and disposition of the vehicle. This section prohibits the placement of a vehicle body on privately owned property along a streambank by the property owner or tenant for the purpose of preventing erosion of the streambank.

(c) This section does not apply to a refuse disposal site that is authorized by the appropriate local agency having jurisdiction or to the depositing of those materials in a container from which the materials are routinely removed to a legal point of disposal.

(d) This section shall be enforced by all law enforcement officers of this state.

HISTORY:

Added Stats 1961 ch 1061 § 1. Amended Stats 1967 ch 558 § 1; Stats 1970 ch 665 § 1; Stats 1972 ch 403 § 1; Stats 1997 ch 693 § 1 (SB 614), effective October 6, 1997; Stats 2007 ch 285 § 107 (AB 1729), effective January 1, 2008.

§ 5653. Use of vacuum or suction dredge equipment

(a) The use of vacuum or suction dredge equipment by a person in a river, stream, or lake of this state is prohibited, except as authorized under a permit issued to that person by the department in compliance with the regulations adopted pursuant to Section 5653.9. Before a person uses vacuum or suction dredge equipment in a river, stream, or lake of this state, that person shall submit an application to the department for a permit to use the vacuum or suction dredge equipment, specifying the type and size of equipment to be used and other information as the department may require pursuant to regulations adopted by the department to implement this section.

(b)(1) The department shall not issue a permit for the use of vacuum or suction dredge equipment until the permit application is deemed complete. A complete permit application shall include any other permit required by the department and one of the following, as applicable:

(A) A copy of waste discharge requirements or a waiver of waste discharge requirements issued by the State Water Resources Control Board or a regional water quality control board in accordance with Division 7 (commencing with Section 13000) of the Water Code.

(B) A copy of a certification issued by the State Water Resources Control Board or a regional water quality control board and a permit issued by the United States Army Corps of Engineers in accordance with Sections 401 and 404 of the Federal Water Pollution Control Act (33 U.S.C. Secs. 1341 and 1344, respectively) to use vacuum or suction dredge equipment.

(C) If the State Water Resources Control Board or the appropriate regional water quality control board determines that waste discharge requirements, a waiver of waste discharge requirements, or a certification in accordance with Section 1341 of Title 33 of the United States Code is not necessary for the applicant to use of vacuum or suction dredge equipment, a letter stating this determination signed by the Executive Director of the State Water Resources Control Board, the executive officer of the appropriate regional water quality control board, or their designee.

(c) Under the regulations adopted pursuant to Section 5653.9, the department shall designate waters or areas wherein vacuum or suction dredge equipment may be used pursuant to a permit, waters or areas closed to the use of that equipment, the maximum size of the vacuum or suction dredge equipment that may be used, and the time of year when the equipment may be used. If the department determines, pursuant to the regulations adopted pursuant to Section 5653.9, that the use of vacuum or suction dredge equipment does not cause any significant effects to fish and wildlife, it shall issue a permit to the applicant. If a person uses vacuum or suction dredge equipment other than as authorized by a permit issued by the department consistent with regulations implementing this section, that person is guilty of a misdemeanor.

(d)(1) Except as provided in paragraph (2), the department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars ($25), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars ($130), as adjusted under Section 713, when the department deems that an onsite investigation is necessary. Except as provided in paragraph (2), in the case of a nonresident, the base fee shall be one hundred dollars ($100), as adjusted under Section 713, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars ($220), as adjusted under Section 713, when an onsite investigation is deemed necessary.

(2) The department may adjust the base fees for a permit described in this subdivision to an amount sufficient to cover all reasonable costs of the department in regulating suction dredging activities.

(e) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges.

(f) A permit issued by the department under this section shall not authorize an activity in violation of other applicable requirements, conditions, or prohibitions governing the use of vacuum or suction dredge equipment, including those adopted by the State Water Resources Control Board or a regional water quality control board. The department, the State Water Resources Control Board, and the regional water quality control boards shall make reasonable efforts to share information among the agencies regarding potential violations of requirements, conditions, or prohibitions governing the use of vacuum or suction dredge equipment.

(g) For purposes of this section and Section 5653.1, the use of vacuum or suction dredge equipment, also known as suction dredging, is the use of a mechanized or motorized system for removing or assisting in the removal of, or the processing of, material from the bed, bank, or channel of a river, stream, or lake in order to recover minerals. This section and Section 5653.1 do not apply to, prohibit, or otherwise restrict nonmotorized recreational mining activities, including panning for gold.

HISTORY:

Added Stats 1986 ch 1368 § 23. Amended Stats 1988 ch 1037 § 1; Stats 1994 ch 775 § 1 (AB 1688); Stats 2006 ch 538 § 185 (SB 1852), effective January 1, 2007; Stats 2015 ch 680 § 2 (SB 637), effective January 1, 2016.

§ 5653.1. Temporary proscription against vacuum and suction dredging activities; Applicability; Report

(a) The issuance of permits to operate vacuum or suction dredge equipment is a project pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and permits may only be issued, and vacuum or suction dredge mining may only occur as authorized by any existing permit, if the department has caused to be prepared, and certified the completion of, an environmental impact report for the project pursuant to the court order and consent judgment entered in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(b) Notwithstanding Section 5653, the use of any vacuum or suction dredge equipment in any river, stream, or lake of this state is prohibited until the director certifies to the Secretary of State that all of the following have occurred:

(1) The department has completed the environmental review of its existing suction dredge mining regulations, as ordered by the court in the case of Karuk Tribe of California et al. v. California Department of Fish and Game et al., Alameda County Superior Court Case No. RG 05211597.

(2) The department has transmitted for filing with the Secretary of State pursuant to Section 11343 of the Government Code, a certified copy of new regulations adopted, as necessary, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) The new regulations described in paragraph (2) are operative.

(4) The new regulations described in paragraph (2) fully mitigate all identified significant environmental impacts.

(5) A fee structure is in place that will fully cover all costs to the department related to the administration of the program.

(c)(1) To facilitate its compliance with subdivision (b), the department shall consult with other agencies as it determines to be necessary, including, but not limited to, the State Water Resources Control Board, the State Department of Public Health, and the Native American Heritage Commission, and, on or before April 1, 2013, shall prepare and submit to the Legislature a report with recommendations on statutory changes or authorizations that, in the determination of the department, are necessary to develop the suction dredge regulations required by paragraph (2) of subdivision (b), including, but not limited to, recommendations relating to the mitigation of all identified significant environmental impacts and a fee structure that will fully cover all program costs.

(2) The requirement for submitting a report imposed under this subdivision is inoperative on January 1, 2017, pursuant to Section 10231.5 of the Government Code.

(3) The report submitted to the Legislature pursuant to this subdivision shall be submitted in accordance with Section 9795 of the Government Code.

(d) The Legislature finds and declares that this section, as added during the 2009–10 Regular Session, applies solely to vacuum and suction dredging activities conducted for instream mining purposes. This section does not expand or provide new authority for the department to close or regulate suction dredging conducted for regular maintenance of energy or water supply management infrastructure, flood control, or navigational purposes governed by other state or federal law.

(e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

HISTORY:
Added Stats 2009 ch 62 § 1 (SB 670), effective August 6, 2009. Amended Stats 2011 ch 133 § 6 (AB 120), effective July 26, 2011; Stats 2012 ch 39 § 7 (SB 1018), effective June 27, 2012.

§ 5653.3. Presentation of dredging equipment for inspection

Any person required to possess a permit pursuant to Section 5653 shall present his or her dredging equipment for inspection upon request of a state or county fish and game warden.

HISTORY:
Added Stats 1988 ch 1037 § 2.

§ 5653.5. "River, stream, or lake"

For purposes of Section 5653, "river, stream, or lake" means the body of water at the current water level at the time of the dredging.

HISTORY:
Added Stats 1988 ch 1037 § 3.

§ 5653.7. Closure of areas for unanticipated water level change

In the event of an unanticipated water level change, when necessary to protect fish and wildlife resources, the department may close areas that were otherwise opened for dredging and for which permits were issued pursuant to Section 5653.

HISTORY:
Added Stats 1988 ch 1037 § 4.

§ 5653.8. "Person"

For purposes of Sections 5653 and 5653.3, "person" does not include a partnership, corporation, or other type of association.

HISTORY:
Added Stats 1994 ch 1109 § 2 (AB 1790), effective September 28, 1994.

§ 5653.9. Adoption of regulations

The department shall adopt regulations to carry out Section 5653 and may adopt regulations to carry out Sections 5653.3, 5653.5, and 5653.7. The regulations shall be adopted in accordance with the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code and Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

HISTORY:
Added Stats 1988 ch 1037 § 5. Amended Stats 1994 ch 775 § 2 (AB 1688).

§ 5654. Closure of areas for take of fish or shellfish after receiving notification of spill or discharge; Duties of director; Reimbursement

(a)(1) Notwithstanding Section 5523 and except as provided in paragraph (2), the director, within 24 hours of notification of a spill or discharge, as those terms are defined in Section 8670.3 of the Government Code, where any fishing, including all commercial, recreational, and nonlicensed subsistence fishing, may take place, or where aquaculture operations are taking place, shall close to the take of all fish and shellfish all waters in the vicinity of the spill or discharge or where the spilled or discharged material has spread, or is likely to spread. In determining where a spill or discharge is likely to spread, the director shall consult with the Administrator of the Office of Spill Prevention and Response. At the time of closure, the department shall make all reasonable efforts to notify the public of the closure, including notification to commercial and recreational fishing organizations, and posting of warnings on public piers and other locations where subsistence fishing is known to occur. The department shall coordinate, when possible, with local and regional agencies and organizations to expedite public notification.

(2) Closure pursuant to paragraph (1) is not required if, within 24 hours of notification of a spill or discharge, the Office of Environmental Health Hazard Assessment finds that a public health threat does not or is unlikely to exist.

(b) Within 48 hours of notification of a spill or discharge subject to subdivision (a), the director, in consultation with the Office of Environmental Health Hazard Assessment, shall make an assessment and determine all of the following:

(1) The danger posed to the public from fishing in the area where the spill or discharge occurred or spread, and the danger of consuming fish taken in the area where the spill or discharge occurred or spread.

(2) Whether the areas closed for the take of fish or shellfish should be expanded to prevent any potential take or consumption of any fish or shellfish that may have been contaminated by the spill or discharge.

(3) The likely period for maintaining a closure on the take of fish and shellfish in order to prevent any possible contaminated fish or shellfish from being taken or consumed or other threats to human health.

(c) Within 48 hours after receiving notification of a spill or discharge subject to subdivision (a), or as soon as is feasible, the director, in consultation with the Office of Environmental Health Hazard Assessment, shall assess and determine the potential danger from consuming fish that have been contained in a recirculating seawater tank onboard a vessel that may become contaminated by the vessel's movement through an area where the spill or discharge occurred or spread.

(d) If the director finds in his or her assessment pursuant to subdivision (b) that there is no significant risk to the public or to the fisheries, the director may immediately reopen the closed area and waive the testing requirements of subdivisions (e) and (f).

(e) Except under the conditions specified in subdivision (d), after complying with subdivisions (a) and (b), the director, in consultation with the Office of Environmental Health Hazard Assessment, but in no event more than seven days from the notification of the spill or discharge, shall order expedited tests of fish and shellfish that would have been open for take for commercial, recreational, or subsistence purposes in the closed area if not for the closure, to determine the levels of contamination, if any, and whether the fish or shellfish is safe for human consumption.

(f)(1) Within 24 hours of receiving a notification from the Office of Environmental Health Hazard Assessment that no threat to human health exists from the spill or discharge or that no contaminant from the spill or discharge is present that could contaminate fish or shellfish, the director shall reopen the areas closed pursuant to this section. The director may maintain a closure in any remaining portion of the closed area where the Office of Environmental Health Hazard Assessment finds contamination from the spill or discharge persists that may adversely affect human health.

(2) The director, in consultation with the commission, may also maintain a closure in any remaining portion of the closed area where commercial fishing or aquaculture occurs and where the department determines, pursuant to this paragraph, that contamination from the spill or discharge persists that may cause the waste of commercial fish or shellfish as regulated by Section 7701.

(g) To the extent feasible, the director shall consult with representatives of commercial and recreational fishing associations and subsistence fishing communities regarding the extent and duration of a closure, testing protocols, and findings. If a spill or discharge occurs within the lands governed by a Native American tribe or affects waters flowing through tribal lands, or tribal fisheries, the director shall consult with the affected tribal governments.

(h) The director shall seek full reimbursement from the responsible party or parties for the spill or discharge for all reasonable costs incurred by the department in carrying out this section, including, but not limited to, all testing.

HISTORY:

Added Stats 2008 ch 564 § 1 (AB 2935), effective January 1, 2009. Amended Stats 2009 ch 294 § 13 (AB 1442), effective January 1, 2010; Stats 2016 ch 209 § 1 (AB 2912), effective January 1, 2017; Stats 2016 ch 542 § 2 (SB 1287), effective January 1, 2017.

§ 5655. Authorization of department to clean up or to abate effects of petroleum product deposited in waters; Costs

(a) In addition to the responsibilities imposed pursuant to Section 5651, the department may clean up or abate, or cause to be cleaned up or abated, the effects of any petroleum or petroleum product deposited or discharged in the waters of this state or deposited or discharged in any location onshore or offshore where the petroleum or petroleum product is likely to enter the waters of this state, order any person responsible for the deposit or discharge to clean up the petroleum or petroleum product or abate the effects of the deposit or discharge, and recover any costs incurred as a result of the cleanup or abatement from the responsible party.

(b) An order shall not be issued pursuant to this section for the cleanup or abatement of petroleum products in any sump, pond, pit, or lagoon used in conjunction with crude oil production that is in compliance with all applicable state and federal laws and regulations.

(c) The department may issue an order pursuant to this section only if there is an imminent and substantial endangerment to human health or the environment and the order shall remain in effect only until any cleanup and abatement order is issued pursuant to Section 13304 of the Water Code. A regional water quality control board shall incorporate the department's order into the cleanup and abatement order issued pursuant to Section 13304 of the Water Code, unless the department's order is inconsistent with any more stringent requirement established in the cleanup and abatement order. Any action taken in compliance with the department's order is not a violation of any subsequent regional water quality control board cleanup and abatement order issued pursuant to Section 13304 of the Water Code.

(d) The Administrator of the Office of Spill Prevention and Response has the primary authority to serve as a state incident commander and direct removal, abatement, response, containment, and cleanup efforts with regard to all aspects of any placement of petroleum or a petroleum product in the waters of the state, except as otherwise provided by law. This authority may be delegated.

(e) For purposes of this section, the following definitions apply:

(1) "Petroleum product" means oil of any kind or form, including, but not limited to, fuel oil, sludge, oil refuse, and oil mixed with waste other than dredged spoil. "Petroleum product" does not include any pesticide that has been applied for agricultural, commercial, or industrial purposes or that has been applied in accordance with a cooperative agreement authorized by Section 116180 of the Health and

Safety Code, that has not been discharged accidentally or for purposes of disposal, and the application of which was in compliance with all applicable state and federal laws and regulations.

(2) "State incident commander" means a person with the overall authority for managing and conducting incident operations during an oil spill response, who shall manage an incident consistent with the standardized emergency management system required by Section 8607 of the Government Code. Incident management generally includes the development of objectives, strategies, and tactics, ordering and release of resources, and coordinating with other appropriate response agencies to ensure that all appropriate resources are properly utilized and that this coordinating function is performed in a manner designed to minimize risk to other persons and to the environment.

HISTORY:
Added Stats 1970 ch 1224 § 1. Amended Stats 1985 ch 864 § 1, ch 1429 § 2, effective October 1, 198; Stats 1989 ch 1084 § 1; Stats 1995 ch 720 § 2 (AB 902); Stats 1996 ch 1023 § 49 (SB 1497), effective September 29, 1996; Stats 2008 ch 565 § 2 (AB 2911), effective January 1, 2009; Stats 2009 ch 140 § 74 (AB 1164), effective January 1, 2010; Stats 2010 ch 328 § 68 (SB 1330), effective January 1, 2011.

§ 5656. Deposit of recovery or settlement

Any recovery or settlement of money damages, including, but not limited to, civil penalties arising out of any civil action filed and maintained by the Attorney General in the enforcement of this article shall be deposited in the Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund.

HISTORY:
Added Stats 1986 ch 977 § 2. Amended Stats 1995 ch 720 § 3 (AB 902).

ARTICLE 2. SHELLFISH AREA CONTAMINATION

§ 5669. "Shellfish"

For purposes of this chapter, "shellfish" means any bivalve mollusk.

HISTORY:
Added Stats 1982 ch 1486 § 9.

§ 5670. Taking of shellfish for human consumption from contaminated area unlawful

It is unlawful to take shellfish used or intended to be used for human consumption from any area from which it shall be determined, as provided in this article, that the taking of shellfish does or may constitute a menace to the lives or health of human beings.

HISTORY:
Enacted 1957.

§ 5671. Examination of area; Determination of contamination

The State Department of Health Services may:

(a) Examine any area from which shellfish may be taken.

(b) Determine whether the area is subject to sewage contamination.

(c) Determine whether the taking of shellfish from the area does or may constitute a menace to the lives or health of human beings.

HISTORY:
Enacted 1957. Amended Stats 1971 ch 1593 § 49, operative July 1, 1973; Stats 1977 ch 1252 § 87, operative July 1, 1978.

§ 5672. Determination of contaminated area; Notices; Taking shellfish unlawful after publication of notice

Upon the determination by the State Department of Health Services that the area is or may be subject to sewage contamination, and that the taking of shellfish from it does or may constitute a menace to the lives or health of human beings, it shall ascertain as accurately as it can the bounds of the contamination, and shall post notices on or in the area describing its bounds and prohibiting the taking of shellfish therefrom.

The taking of shellfish from the area is unlawful after the completion of the publication of the notices as prescribed in this article.

HISTORY:
Enacted 1957. Amended Stats 1971 ch 1593 § 50, operative July 1, 1973; Stats 1977 ch 1252 § 88, operative July 1, 1978.

§ 5673. Publication of notice

The fact of posting the notices shall be published once a week for four successive weeks in some newspaper of general circulation published in the county in which the contaminated area is situated, if there is such a newspaper, and if there is none, then in such a newspaper published in an adjoining county.

HISTORY:
Enacted 1957.

§ 5674. Enforcement of article; Entry upon property authorized

The State Department of Health Services shall enforce the provisions of this article, and for that purpose the inspectors and employees of that agency may enter at all times upon public or private property upon which shellfish may be located.

HISTORY:
Enacted 1957. Amended Stats 1971 ch 1593 § 51, operative July 1, 1973; Stats 1977 ch 1252 § 89, operative July 1, 1978.

§ 5675. Certification of water quality

If examinations are conducted pursuant to this article for purposes of certifying the quality of shellfish-growing waters, certification of water quality shall be commenced within 30 days, and completed within three months of the filing of an application by an aquaculturist.

HISTORY:
Added Stats 1982 ch 1486 § 10.

ARTICLE 2.5. PURIFICATION OF MOLLUSKS

§ 5700. Moving mollusks to other areas to be purified for human consumption; Rules and regulations

Notwithstanding Sections 5670, 5672, 8341, and 9050, native and nonnative mollusks may be taken in Districts 12 and 13 and moved to other areas to be purified for human consumption under such rules and regulations as shall be established by the commission. Such regulations may include, but are not limited to, bag limits, methods of harvest, and provisions for public use. Mollusks taken under this section shall not be used for human consumption unless such use is approved by the State Department of Health Services.

HISTORY:
Added Stats 1976 ch 1019 § 2. Amended Stats 1979 ch 373 § 99.

§ 5701. Making and using sanitary surveys of mollusk-growing areas; Classification of areas; Purposes

The State Department of Health Services may make sanitary surveys of mollusk-growing areas or may use sanitary surveys of mollusk-growing areas made by qualified state or county agencies, and based on such information may classify such areas for purposes of harvesting and moving mollusks which are to be purified for human consumption in accordance with Section 5700. The State Department of Health Services shall adopt such rules and regulations as are necessary to implement this section.

HISTORY:
Added Stats 1976 ch 1019 § 2. Amended Stats 1979 ch 373 § 100.

§ 5701.5. Certification of water quality

If examinations are conducted by the State Department of Health Services pursuant to this article for purposes of certifying the quality of shellfish-growing waters, certification of water quality shall be commenced within 30 days and completed within six months of the filing of an application by an aquaculturist.

HISTORY:
Added Stats 1982 ch 1486 § 11.

§ 5702. Royalty for moving mollusks

Any person who moves any native mollusks taken under regulations of the commission from Districts 12 and 13 for purposes of purification for human consumption shall pay a royalty, as the commission may prescribe, of not less than two cents ($0.02) per pound of mollusks so taken.

HISTORY:
Added Stats 1976 ch 1019 § 2.

ARTICLE 3. TRINITY AND KLAMATH RIVER FISH AND GAME DISTRICT

§ 5800. Limitations as to mining operations and pollution of waters; Public nuisances; Abatement

(a) It is unlawful to conduct any mining operations in the Trinity and Klamath River Fish and Game District between July 1st and November 30th except when the debris, substances, tailings or other effluent from such operations do not and cannot pass into the waters in that district.

(b) It is unlawful between July 1st and November 30th to pollute, muddy, contaminate, or roil the waters of the Trinity and Klamath River Fish and Game District. It is unlawful between those dates to deposit in or cause, suffer, or procure to be deposited in, permit to pass into, or place where it can pass into, such waters, any debris, substance or tailings from hydraulic, placer, milling, or other mining operation affecting the clarity of such waters. The clarity of such waters shall be deemed affected when such waters at a point a distance of one mile below the confluence of the Klamath River and the Salmon River or at a point a distance of one mile below the confluence of the South Fork of the Trinity River and the Trinity River, contain fifty (50) parts per million, by weight, of suspended matter, not including vegetable matter in suspension and suspended matter occurring in the stream or streams due to an act of God.

(c) It is unlawful, between July 1st and November 30th to carry on or operate any hydraulic mine of any kind on, along, or in any waters flowing into the Trinity and Klamath River District. However, nothing herein contained shall prevent the operation of a hydraulic mine where the tailings, substance, or debris, or other effluent therefrom, does not or will not pass into the waters of the Trinity and Klamath River Fish and Game

District, between such dates, and any person, firm, or corporation engaged in hydraulic mining shall have the right until the fifteenth day of July to use water for the purpose of cleaning up.

(d) Any structure or contrivance which causes or contributes, in whole or in part, to the condition, the causing of which is in this section prohibited, is a public nuisance, and any person, firm, or corporation maintaining or permitting it is guilty of maintaining a public nuisance, and it is the duty of the district attorney of the county where the condition occurs or the acts creating the public nuisance occur, to bring action to abate such nuisance.

HISTORY:
Enacted 1957.

§ 5801. Effect on other applicable laws relating to birds, mammals and fish

Section 5800 does not affect any other laws applying to the territory included in the Trinity and Klamath River Fish and Game District which relate to birds, mammals, and fish.

HISTORY:
Enacted 1957.

§ 5802. Nonapplication to construction, repair, or maintenance of public works

Section 5800 does not apply to the construction, repair, or maintenance of public works by the Federal or State Government, or any political subdivision thereof.

HISTORY:
Enacted 1957.

§ 5803. Effect of article on authority of State Water Resources Control Board or California Regional Water Quality Control Board

No provision of this article is a limitation on the authority of the State Water Resources Control Board or any California Regional Water Quality Control Board to adopt and enforce additional discharge requirements or prohibitions.

HISTORY:
Added Stats 1970 ch 918 § 14.

CHAPTER 3. DAMS, CONDUITS, AND SCREENS

ARTICLE 1. GENERAL PROVISIONS

§ 5900. Definitions

As used in this chapter:

(a) "Dam" includes all artificial obstructions.

(b) "Conduit" includes pipe, millrace, ditch, flume, siphon, tunnel, canal, and any other conduit or diversion used for the purpose of taking or receiving water from any river, creek, stream, or lake.

(c) "Owner" includes the United States (except that for the purpose of Sections 5901, 5931, 5933, and 5938, "owner" does not include the United States as to any dam in the condition the dam existed on September 15, 1945), the State, a person, political subdivision, or district (other than a fish and game district) owning, controlling or operating a dam or pipe.

(d) "United States" means the United States of America, and in relation to any particular matter includes the officers, agents, employees, agencies, or instrumentalities authorized to act in relation thereto.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 867 § 2.

§ 5901. Devices impeding fish unlawful in certain districts

Except as otherwise provided in this code, it is unlawful to construct or maintain in any stream in Districts 1, 1⅜, 1½, 1⅞, 2, 2¼, 2½, 2¾, 3, 3½, 4, 4⅛, 4½, 4¾, 11, 12, 13, 23, and 25, any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream.

HISTORY:
Enacted 1957. Amended Stats 2005 ch 589 § 2 (SB 857), effective January 1, 2006.

§ 5902. Inclusion of United States in chapter; Legislative declaration

In including the United States within the scope of this chapter the Legislature declares that it understands that the law and policy of the United States with respect to the development of water resources, the reclamation of land from flood and overflow, and in all other respects is to comply with state laws respecting water. The provisions of this chapter provide a procedure for the United States to comply with the provisions and policy of state law respecting its subject matter.

HISTORY:
Enacted 1957.

§ 5903. Construction or enlargement of dam by United States; Separate applications; Forms

The United States shall file with the commission pursuant to this chapter a separate application for each dam it proposes to construct or enlarge if an owner other than the United States would be required to file an application pursuant to Division 3 of the Water Code in order to construct or enlarge the same dam. The application shall be on forms provided by the department.

HISTORY:
Enacted 1957.

§ 5904. United States dams and reservoirs; Contents of application; Waiver of requirements

The application of the United States shall give the following information:

(a) The name and address of the owner.

(b) The location, type, size, and height of the proposed dam and appurtenant works.

(c) The storage capacity of the reservoir.

(d) Such other pertinent information as the commission requires.

(e) As accurately as may be readily obtained, the area of the drainage basin, rainfall, and stream flow records and flood flow records and estimates.

(f) The purpose for which the impounded or diverted water is to be used.

(g) Such other appropriate information as may be necessary in a given instance.

In instances wherein the physical conditions involved and the size of the dam are such as to render the above requirements as to drainage areas, rainfall, stream flow, and flood flow unnecessary, the commission may waive the requirements.

HISTORY:
Enacted 1957.

ARTICLE 2. DAMS AND OBSTRUCTIONS

§ 5930. Examination of dams

The department shall, from time to time, examine all dams in all rivers and streams in this State naturally frequented by fish.

HISTORY:
Enacted 1957.

§ 5931. Furnishing plans and ordering installation of fishway; Completion of work

If, in the opinion of the commission, there is not free passage for fish over or around any dam, the department shall cause plans to be furnished for a suitable fishway, and order in writing the owner of the dam to provide the dam, within a specified time, with a durable and efficient fishway, of such form and capacity and in such location as shall be determined by the department. Such fishway shall be completed by the owner of the dam to the satisfaction of the department within the time specified.

HISTORY:
Enacted 1957.

§ 5932. Additional structures to meet changed conditions; Expenditures

When all of the provisions of this article have been complied with, if in the opinion of the commission changed conditions made additional structures desirable for the free passage of fish, the department may make such additional structures and may expend such sums of money as it deems necessary for such additional construction, including the cost of insurance against any liability which the department may incur in connection with such structures.

HISTORY:
Enacted 1957.

§ 5933. Construction or enlargement of dam; Application for approval of plans; Hearing as to necessity for fishway; Notice of decision; Approval of design

Whenever an application for approval of plans and specifications for a new dam in any stream in this State, or for the enlargement of any dam in any such stream, is filed with the Department of Water Resources, pursuant to Part 1 (commencing with Section 6000) of Division 3 of the Water Code, a copy of such application shall be filed by the applicant with the commission. If then the commission deems that the construction of a fishway over such a dam is necessary for the preservation and protection of fish, and that construction and operation of such fishway is practicable, it shall set a date for a hearing to be held within 90 days after filing of such application with the commission.

At such hearing the applicant shall be entitled to introduce evidence to show that construction of the fishway is not necessary or is not practicable, taking into consideration the height of the dam and the amount of water available.

If, after the hearing, the commission finds that the construction of the fishway is necessary and practicable it shall, within five days after such hearing, notify the applicant to that effect.

After notice from the commission that a fishway is required, it shall be unlawful to commence the construction of any new dam or the enlargement of any dam without first obtaining the written approval of the commission of the design for such a fishway.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1932 § 516; Stats 1963 ch 304 § 1.

§ 5934. Depositions

The commission or any party may, in any hearing, cause the deposition of witnesses to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.

HISTORY:
Enacted Stats 1957. Amended Stats 1998 ch 931 § 158 (SB 2139), effective September 28, 1998; Stats 2004 ch 182 § 37 (AB 3081), operative July 1, 2005.

§ 5935. Maintenance of fishways

The owner of any dam upon which a fishway has been provided shall keep the fishway in repair and open and free from obstructions to the passage of fish at all times.

HISTORY:
Enacted 1957.

§ 5936. Interference with fishways

It is unlawful to wilfully destroy, injure, or obstruct any fishway.

HISTORY:
Enacted 1957.

§ 5937. Passage of water for fish below dam

The owner of any dam shall allow sufficient water at all times to pass through a fishway, or in the absence of a fishway, allow sufficient water to pass over, around or through the dam, to keep in good condition any fish that may be planted or exist below the dam. During the minimum flow of water in any river or stream, permission may be granted by the department to the owner of any dam to allow sufficient water to pass through a culvert, waste gate, or over or around the dam, to keep in good condition any fish that may be planted or exist below the dam, when, in the judgment of the department, it is impracticable or detrimental to the owner to pass the water through the fishway.

HISTORY:
Enacted 1957.

§ 5938. Hatchery in lieu of fishway; Operation by department

Whenever in the opinion of the commission it is impracticable, because of the height of any dam, or other conditions, to construct a fishway over or around the dam, the commission may, in lieu of the fishway, order the owner of the dam completely to equip, within a specified time, on a site to be selected by the department, a hatchery, together with dwellings for help, traps for the taking of fish, and all other equipment necessary to operate a hatchery station, according to plans and specifications furnished by the department. After such hatchery has been constructed, the department shall operate it without further expense to the owner of the dam except as provided in Sections 5940 and 5941.

HISTORY:
Enacted 1957.

§ 5939. Size and location of hatchery

The hatchery, traps, and other equipment necessary to operate a hatchery station shall not be of a size greater than necessary to supply the stream or river with a reasonable number of fish. The owner of the dam shall permit the department to locate the hatchery, dwellings, traps, and other equipment upon any of the land of the owner of the dam upon a site or sites to be mutually agreed upon by the department and the owner of the dam.

HISTORY:
Enacted 1957.

§ 5940. Furnishing of light for use of hatchery

If the owner of the dam generates electricity at the place of the dam, he shall furnish sufficient light, without charge, for the use of the hatchery.

HISTORY:
Enacted 1957.

§ 5941. Use of water for operation of hatchery

The owner shall permit the use of water, without charge, to operate the hatchery.

HISTORY:
Enacted 1957.

§ 5942. Planting of fish in lieu of fishway, hatchery, or other equipment

The commission may, in lieu of a fishway, hatchery, dwelling, traps or other equipment necessary to operate a hatchery station, order the owner of the dam to plant, under the supervision of the department, the young of such fish as naturally frequent the waters of the stream or river, at such times, in such places, and in such numbers as the commission may order.

HISTORY:
Enacted 1957.

§ 5943. Public access during open season to waters impounded by dam

(a) The owner of a dam shall accord to the public for the purpose of fishing, the right of access to the waters impounded by the dam during the open season for the taking of fish in the stream or river, subject to the regulations of the commission.

(b) Subdivision (a) does not apply to any impoundment of water by a dam that is wholly located on privately owned land that is primarily agricultural or residential in nature if the impounded waters are from a stream or river that is not naturally frequented by fish and if the dam does not prevent the free passage of fish over or around the dam. The Legislature finds and declares that this subdivision is intended to be declaratory of existing law.

HISTORY:
Enacted 1957. Amended Stats 1996 ch 273 § 1 (SB 2084).

§ 5944. Liability of dam owner for injury to person fishing

The owner of a dam is not liable in damages to any person exercising the right to fish, who suffers any injury through coming in contact with, or tampering with, any of the property of the owner of the dam.

HISTORY:
Enacted 1957.

§ 5945. Sale of fish for planting

The department may sell, at cost, to the owner of a dam, young fish ordered to be planted.

HISTORY:
Enacted 1957.

§ 5946. District 4½; Application of § 5938 to construction of dams; Necessity of compliance with § 5937

The provisions of Section 5938 shall not be applicable to dams constructed in District 4½ after September 9, 1953.

No permit or license to appropriate water in District 4½ shall be issued by the State Water Rights Board after September 9, 1953, unless conditioned upon full compliance with Section 5937. Plans and specifications for any such dam shall not be approved by

the Department of Water Resources unless adequate provision is made for full compliance with Section 5937.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1932 § 517.

§ 5947. Release of water from dam in District 4½; Prohibitions

It is unlawful for the owner of a dam in District 4½ to release water from the dam, or any facilities for the generation of hydroelectric energy operated in connection therewith, in varying flows in such a manner as to destroy fish life below such release.

HISTORY:
Enacted 1957.

§ 5948. Artificial barriers, etc., preventing passing of, or being deleterious to fish; Prohibitions

No person shall cause or having caused, permit to exist any log jam or debris accumulation or any other artificial barrier, except a dam for the storage or diversion of water, public bridges and approaches thereto, groins, jetties, seawalls, breakwaters, bulkheads, wharves and piers permitted by law, and debris from mining operations, in any stream in this State, which will prevent the passing of fish up and down stream or which is deleterious to fish as determined by the commission, subject to review by the courts.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 2039 § 3.

ARTICLE 3. CONDUITS AND SCREENS: DIVERSIONS OVER 250 CUBIC FEET PER SECOND

§ 5980. Application of article; Validity

This article shall apply only to conduits described in Section 5987, and conduits with a maximum flow capacity over 250 cubic feet per second of water.

In classifying conduits it is recognized that those involving the passage of water through power devices and those of large size tend to destroy fish in a greater degree than conduits of smaller size or different type.

If this section is for any reason held to be unconstitutional, such decision shall not affect the validity of the remainder of this article.

The Legislature hereby declares that the persons owning conduits referred to in this section shall be subject to the provisions of this article.

HISTORY:
Enacted 1957.

§ 5981. Examination of and order to screen conduits; Duty of owners; Payments of expense

The department shall examine all conduits; and order the owner of a conduit to install, and it is the duty of such an owner to install, a screen on the conduit when, in the opinion of the department, a screen is necessary to prevent fish from passing into the conduit.

Except as provided in Sections 5987, 5988 and 5989, one-half of the expense of constructing or installing a screen shall be paid by the owner of a conduit and one-half by the department.

HISTORY:
Enacted 1957.

§ 5982. Order to install screen; Form and contents

An order to install a screen shall be in writing, and shall specify the type, size, mesh, material and location of the screen, the time within which the screen shall be installed, and an estimate of the expense of installing the screen.

HISTORY:
Enacted 1957.

§ 5983. Payment to owner for share of estimated expense of screening

When an order is made to install a screen, the department shall pay the owner of the conduit upon whom the order is served one-half of the estimated expense of the construction or installation of the screen.

HISTORY:
Enacted 1957.

§ 5984. Payment to owner of share of screening expense exceeding that estimated

If the expense of constructing or installing a screen exceeds the estimated expense the department shall, upon written notification by the owner of the conduit, inspect the screen, and pay to the owner one-half of the amount estimated to be necessary to complete the construction or installation of the screen.

HISTORY:
Enacted 1957.

§ 5985. Return of surplus money advanced by department for screening purposes

The owner of the conduit shall, within 10 days after completing the installation of the screen, return to the department any surplus money advanced by the department pursuant to this article.

HISTORY:
Enacted 1957.

§ 5986. Source of money paid by department

All money paid by the department to the owner of a conduit pursuant to this article shall be paid out of the Fish and Game Preservation Fund.

HISTORY:
Enacted 1957.

§ 5987. Exceptions as to provisions for payment to owner of share of screening expenses

The department shall not pay one-half of the expense of the construction and installation of any screen as provided in Sections 5981, 5983, and 5984 to any person engaged in producing, generating, transmitting, delivering, or furnishing electricity for light, heat or power.

If this section is for any reason held to be unconstitutional, the decision shall not affect the validity of Section 5981, 5983 or 5984, and the Legislature hereby declares that the persons mentioned in this section shall be subject to the provisions of Sections 5981, 5983, and 5984.

HISTORY:
Enacted 1957.

§ 5988. Notice of installation of screen; Inspection and approval; Notice of deviation; Remedy and reinspection

When a screen has been installed, the owner may, by written notice within 90 days after such installation, request the department to inspect the screen for the purpose of accepting it. Thereupon it is the duty of the department to inspect the screen, and if it has been installed in accordance with the order and plans and specifications agreed upon by the department and the owner as provided in Section 5992 or approved by the Department of Water Resources the department shall accept and approve the screen in writing. If, upon such inspection it appears that the screen has not been constructed and installed in accordance with such plans and specifications, the department shall, within 60 days after such inspection, notify the owner of any deviation from the order. Thereupon such deviation may be remedied within 90 days, and a further inspection requested.

HISTORY:
Enacted 1957.

§ 5989. Failure of screen after acceptance; Installation of new screen by department

After acceptance, should the screen fail to function in an efficient manner, no changes in conditions affecting its operation having occurred subsequent to the acceptance of the screen, the owner shall not be required to install a new screen. However, the department may install another screen at the sole cost and expense of the department of a type, size, mesh, and at a location agreed upon by the department and the owner, or approved by the Department of Water Resources, as provided in Section 5992 of this code.

HISTORY:
Enacted 1957.

§ 5990. Non-installation or permitting removal of screen unlawful; Exceptions

It is unlawful for the owner of a conduit to refuse, fail, or neglect to install a screen in compliance with an order from the department or to permit the screen to be removed or taken out of place, except for repairs or cleaning while water is running in the conduit.

HISTORY:
Enacted 1957.

§ 5991. Installation of screen by department

In lieu of the department's ordering the owner to install a screen the department may, at its option, elect to construct and install the screen itself, in which event the type, size, mesh, and location of the screen and the time within which it shall be installed shall be determined as provided by Section 5992 of this code.

When the department elects to construct and install a screen, one-half of the cost of construction and installation shall be paid by the owner.

The department may pay the entire cost of the construction and installation of a screen from the Fish and Game Preservation Fund, in which case it shall, upon completion of the screen, notify the owner of the amount of one-half of the cost, and the owner shall, within 30 days thereafter, remit that amount to the department.

HISTORY:
Enacted 1957.

§ 5992. Screen requirements; Maintenance; Share by owner of expense

Any screen installed under any of the provisions of this article shall be reasonably adequate to prevent fish from passing into the conduit and not unnecessarily impede the

flow of water or prevent the owner from diverting the amount of water he is legally entitled to divert.

The type, size, mesh, and location of the screen and the time within which it shall be installed shall be mutually agreed upon by the department and the owner of the conduit. In the event the department and the owner of the conduit cannot agree upon the type, size, mesh, and location of the screen and the time within which it shall be installed, such matters shall be submitted for determination to the Department of Water Resources whose decision thereon shall be final and conclusive.

If the owner and the department fail to agree upon the type, size, mesh, location, and time of installation of the screen within 60 days from the first submission of proposed plans and specifications by the department to the owner, either the department or the owner may submit such matters, in writing to the Department of Water Resources for final and conclusive decision, and it shall, within 60 days from such reference, render its decision in writing determining such matters.

The department shall maintain and keep the screen in repair, and shall quarterly notify the owner in writing of the cost thereof, and the owner shall within 30 days thereafter remit to the department an amount equal to one-half of such cost.

The owner shall operate and keep free from debris any screen installed, and shall quarterly notify the department in writing of the cost thereof, and the department shall within 30 days thereafter remit to the owner an amount equal to one-half of such cost.

HISTORY:
Enacted 1957.

§ 5993. Agreement as to determination of cost of maintenance of screen

Before the installation of any screen under the provisions of this article, the department and the owner shall enter into an agreement defining the method of determining the cost of maintenance, repairs, operation, and keeping the screen free of debris, which agreement shall provide that in the event either the department or the owner objects to such cost the matter shall be referred to the Director of General Services for his final and conclusive decision.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 371 § 83.

ARTICLE 4. CONDUITS AND SCREENS: DIVERSIONS LESS THAN 250 CUBIC FEET PER SECOND

§ 6020. Application of article

This article shall apply only to conduits with a maximum flow capacity of 250 cubic feet per second or less of water, other than those conduits described in Section 5987.

If this section is for any reason held to be unconstitutional, such decision shall not affect the validity of Article 3 of this chapter and the Legislature hereby declares that the persons owning conduits referred to in this section shall be subject to the provisions of Article 3 of this chapter.

HISTORY:
Enacted 1957.

§ 6021. Examination of conduits; Installation of fish screens and bypasses; Right of access to department; Water supply to be furnished

The department shall examine new or existing conduits, and may install, maintain, repair, and replace fish screens, bypasses, or other devices to prevent the passage of fish through a conduit, when in the opinion of the department such a screen or device is practical and necessary. The owner of a conduit shall grant to the department the right

of access to the conduit for the installation and maintenance of the screen, and shall provide the department with an easement for a site for the installation of the screen or device deemed suitable by the department. The owner shall also supply sufficient water for a bypass to carry fish stopped by the screen or device back to the channel from which they were diverted, and an easement for the bypass channel, but such easement shall not require the acquisition or leasing of additional lands by the owner. No water for a bypass shall be required if the channel from which the water is diverted is dry or incapable of supporting fish life below the point of diversion.

HISTORY:
Enacted 1957.

§ 6022. Bypass limitations; Amount of water

Sufficient water for a bypass shall be not to exceed the following:

(a) Diversions under three cubic feet per second capacity shall not be required to bypass more than 18 gallons per minute.

(b) Diversions of three cubic feet per second or more, but under 10 cubic feet per second, shall not be required to bypass more than 30 gallons per minute.

(c) Diversions of 10 cubic feet per second or more, but under 20 cubic feet per second, shall not be required to bypass more than 40 gallons per minute.

(d) Diversions of 20 cubic feet per second or over shall not be required to bypass more than one-half of 1 percent of the capacity of the diversion.

(e) Diversions built by the Government of the United States and requiring bypasses longer than one-quarter mile shall bypass such amount of water as is necessary to return fish to the permanent channel satisfactorily.

HISTORY:
Enacted 1957.

§ 6023. Notice of intention to install fish screen; Contents; Notice of agreement for installation and maintenance

The department shall serve written notice upon each owner of its intention to install a fish screen, and shall describe therein the distance downstream from the intake or in other manner the location of the screen, the access required, and the amount of water required for the bypass. The notice shall be served upon the owner in duplicate, and in such form that the original copy upon signature by the owner shall serve as an agreement to the installation of the screen or device under the terms therein, and shall require the owner to render such assistance, other than mechanical repair or replacement of parts, necessary to keep the screen or device in satisfactory operating condition. The hiring of additional labor shall not be required for such assistance.

HISTORY:
Enacted 1957.

§ 6024. Procedure on owner's failure to return agreement as to installation of screen; Settlement of disputes

If the owner fails to sign and return the agreement granting the department the necessary rights for the installation of the screen or device within 60 days after its service on him, the department may install the screen as though the agreement had been signed unless a decision of the Department of Water Resources is requested. In the event the department and the owner of the conduit cannot agree upon the type, size, mesh, or location of the screen or device, the amount of water required for a bypass, or the time within which the screen or device shall be installed, the matter shall be submitted for determination to the Department of Water Resources, whose decision thereon shall be final and conclusive. The Department of Water Resources shall render its decision within

60 days after either the department or the owner has submitted the matter in writing and requested a decision.

HISTORY:
Enacted 1957.

§ 6025. Removal of screen while water running in conduit; Operation of ditch with bypass closed.

It is unlawful for the owner of a conduit to cause or permit a screen to be removed or taken out of place, except for repairs or cleaning, while water is running in the conduit, or to operate the conduit with the bypass closed when the screen is operating as provided in this article.

HISTORY:
Enacted 1957.

§ 6026. Adequacy of screen

Any screen installed under this article shall be such as will be reasonably adequate to prevent fish from passing into the conduit and will not unnecessarily impede the flow of water or prevent the owner from diverting the amount of water he is legally entitled to divert.

HISTORY:
Enacted 1957.

§ 6027. Removal of screen or closing of bypass not endangering fish life

This article does not prevent the department from removing or permitting an owner to remove a screen or close a bypass during any part of the year when the department finds that such action will not endanger fish life.

HISTORY:
Enacted 1957.

§ 6028. Source of funds

All money paid by the department to the owner of a conduit pursuant to this article shall be paid out of the Fish and Game Preservation Fund.

HISTORY:
Enacted 1957.

ARTICLE 5. DIVERSION OF WATER FROM STREAMS

§ 6100. Required screening of diversion determined to be harmful to salmon and steelhead; Notice, proposals, and investigation by department

(a) Notwithstanding any provision of Article 3 (commencing with Section 5980) and Article 4 (commencing with Section 6020), on or after January 1, 1972, any new diversion of water from any stream having populations of salmon and steelhead that is determined by the department to be deleterious to salmon and steelhead shall be screened by the owner. The construction, operation, or maintenance costs of any screen required pursuant to this article shall be borne by the owner of the diversion.

(b) The department within 30 days of providing written notice to the owner that the department has determined that the diversion is deleterious to salmon and steelhead pursuant to subdivision (a), or within the time determined by mutual written agreement, shall submit to the owner its proposals as to measures necessary to protect the salmon and steelhead. The department shall notify the owner that it shall make onsite

investigation and shall make any other investigation before it shall propose any measures necessary to protect fishlife.

(c) The department, or any agency of the state, shall provide the owner of the diversion any available information that is required by the owner in order to comply with the provisions of this article.

(d) The diversion shall not commence until the department has determined that measures necessary to protect fishlife have been incorporated into the plans and construction of the diversion.

HISTORY:
Added Stats 1971 ch 1016 § 1. Amended Stats 2015 ch 2 § 1 (AB 92), effective March 27, 2015.

CHAPTER 4. INFECTED OR DISEASED FISH

§ 6300. Application of chapter

This chapter applies to all fish and amphibia, including, but not limited to, fish and amphibia being imported or transported. This chapter does not apply to activities governed by Division 12 (commencing with Section 15000).

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1150 § 1; Stats 1982 ch 1486 § 12.

§ 6301. Authorization of entry for making examination

The department may enter at any time any vehicle, container, warehouse, depot, ship, or growing area where any fish, amphibians, or aquatic plants are held, transported, or stored, for the purpose of making a regulatory inspection to ascertain whether those fish, amphibians, or aquatic plants are infected, diseased, or parasitized, or to determine if aquaculture products are being or have been legally imported, transported, or possessed.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1150 § 2; Stats 2007 ch 285 § 108 (AB 1729), effective January 1, 2008.

§ 6302. Infected fish, amphibia or aquatic plants as nuisance; Destruction

Except as otherwise provided in Division 12 (commencing with Section 15000), all fish, amphibia, or aquatic plants found to be infected, diseased, or parasitized are a public nuisance and shall be summarily destroyed by the department.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1150 § 3; Stats 1982 ch 1486 § 13.

§ 6303. Deleterious fish, amphibia, or aquatic plants; Destruction or shipment out of State

All fish, amphibia, or aquatic plants which the department determines are merely deleterious to fish, amphibia, aquatic plants, or aquatic animal life, shall be destroyed by the department, unless the owner or person in charge of the fish, amphibia, or aquatic plants ships them out of the State within a period of time to be specified by the department.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1150 § 4.

§ 6304. Notice of areas containing infected fish, amphibia, or aquatic plants; Posting and publication

If the department finds any infected, diseased, or parasitized fish, amphibia, or aquatic plants within this State, the department shall post notices describing, as nearly as possible, the boundaries of the area within which the fish, amphibia, or aquatic plants

are found, and shall state the period during which the taking, carrying, and transportation of the fish, amphibia, or aquatic plants from the area shall be unlawful. The fact of posting the notices shall be published once a week for four successive weeks in some newspaper of general circulation in the county in which the infected area is situated, and, if there is no such newspaper in that county, then in a newspaper of general circulation published in an adjoining county.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1150 § 5.

§ 6305. Carrying of infected fish, amphibia, or aquatic plant unlawful

It is unlawful to carry or cause to be carried from one point in this State which has been posted according to the provisions of this article, to any other point in this State, any infected, diseased, or parasitized fish, amphibia, or aquatic plant.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1150 § 6.

§ 6306. Owner or importer to bear expense of examination; Right of department to assume expense

The expense of any examination made necessary by the provisions of this code, shall be borne by the owner of the fish, amphibia, or aquatic plants, or the person or persons importing them into this State; provided, that the department may assume such expense in the case of fish imported to provide fishing under the authority of a sport fishing license in the public waters of this State.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 214 § 1, ch 1150 § 7.

CHAPTER 5. FISH PLANTING AND PROPAGATION

ARTICLE 1. GENERAL PROVISIONS

§ 6400. Placing of fish, animal or plant in waters

It is unlawful to place, plant, or cause to be placed or planted, in any of the waters of this State, any live fish, any fresh or salt water animal, or any aquatic plant, whether taken without or within the State, without first submitting it for inspection to, and securing the written permission of, the department.

HISTORY:
Enacted 1957.

§ 6400.5. Transportation or possession of live white bass

In addition to Section 6400, it is unlawful to transport or possess any live white bass (Marone chrysops), whether taken within or without the state, unless it is first submitted for inspection to, and written permission is obtained from, the department.

HISTORY:
Added Stats 1984 ch 1686 § 4, effective September 30, 1984.

§ 6401. Right to stock fish in waters under permit

Any person may, under the terms of a permit first obtained from the department, under regulations the commission may prescribe, purchase or receive live fish from any registered aquaculturist, and may stock the fish in a stream or a lake.

HISTORY:
Enacted 1957. Amended Stats 1982 ch 1486 § 15.

§ 6402. Youth camp streams receiving planted fish

The department may plant fish in streams passing through, or in lakes on, land on which is located a youth camp for underprivileged children.

HISTORY:
Added Stats 1967 ch 424 § 1.

§ 6403. Application of provisions

This chapter does not apply to activities governed by Division 12 (commencing with Section 15000).

HISTORY:
Added Stats 1982 ch 1486 § 15.1.

ARTICLE 2. ARTIFICIAL REEFS

§ 6420. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) Declines in various southern California marine species of fish have adversely affected the sport and commercial fishing industry.

(b) Efforts to enhance these species through the placement of artificial reefs need to be investigated.

(c) A program of artificial reef research and development, including reef design, placement, and monitoring, is in the public interest and can best be accomplished under the administration of the department with the cooperation and assistance of the University of California, the California State University, other established, appropriate academic institutions, and other organizations with demonstrated expertise in the field.

(d) A state artificial reef research and construction program under the administration of the department is necessary to coordinate ongoing studies and construction of artificial reefs in waters of the state.

HISTORY:
Added Stats 1985 ch 1103 § 1. Amended Stats 1999 ch 83 § 55 (SB 966).

§ 6421. Definitions

For purposes of this article, the following terms have the following meaning:

(a) "Artificial reef" means manmade or natural objects intentionally placed in selected areas of the marine environment to duplicate those conditions that induce production of fish and invertebrates on natural reefs and rough bottoms, and that stimulate the growth of kelp or other midwater plant life which creates natural habitat for those species.

(b) "Production" means increases in the biomass of a species or number of species.

(c) "Program" means the California Artificial Reef Program.

HISTORY:
Added Stats 1985 ch 1103 § 1.

§ 6422. Administration of program

The department shall administer the California Artificial Reef Program.

HISTORY:
Added Stats 1985 ch 1103 § 1.

§ 6423. Program elements

The program shall include all of the following:

(a) The placement of artificial reefs in state waters.

(b) A study of existing successful reefs and all new reefs placed by the program to determine the design criteria needed to construct artificial reefs capable of increasing fish and invertebrate production in waters of the state.

(c) A determination of the requirements for reef siting and placement.

HISTORY:
Added Stats 1985 ch 1103 § 1.

§ 6424. Limitation on amount allocated for administration of program

The amount allocated for the administration of the program in any fiscal year may not exceed the amount authorized by applicable state and federal policy guidelines.

HISTORY:
Added Stats 1985 ch 1103 § 1.

§ 6425. Allocation; Future sources of funding

(a) It is the intent of the Legislature that not more than five hundred thousand dollars ($500,000) shall be allocated to the program for the 1985-86 fiscal year.

(b) It is the intent of the Legislature that future sources of funding for the program may include, but are not limited to, the Fish and Game Preservation Fund, the California Environmental License Plate Fund, the Wildlife Restoration Fund, recreational bond act funds, federal grants-in-aid, county fish and game propagation funds, and private donations.

HISTORY:
Added Stats 1985 ch 1103 § 1.

ARTICLE 3. AQUATIC NUISANCE SPECIES PREVENTION AND CONTROL ACT [REPEALED]

HISTORY: Article 3, consisting of §§ 6430–6439, added Stats 1992 ch 840 § 1. Repealed Stats 2003 ch 610 § 9. Former Article 3, entitled "Domesticated Fish Breeders", consisting of §§ 6450–6458, was enacted 1957 and repealed Stats 1982 ch 1486 § 15.3.]Repealed Stats 2003 ch 610 § 9. Former Article 3, entitled "Domesticated Fish Breeders", consisting of §§ 6450–6458, was enacted 1957 and repealed Stats 1982 ch 1486 § 15.3.

ARTICLE 4. GRASS CARP

§ 6440. Legislative findings and declarations regarding management of triploid grass carp

The Legislature finds and declares that triploid grass carp have the potential to control aquatic nuisance plants in non-public waters allowing for reduced chemical control but that the threat that grass carp pose to aquatic habitat may outweigh its benefits. It is the intent of this section to allow the department to use its management authority to provide for the long-term health of the ecosystem in the state, including the aquatic ecosystem, and, in that context, manage grass carp either through control of movement, eradication of populations, acquisition of habitat, and any other action that the department finds will maintain the biological diversity and the long term, overall health of the state's environment. The department shall undertake the management of grass carp in a manner that is consistent with provisions of this code, and, for the purposes of this section, the department shall define management as handling, controlling, destroying, or moving species. The Legislature does not intend for this section to

provide a right for the use of triploid grass carp if the department finds that use of the species poses an unacceptable risk to the state's existing ecosystem.

HISTORY:
Added Stats 1997 ch 533 § 1 (SB 472). Amended Stats 2015 ch 154 § 81 (AB 1527), effective January 1, 2016; Stats 2016 ch 86 § 136 (SB 1171), effective January 1, 2017.

§ 6450. Introduction of grass carp; Regulations

The department shall adopt regulations that provide for the control of aquatic plant pests using artificially introduced triploid grass carp under a permit issued by the department. The regulations shall do all of the following:

(a) Restrict triploid grass carp introductions to those triploid grass carp that have been rendered sterile immediately after the eggs have been fertilized.

(b) Require individual fish to be checked to ensure that a third, triploid, set of chromosomes has been retained, preventing further reproduction by that individual fish.

(c) Limit aquatic plant pest control programs using triploid grass carp to the use of sterile triploid grass carp with documented certification of triploidy to ensure sterility.

(d) Require the identification by tagging of individual fish as the property of each owner.

(e) Require the posting of notices at stocked bodies of water declaring the penalties for removing triploid grass carp.

(f) Limit the permits for the use of triploid grass carp in waters on golf courses located in residential areas to those waters that are determined by the department to be secure from the removal of triploid grass carp to unauthorized waters.

(g) Provide for management of the triploid grass carp populations in a manner consistent with the provisions of this code where the department finds that such actions will benefit the long-term health of the state's biodiversity as a whole.

(h) Until January 1, 1999, the regulations shall not authorize the issuance of permits for the use of triploid grass carp in waters located within condominium areas of any residential area for which a permit may not be issued pursuant to subdivision (f) except at three locations within the area authorized pursuant to this subdivision. The three locations shall be selected by the department in consultation with the Imperial Irrigation District. The limitation to three locations is necessary to enable monitoring of human-induced movement of triploid grass carp to unauthorized waters and to permit the evaluation of the impact of the experiment.

HISTORY:
Added Stats 1995 ch 249 § 2 (SB 157). Amended Stats 1997 ch 533 § 2 (SB 472); Stats 2001 ch 745 § 56 (SB 1191), effective October 12, 2001.

§ 6451. Certification of providers of carp

All providers of triploid grass carp for use under this article shall provide certification acceptable to the department of triploidy and disease-free conditions for all fish introduced.

HISTORY:
Added Stats 1995 ch 249 § 2 (SB 157).

§ 6452. Information to be provided for permit

Prior to receiving a permit from the department to use triploid grass carp, the potential user shall provide to the department all of the information required by the department, including, but not limited to, the following:

(a) The type of waterway to be stocked.

(b) The site has no connections to adjacent fresh water systems.

(c) All aquatic plant management problems, including, but not limited to, the following:

(1) The acres of aquatic plants, by species, at the peak of growing season.

(2) The desired vegetation quantity or coverage.

(3) The number and size of triploid grass carp recommended.

(4) All sensitive plant or animal species within the waterway to be stocked and any connected waterways.

HISTORY:
Added Stats 1995 ch 249 § 2 (SB 157).

§ 6453. Annual report by permittee

(a) On or before March 1 of each year following the first year after triploid grass carp introduction, the permittee shall provide to the department all of the information required by the department, including, but not limited to, the following:

(1) The number and size of triploid grass carp recommended for the waterway stocked.

(2) The number and size of triploid grass carp stocked in the waterway.

(3) The acres of aquatic plants, by species, at the peak of the growing season in the year prior to introduction of triploid grass carp in the waterway stocked.

(4) The acres of aquatic plants, by species, at the peak of the current year growing season.

(b) The annual report shall be submitted until five years after the use of triploid grass carp to control aquatic plant pests is terminated, unless evidence acceptable to the department is provided that all triploid grass carp have been removed from the waterway.

HISTORY:
Added Stats 1995 ch 249 § 2 (SB 157). Amended Stats 1997 ch 533 § 3 (SB 472); Stats 2001 ch 753 § 7 (AB 1673).

§ 6454. Permit and inspection fees

The department shall establish permit and inspection fees sufficient to recover, but not exceed, the initial and ongoing costs of the program under this article.

HISTORY:
Added Stats 1995 ch 249 § 2 (SB 157).

§ 6455. Conditions in permit; Fine for violation

The department shall impose conditions in the permit to use triploid grass carp under this article that it finds necessary to prevent escape of the triploid grass carp from the targeted area. The conditions shall include, but are not limited to, the following:

(a) No permit shall be issued for the use of triploid grass carp in waters with an open fresh water connection to other waters of the state.

(b) Any waters in which triploid grass carp are used under this article shall be under the control of the permittee. In addition, barriers to fish movement acceptable to the department shall be in place before introduction of triploid grass carp under this article. Movement of triploid grass carp to areas outside the control of the permittee is prohibited.

(c) Any waters in which triploid grass carp are used under this article shall have sufficient dissolved oxygen and suitable vegetation for consumption to sustain the introduced triploid grass carp, as determined by the department.

(d) Except within closed basins, including the Salton Sea, no permit shall be issued for the use of triploid grass carp within the 100-year flood plain.

(e) Any person or persons engaging in the introduction of triploid grass carp into any area, or in the transfer of triploid grass carp from one site to another, without a permit from the department shall be punished by a fine of not more than five thousand

dollars ($5,000), by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

HISTORY:
Added Stats 1995 ch 249 § 2 (SB 157). Amended Stats 1997 ch 533 § 4 (SB 472); Stats 2001 ch 753 § 7.5 (AB 1673).

§ 6456. Construction of article

Nothing in this article shall be construed as restricting grass carp programs approved by the department on or before June 1, 1995.

HISTORY:
Added Stats 1995 ch 249 § 2 (SB 157).

§ 6457. Consultation with Department of Food and Agriculture

Because of its experience and continuing involvement with hydrilla control programs, the implementation of Sections 6450 and 6454 shall be carried out in consultation with the Department of Food and Agriculture.

HISTORY:
Added Stats 1995 ch 249 § 2 (SB 157).

§ 6460. Suspension of permit issuance process; Findings

If the department obtains documented and verifiable evidence of escapements of triploid grass carp permitted under this article into unauthorized waters, the unauthorized use of grass carp, or threats to fish and wildlife and their habitats as the result of this program, it may, upon a written finding by the director to that effect, suspend the permit issuance process authorized by this article. If the situation is local, the suspension may be limited to that area whose waters, habitat, and fish and wildlife resources are threatened. The suspension shall last until the director makes a written finding that the threat has been abated.

HISTORY:
Added Stats 1997 ch 533 § 7 (SB 472).

ARTICLE 8. OCEAN FISHERY RESEARCH

§ 6590. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) Substantial declines in various species of desirable fish that are caught in southern California ocean waters have adversely affected recreational and commercial fishing and their related industries.

(b) Research and development of artificial propagation, rearing, and stocking techniques and equipment have been sufficiently developed. The purpose of this article is to determine if hatchery-released fish can artificially enhance certain stocks of various desirable species, through increased hatchery production of fish and increased monitoring of fisheries to assess the contribution of hatchery-released fish to that enhancement.

(c) Funding for research pertaining to enhancement and artificial propagation, rearing, and stocking are most appropriately borne by a special fund derived from user fees on recreational and commercial fishermen who stand to directly benefit from the resurgence of depressed marine fisheries.

(d) The department has continuing resource management, administrative, and policy review responsibility in marine resources issues.

(e) Volunteers from the recreational fishing community have developed and operated grow-out facilities with private funding. These volunteer activities greatly

enhance the effectiveness of the program and are fully compatible with the overall program objectives.

(f) As white sea bass hatchery production is established, additional grow-out facilities will be required and coordination between these facilities will be necessary. The ocean resources enhancement advisory panel may encourage contracts to carry out coordination activities and recommend to the director that this coordination remain a high priority. Those coordination activities may be funded with fees collected by the department pursuant to this article.

(g) The use of federal matching funds, including sportfish restoration account funds, shall be a high priority for use to match state dollars for this program.

HISTORY:
Added Stats 1983 ch 982 § 1. Amended Stats 1992 ch 987 § 1 (AB 960); Stats 1994 ch 369 § 1 (AB 3011).

§ 6591. "Program"

For purposes of this article, "program" means the California Ocean Resources Enhancement and Hatchery Program established by this article.

HISTORY:
Added Stats 1983 ch 982 § 1. Amended Stats 1992 ch 987 § 2 (AB 960).

§ 6592. California Ocean Resources Enhancement and Hatchery Program

There is hereby established in state government the California Ocean Resources Enhancement and Hatchery Program for the purpose of basic and applied research on the artificial propagation, rearing, stocking, and distribution of adversely affected marine fish species that are important to sport or commercial fishing in the ocean waters off the coast of California south of a line extending due west from Point Arguello.

HISTORY:
Added Stats 1983 ch 982 § 1. Amended Stats 1992 ch 987 § 2.5 (AB 960); Stats 1998 ch 76 § 1 (SB 1392).

§ 6593. Administration of program; Appointment of program manager

The program is administered by the director with the advice and assistance of the advisory panel created in Section 6594. No person shall serve on the advisory panel if that person is receiving research funding from the program. The director may appoint, with the advice and consent of the advisory panel, a program manager to assist in administering the program.

HISTORY:
Added Stats 1983 ch 982 § 1. Amended Stats 1992 ch 987 § 3 (AB 960).

§ 6594. Advisory panel; Membership

To assist the director in establishing policy and direction for the research and enhancement programs to be supported from the Fish and Game Preservation Fund, there is hereby created in the department an Ocean Resources Enhancement Advisory Panel. The panel shall consist of the following members:

(a) One member representing the department.

(b) One member from the University of California, appointed by the president.

(c) One member from the California State University System, appointed by the chancellor.

(d) Two members representing persons working in the southern California commercial fishing industry, of which one shall be appointed by the director from a list of at least three persons submitted by the California Gillnetters Association and one shall be appointed by the director from a list of at least three persons submitted by the California Fisheries and Seafood Institute.

(e) One member representing the southern California commercial passenger fishing vessel industry, appointed by the director from a list of at least three persons submitted by the Sportfishing Association of California.

(f) Three members representing southern California ocean sportfishermen, of which one shall be appointed by the director from a list of at least three persons submitted by the United Anglers of California, one appointed by the director from a list of at least three persons submitted by the National Coalition for Marine Conservation, Pacific Region, and one appointed by the director from a list of at least three persons submitted by California resident members of the American Fishing Tackle Manufacturers Association.

(g) One member representing the California Aquaculture Association established pursuant to Section 15700.

HISTORY:
Added Stats 1983 ch 982 § 1. Amended Stats 1992 ch 987 § 4 (AB 960).

§ 6595. Deposit of fees; Administrative expenses; Approval of financing

(a) All fees collected by the department pursuant to this article, and any interest earned on those fees, shall be deposited in the Fish and Game Preservation Fund and shall be available, upon appropriation by the Legislature, solely for purposes of the program. The department shall maintain the internal accountability necessary to ensure that expenditures of these funds meet the requirements and restrictions of the purposes of the program.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the fund pursuant to this article, may be appropriated for the administration of the program, including any reasonable and necessary expenses incurred by members of the ocean resources enhancement advisory panel in the discharge of their duties pursuant to this article.

(c) No part of the program may be financed pursuant to this article unless it has been approved by both the director and a majority of the members of the ocean resources enhancement advisory panel.

HISTORY:
Added Stats 1983 ch 982 § 1. Amended Stats 1992 ch 987 § 5 (AB 960); Stats 1994 ch 369 § 2 (AB 3011).

§ 6596. [Section repealed 2016.]

HISTORY:
Added Stats 1990 ch 1703 § 2 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 2 (SB 1565), effective September 14, 1992, operative April 1, 1993, ch 987 § 6 (AB 960); Stats 1994 ch 369 § 3 (AB 3011); Stats 1996 ch 870 § 6.6 (AB 3245); Stats 1998 ch 525 § 1 (SB 2028); Stats 2001 ch 112 § 34 (AB 435); Stats 2003 ch 741 § 10 (SB 1049); Stats 2012 ch 565 § 18 (SB 1148), effective January 1, 2013; Repealed Stats 2015 ch 683 § 19 (SB 798), effective January 1, 2016. The repealed section related to a sport fishing ocean enhancement stamp requirement, fee and application of section.

§ 6596.1. Requirement of valid sport fishing ocean enhancement validation or valid commercial fishing ocean enhancement validation; Fees

(a) In addition to a valid California sport fishing license and any other applicable license validation issued pursuant to this code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for purposes other than for profit shall have a valid sport fishing ocean enhancement validation permanently affixed to his or her fishing license. A sport fishing ocean enhancement validation shall be issued upon payment of a base fee of three dollars and fifty cents ($3.50). A sport fishing license issued pursuant to paragraph (4) or (5) of subdivision (a) of Section 7149.05 is not subject to this subdivision.

(b) In addition to a valid California commercial passenger fishing boat license issued pursuant to Section 7920, the owner of any boat or vessel who, for profit, permits any

person to fish therefrom, south of a line extending due west from Point Arguello, shall have a valid commercial fishing ocean enhancement validation issued for that vessel that has not been suspended or revoked.

(c) Any person who takes, possesses aboard a boat, or lands any white sea bass for commercial purposes south of a line extending due west from Point Arguello, shall have a valid commercial fishing ocean enhancement validation issued to that person that has not been suspended or revoked.

(d) The base fee for a commercial ocean fishing enhancement validation is thirty-five dollars ($35).

(e) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

(f) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(g) The commission shall adjust the amount of the fees specified in subdivision (f), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:
Added Stats 2001 ch 112 § 35 (AB 435). Amended Stats 2003 ch 741 § 11 (SB 1049); Stats 2012 ch 565 § 19 (SB 1148), effective January 1, 2013.

§ 6597. Contracts with private nonprofit organizations to conduct research projects

The department may contract with private nonprofit organizations which, prior to January 1, 1984, were conducting research related to the purposes of the program, to conduct research projects pursuant to this article.

HISTORY:
Added Stats 1983 ch 982 § 1.

§ 6597.5. Program open to participation by specified groups

It is in the interest of the state to have broad participation in enhancement programs. Therefore, this program shall be open to participation by qualified academic institutions, as determined by the department, and nonprofit organizations, commercial aquaculturists, and for profit enterprises.

HISTORY:
Added Stats 1992 ch 987 § 7 (AB 960).

§ 6598. California Marine Hatchery Institute

Any place at which all or a significant part of the program is conducted shall be named the "California Marine Hatchery Institute."

HISTORY:
Added Stats 1983 ch 982 § 1.

CHAPTER 5.5. CALIFORNIA MARINE RESOURCES LEGACY ACT

ARTICLE 1. GENERAL PROVISIONS

§ 6600. Citation of act

This act shall be known, and may be cited, as the California Marine Resources Legacy Act.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6601. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) California's extraordinary marine biological diversity is a vital asset to the state and nation. The diversity of species and ecosystems found in the ocean waters off the state is important to public health and well-being, ecological health, and ocean-dependent economic activities.

(b) Although the state maintains various programs to protect, restore, and enhance California's marine resources, the effect of these programs is limited by inadequate and unstable funding.

(c) There is an existing permitting process for decommissioning and fully removing offshore oil platforms or production facilities. Owners and operators are currently responsible for the full cost of decommissioning and remediating those facilities.

(d) According to the United States Department of the Interior, the 23 oil and gas platforms in federal waters off the California coast are expected to reach the end of their useful production lifetimes and be decommissioned between 2015 and 2030.

(e) The California Ocean Science Trust in its June 2010 study, titled "Evaluating Alternatives for Decommissioning California's Offshore Oil and Gas Platforms: A Technical Analysis to Inform State Policy," analyzed a number of decommissioning alternatives to full rig removal and determined that the most likely alternative is to remove the upper portion of the rig and leave the remainder of the structure in place.

(f) The California Ocean Science Trust report and other studies indicate that the partial removal option can result in a net benefit to the marine environment and substantial cost savings compared to full removal of an oil platform or production facility.

(g) Provided that partial removal of an oil rig would result in a net benefit to the marine environment compared to full removal, it is in the interest of the state that a portion of the cost savings that result from partial removal should be shared with the citizens of this state to protect and enhance the state's marine resources.

(h) It is also in the interest of the state that any program to allow partial removal of oil platforms meet all of the following criteria:

(1) Partial removal shall result in a net benefit to the marine environment compared to full removal.

(2) The determination of whether partial removal would result in a net benefit to the marine environment should be made only after scientific study and evaluation.

(3) Because the location and depth of an oil platform, as well as other ecological factors, create a unique environment, each oil platform shall be subject to scientific study and evaluation before partial removal is allowed.

(4) The costs of the scientific study and evaluation should be borne by the applicant.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6602. Definitions

For purposes of this chapter, the following terms have the following meanings:

(a) "Applicant" means the owner or operator of an offshore oil structure in state or federal waters or another party responsible for decommissioning an offshore oil structure in state or federal waters who applies pursuant to this chapter to carry out partial removal of the structure.

(b) "Commission" means the State Lands Commission.

(c) "Conservancy" means the State Coastal Conservancy.

(d) "Cost savings" means the difference between the estimated cost to the applicant of complete removal of an oil platform as required by state and federal leases and the estimated costs to the applicant of partial removal of the oil platform pursuant to this chapter.

(e) "Council" means the Ocean Protection Council.

(f) "Endowment" means the California Endowment for Marine Preservation established in Division 37 (commencing with Section 71500) of the Public Resources Code.

(g) "Exclusive economic zone (EEZ)" means the zone as measured from the mean high tide line seaward to 200 nautical miles, as set forth in Presidential Proclamation 5030 of March 10, 1983, in which the United States proclaimed jurisdiction over the resources of the ocean within 200 miles of the coastline.

(h) "National Fishing Enhancement Act of 1984" means Title II of Public Law 98-623.

(i) "Offshore oil structure" means platforms, piers, and artificial islands located seaward of mean lower low water, used for oil and gas exploration, development, production, processing, or storage.

(j) "Oil" means any kind of petroleum, liquid hydrocarbons, natural gas, or petroleum products or any fraction or residues therefrom.

(k) "Open coastal marine resources" means those marine resources that use open coastal waters as their habitat.

(*l*) "Open coastal waters" means the area composed of the submerged lands of the state that are below the mean lower low water, extending seaward to the boundaries of the exclusive economic zone.

(m) "Partial removal" means an alternative to full removal of an offshore oil structure, in compliance with all requirements of this chapter.

(n) "State waters" means waters within the seaward boundary of the state as identified in Section 2 of Article III of the California Constitution.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6603. Establishment of program; Authority of department; Final approval of application; Funding; Adoption of regulations

(a) This chapter establishes a program through which an applicant may voluntarily apply to the department to carry out partial removal of the structure.

(b) The program established pursuant to this chapter shall be deemed consistent with, and part of, the California Artificial Reef Program pursuant to Article 2 (commencing with Section 6420) of Chapter 5 for purposes of compliance with federal law including the National Fishing Enhancement Act of 1984.

(c) Except as specified in Section 6604, the department shall serve as the primary authority for carrying out the program, including review and approval of applications to partially remove an offshore oil structure in state or federal waters and management and operation of decommissioned offshore oil structures in state or federal waters approved pursuant to this chapter.

(d) Final approval of an application shall not be granted until the applicant complies with all requirements of the chapter, including the payment of all costs to the state to review and approve the proposed project as required by subdivision (b) of Section 6612 and the transmittal of the required portion of cost savings to the endowment and other parties as required by Section 6618.

(e) The department may obtain funds for the planning, development, maintenance, and operation of an offshore oil structure transferred to the department pursuant to this chapter and may accept gifts, subventions, grants, rebates, reimbursements, and subsidies from any lawful source.

(f) The department may adopt regulations to implement this chapter.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6604. Review of proposed project to partially remove an offshore oil structure

(a) A proposed project to partially remove an offshore oil structure pursuant to this chapter is a project as defined in subdivision (c) of Section 21065 of the Public Resources Code and is therefore subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and shall be reviewed pursuant to the time limits established in Section 21100.2 of the Public Resources Code.

(b) The Natural Resources Agency shall serve as the lead agency for the environmental review of any project proposed pursuant to this chapter.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6605. Construction of chapter

(a) Nothing in this chapter is intended, and it shall not be construed, to limit or affect the authority or duties of any state or local agency, including, but not limited to, the commission, the council, and the California Coastal Commission.

(b) Nothing in this chapter shall be construed to do any of the following:

(1) Relieve the applicant or prior owner or operator of an offshore oil structure from any continuing liability under any of the following, if the liability is associated with seepage or release of oil from an offshore oil structure that was decommissioned pursuant to an order of, or any action taken by, and in accordance with, any applicable rule or regulation of, any federal or state agency:

(A) Any state statute or regulation regarding liability for the spilling of oil.

(B) The federal Oil Pollution Act of 1990 (33 U.S.C. Sec. 2701 et seq.).

(C) Any other provision of law.

(2) Establish any new liability on the part of the state.

(3) Require any agency with jurisdiction to approve the partial removal of an offshore oil structure.

(4) Promote, encourage, or facilitate offshore oil exploration, development, and production within California's open coastal waters.

(5) Require the United States Department of the Interior or the commission to modify, amend, or alter an existing oil and gas lease to approve partial removal of an offshore oil structure.

(6) Alter any existing law or applicable rule or regulation of any federal or state agency that establishes liability for damages arising with respect to artificial reefs or reef materials, including, but not limited to, components of decommissioned oil structures.

(7) Alter any existing law or policy that protects natural reefs.

(8) Approve any particular method of abandonment.

(c) Any partial removal of an offshore oil structure pursuant to this chapter shall not be used or counted as mitigation for any environmental impacts or natural resource damages.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

ARTICLE 2. PARTIAL REMOVAL OF OFFSHORE OIL STRUCTURES

§ 6610. Approval to partially remove structure; Design of application process; Notice of receipt of application

(a) An owner or operator, or other party responsible for decommissioning, of an

offshore oil structure may apply to the department for approval to partially remove the structure pursuant to the requirements of this chapter.

(b) The department shall design and make available to potential applicants an application process that will facilitate review of the application by the department in a timely manner, consistent with Section 6604.

(c) Upon receipt of an application pursuant to this section, the department shall transmit a copy of the application to the council, the commission, and the endowment, which shall constitute notice to these agencies.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6611. Contents of application for partial removal; Management plan; Final determinations

(a) The application for partial removal shall include, at a minimum, all of the following:

(1) The applicant's plan and schedule for partial removal of the offshore oil structure, including removal of any portion of the structure as appropriate to maintain navigational safety.

(2) A determination of the estimated cost of partial removal and the estimated cost of full removal.

(3) A determination of the environmental impacts and benefits to the marine environment from partial removal and full removal of the structure.

(4) Identification of all permits, leases, and approvals required by any governmental agency, including a permit issued by the United States Army Corps of Engineers if required for offshore oil structures, and a lease issued by the commission if the proposed project involves state tidelands and submerged lands, and a proposed schedule for the applicant or the state to receive those permits, leases, and approvals.

(b) The department may require the applicant to submit a management plan for the structure following partial removal, including maintenance in a manner consistent with navigational safety, enforcement, and monitoring.

(c) The information submitted pursuant to subdivisions (a) and (b) shall be used by the department for advisory purposes only. Final determinations regarding the partial removal and management of the offshore oil structure, net benefit to the marine environment from partial removal, and cost savings from partial removal shall be made solely by the department, council, and commission, as specified in this chapter, based on their independent review and judgment.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6612. Verification of application; Surety bonds; Required activities; Funding; Payment of startup costs; Environmental review

(a) Upon receipt of an application to partially remove an offshore oil structure pursuant to this chapter, the department shall determine whether the application is complete and includes all information needed by the department.

(b)(1) Upon a determination that the application is complete, the applicant shall provide surety bonds executed by an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms of financial assurances, determined by the department to be available and adequate, to ensure that the applicant will provide sufficient funds to the department, council, commission, and conservancy to carry out all required activities pursuant to this article, including all of the following:

(A) Environmental review of the proposed project pursuant to Section 6604.

(B) A determination of net environmental benefit pursuant to Section 6613.

(C) A determination of cost savings pursuant to Section 6614.

(D) Preparation of a management plan for the structure pursuant to Section 6615.

(E) Implementation of the management plan and ongoing maintenance of the structure after the department takes title pursuant to Section 6620.

(F) Development of an advisory spending plan pursuant to Section 6621.

(G) Other activities undertaken to meet the requirements of this article, including the costs of reviewing applications for completeness, and reviewing, approving, and permitting the proposed project, which includes the costs of determining whether the project meets the requirements of all applicable laws and regulations and the costs of environmental assessment and review.

(2) The department shall consult with the council, commission, and conservancy in determining appropriate funding for activities to be carried out by those agencies.

(3) The funds provided pursuant to paragraph (1) shall not be considered in the calculation of cost savings pursuant to Section 6614 or the apportionment of cost savings pursuant to Section 6618.

(c) The first person to file an application on and after January 1, 2011, to partially remove an offshore oil structure pursuant to this chapter, shall pay, in addition to all costs identified under subdivision (b), the startup costs incurred by the department or the commission to implement this chapter, including the costs to develop and adopt regulations pursuant to this chapter. This payment of startup costs shall be reimbursed by the department as provided in paragraph (3) of subdivision (c) of Section 6618.

(d) As soon as feasible after reaching the agreement pursuant to subdivision (b), the lead agency shall begin the environmental review of the proposed project as required pursuant to Section 6604.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011. Amended Stats 2011 ch 296 § 103 (AB 1023), effective January 1, 2012.

§ 6613. Net environmental benefit to marine environment; Criteria; Duties of council

(a) The council shall determine whether the partial removal of an offshore oil structure pursuant to this chapter provides a net benefit to the marine environment compared to the full removal of the structure.

(b) As a necessary prerequisite to determining net environmental benefit as required in subdivision (a), the council shall, upon receipt of its initial application from the department pursuant to Section 6610, establish appropriate criteria for evaluating the net environmental benefit of full removal and partial removal of offshore oil structures.

(1) The criteria shall include, but are not limited to, the depth of the partially removed structure in relation to its value as habitat and the location of the structure, including its proximity to other reefs, both natural and artificial.

(2) The criteria shall not include any consideration of the funds to be generated by the partial removal of the structure.

(3) In determining the criteria, the council shall consult with appropriate entities, including, but not limited to, the department, the commission, the California Coastal Commission, and the California Ocean Science Trust.

(4) The council shall establish the criteria in time to use them in making its initial determination of net environmental benefit pursuant to this section.

(c) Upon certification of environmental documents pursuant to the California Environmental Quality Act, the council shall, based on the criteria developed pursuant to subdivision (b) and other relevant information, determine whether partial removal of the structure would provide a net benefit to the marine environment compared to full removal of the structure. In making the determination, the council shall, at a minimum, take into account the following:

(1) The contribution of the proposed structure to protection and productivity of fish and other marine life.

(2) Any adverse impacts to biological resources or water quality, or any other marine environmental impacts, from the full removal of the facility that would be avoided by partial removal as proposed in the application.

(3) Any adverse impacts to biological resources or water quality, or any other marine environmental impacts, from partial removal of the structure as proposed in the application.

(4) Any benefits to the marine environment that would result from the full removal of the structure or from partial removal as proposed in the application.

(5) Any identified management requirements and restrictions of the partially removed structure, including, but not limited to, restrictions on fishing or other activities at the site.

(d) Benefits resulting from the contribution of cost savings to the endowment shall not be considered in the determination of net environmental benefit.

(e) The council may contract or enter into a memorandum of understanding with any other appropriate governmental or nongovernmental entity to assist in its determination of net environmental benefit.

(f) The determination made pursuant to this section and submitted to the department by the council shall constitute the final determination and shall not be revised except by the council.

(g) The council shall take all feasible steps to complete its determination in a timely manner that accommodates the department's schedule for consideration of the application.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6614. Determination of cost savings

(a) Upon certification of the appropriate environmental documents by the lead agency, the commission shall determine, or cause to be determined, the cost savings that will result from the partial removal of an offshore oil structure as proposed in the application compared to full removal of the structure.

(b) The commission shall ensure that any cost savings are accurately and reasonably calculated. The commission may contract or enter into a memorandum of understanding with any other appropriate governmental agency or other party, including an independent expert, to ensure that cost savings are accurately and reasonably calculated.

(c) The commission shall consider any estimates of cost savings made by any governmental agency, including, but not limited to, the Internal Revenue Service, the Franchise Tax Board, and the United States Department of the Interior. The commission shall include in its determination a written explanation, which shall be available to the public, of the differences, and the reasons for the differences, between the commission's determination of cost savings and any other estimates of cost savings the commission considered.

(d) The applicant shall provide all necessary documentation, as determined by the commission, to allow the commission to calculate the amount of cost savings. Failure to provide information requested by the commission in a timely manner may result in rejection of the application.

(e) The determination made pursuant to this section and submitted to the department by the commission shall constitute the final determination and shall not be revised except by the commission.

(f) The commission shall take all feasible steps to complete its determination in a timely manner that accommodates the department's schedule for consideration of the application.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6615. Actions by department prior to granting conditional approval of an application for partial removal

Prior to granting conditional approval of an application for partial removal of an offshore oil structure, the department shall do all of the following:

(a) Prepare a plan to manage the offshore oil structure after its partial removal. The plan shall include measures to manage fishery and marine life resources at and around the structure in a manner that will ensure that the net benefits to the marine environment identified pursuant to Section 6613 are maintained or enhanced. Consistent with state and federal law, management measures may include a buffer zone in which fishing or removal of marine life is restricted or prohibited.

(b) Provide an opportunity for public comment on the application pursuant to the California Environmental Quality Act.

(c) Hold a public hearing in the county nearest to the location of the offshore oil structure that is the subject of the application.

HISTORY:

Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6616. Granting conditional approval of application; Criteria

The department may grant conditional approval of an application for partial removal of an offshore oil structure only if all of the following criteria are satisfied:

(a) The partial removal of the offshore oil structure and the planning, development, maintenance, and operation of the structure would be consistent with all applicable state, federal, and international laws, including, but not limited to, all of the following:

(1) The federal Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.).

(2) The federal National Fishing Enhancement Act of 1984 (33 U.S.C. Sec. 2101 et seq.).

(3) The federal Coastal Zone Management Act (16 U.S.C. Sec. 1451 et seq.).

(4) The California Coastal Management Program.

(5) The Marine Life Management Act (Part 1.7 (commencing with Section 7050)).

(6) The Marine Life Protection Act (Chapter 10.5 (commencing with Section 2850) of Division 3).

(7) State and federal water quality laws.

(8) Navigational safety laws.

(b) The partial removal of the offshore oil structure provides a net benefit to the marine environment compared to full removal of the structure, as determined pursuant to Section 6613.

(c) The cost savings that would result from the conversion of the offshore oil platform or production facility have been determined pursuant to Section 6614.

(d) The applicant has provided sufficient funds consistent with subdivision (b) of Section 6612.

(e) The department and the applicant have entered into a contractual agreement whereby the applicant will provide sufficient funds for overall management of the structure by the department, including, but not limited to, ongoing management, operations, maintenance, monitoring, and enforcement as these relate to the structure.

(f) The department has entered into an indemnification agreement with the applicant that indemnifies the state and the department, to the extent permitted by law, against any and all liability that may result, including, but not limited to, active negligence, and including defending the state and the department against any claims against the state for any actions the state undertakes pursuant to this article. The agreement may be in the form of an insurance policy, cash settlement, or other mechanism as determined by the department. In adopting indemnification requirements for the agreement, the department shall ensure that the state can defend itself

against any liability claims against the state for any actions the state undertakes pursuant to this article and pay any resulting judgments. The department shall consult with and, as necessary, use the resources of the office of the Attorney General in preparing and entering into the indemnification agreement.

(g) The applicant has applied for and received all required permits, leases, and approvals issued by any governmental agency, including, but not limited to, a lease issued by the commission if the proposed project involves state tidelands and submerged lands. For structures located in federal waters, all of the following requirements shall be met:

(1) The department and the owner or operator of the structure reach an agreement providing for the department to take title to the platform or facility as provided in Section 6620.

(2) The department acquires the permit issued by the United States Army Corps of Engineers.

(3) The partial removal of the structure is approved by the Bureau of Ocean Energy Management, Regulation and Enforcement of the United States Department of the Interior.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6617. Granting of conditional approval to application for partial removal subject to findings of compliance with the requirements of specified sections

Upon a finding that all the requirements of Sections 6615 and 6616 have been met, the department shall grant conditional approval to an application for partial removal of an offshore oil structure.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6618. Apportionment and transmission of cost savings

(a) The cost savings from the partial removal of an offshore oil structure, as determined pursuant to Section 6614, shall be apportioned and transmitted as described in this section.

(b) Upon receipt of conditional approval pursuant to Section 6617, the owner or operator of the structure shall apportion and directly transmit a portion of the total amount of the cost savings to the entities in subdivision (c) as follows:

(1) Fifty-five percent, if transmitted before January 1, 2017.

(2) Sixty-five percent, if transmitted on or after January 1, 2017, and before January 1, 2023.

(3) Eighty percent, if transmitted on or after January 1, 2023.

(c) Of the total amount of the cost savings to be transmitted pursuant to subdivision (b), the applicant shall directly transmit the following amounts to the following entities:

(1) Eighty-five percent shall be deposited into the California Endowment for Marine Preservation established pursuant to Division 37 (commencing with Section 71500) of the Public Resources Code.

(2) Ten percent shall be deposited into the General Fund.

(3) Two percent shall be deposited into the Fish and Game Preservation Fund for expenditure, upon appropriation by the Legislature, by the department to pay any costs imposed by this chapter that are not otherwise provided for pursuant to subdivision (b) of Section 6612 and subdivision (e) of Section 6616. Any moneys remaining in the Fish and Game Preservation Fund, after providing for these costs, shall be used, upon appropriation by the Legislature, first to reimburse the payment of the startup costs described in subdivision (c) of Section 6612, and thereafter to

conserve, protect, restore, and enhance the coastal and marine resources of the state consistent with the mission of the department.

(4) Two percent shall be deposited into the Coastal Act Services Fund, established pursuant to Section 30620.1 of the Public Resources Code, and shall be allocated to support state agency work involving research, planning, and regulatory review associated with the application and enforcement of coastal management policies in state and federal waters pursuant to state and federal quasi-judicial authority over offshore oil and gas development.

(5) One percent shall be deposited with the board of supervisors of the county immediately adjacent to the location of the facility prior to its decommissioning. The amount paid to the county shall be managed pursuant to paragraph (1) of subdivision (d) of Section 6817 of the Public Resources Code.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6619. Final approval of application conditioned to transmission of full amount of cost savings

Upon a determination by the department that the full amount of cost savings has been transmitted pursuant to Section 6618, the department shall grant final approval of the application for partial removal of an offshore oil structure.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6620. Title to decommissioned offshore oil structure; Responsibility for management of structure; Requirements

The department shall not take title to a decommissioned offshore oil structure in open coastal waters or take responsibility for management of the structure pursuant to this article until decommissioning and partial removal of the structure have been completed and both of the following requirements are met:

(a) The partial removal of the structure has been granted final approval by the department.

(b) The state is indemnified, as required in subdivision (f) of Section 6616, from any liability that may result from approving the partial removal of an offshore oil structure or any liability that may result from the ownership of the structure.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

§ 6621. Creation of advisory spending plan for cost savings deposited in endowment; Duties of conservancy

Upon the department's final approval of the first application for partial removal of an offshore oil structure pursuant to Section 6619, the conservancy shall create an advisory spending plan for cost savings deposited in the endowment, to provide the Board of Directors of the California Endowment for Marine Preservation with guidance on spending those funds. The conservancy shall update the spending plan no less than once every five years, except the conservancy shall also update the spending plan when each additional application for partial removal is approved. The conservancy shall submit a copy of the spending plan and all updates to the plan to the Legislature, in accordance with Section 9795 of the Government Code, and to the Board of Directors of the California Endowment for Marine Preservation.

HISTORY:
Added Stats 2010 ch 687 § 1 (AB 2503), effective January 1, 2011.

CHAPTER 6. KELP AND OTHER AQUATIC PLANTS

ARTICLE 1. GENERAL PROVISIONS

§ 6650. Harvesting license required

Every person engaged in harvesting kelp or other aquatic plants for profit in the waters of this State shall have a license for that purpose.

HISTORY:
Enacted 1957.

§ 6651. Issuance of license; Exemption

(a) A license granting the privilege to harvest kelp or other aquatic plants shall be issued upon application and the payment of a fee of one hundred dollars ($100) to the department. The license shall be valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder thereof.

(b) The commission shall adjust the amount of the fees specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

(c) This chapter does not apply to aquatic plants grown on private land or on state water bottoms leased pursuant to Division 12 (commencing with Section 15000).

HISTORY:
Added Stats 1990 ch 1703 § 4 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 3 (SB 1565), effective September 14, 1992; Stats 1994 ch 849 § 30 (AB 2113); Stats 2012 ch 559 § 22 (AB 2402), effective January 1, 2013.

§ 6652. Weighing of kelp; Record of weights

Every person engaged in harvesting kelp shall determine the weight by any method, including the displacement method, approved by the department of all wet kelp immediately after it is delivered to the licensee's place of business or elsewhere, and the weight shall be entered in a book to be kept by the licensee. The book shall be open at all times to the inspection of the department.

Every person engaged in harvesting kelp shall, on or before 10 days after each month of the term of the license, render a statement of the weight of all wet kelp harvested during the preceding month.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 212 § 1.

§ 6653. Regulations as to harvesting

The commission may make such regulations as may be necessary to insure the proper harvesting of kelp and other aquatic plants.

HISTORY:
Enacted 1957.

§ 6653.5. Permit for drying of agar-bearing marine plants

(a) The department may issue permits for the drying of agar-bearing marine plants subject to the regulations the commission may prescribe to provide for proper utilization of that resource.

(b) No person shall dry agar-bearing marine plants for profit unless the person has a permit issued under this section.

HISTORY:
Added Stats 1984 ch 242 § 1.

§ 6654. Closing of kelp bed; Notice

If, at any time, the commission finds that the harvesting of kelp will tend to destroy or impair any kelp bed or beds, or parts thereof, or tend to impair or destroy the supply of any food for fish, the department shall serve on every person licensed to harvest kelp a written notice that the kelp bed or beds, or parts thereof, shall be closed to the harvesting of kelp for a period not to exceed one year.

HISTORY:
Enacted 1957.

§ 6655. Hearing on demand and proceedings; Closure if no demand made

Within 10 days after the service of such a notice, the person upon whom notice is served may demand a hearing upon the necessity for the closing of the kelp bed or beds, or parts thereof. Upon such demand for a hearing, the commission shall fix a time and place for the taking of evidence upon the necessity for the closing, which time shall be not less than 10 days nor more than 30 days from the date of such demand. The department shall serve written notice of the time and place of the hearing upon the person demanding the hearing, at least 10 days before the day set for the hearing. If no demand is made for a hearing within the time prescribed the kelp bed or beds, or parts thereof, shall remain closed to the harvesting of kelp for the time mentioned in the order.

HISTORY:
Enacted 1957.

§ 6656. Right of revocation and prohibition of reissuance of license; Grounds; Proceedings

The commission may revoke and prohibit reissuance for a period of not more than one year, the license of:

(a) Any person who harvests any kelp from a bed which is closed, between the time of service of notice upon him or her of the closing of the bed and the decision of the commission upon a hearing as to the necessity for the closing.

(b) Any person who violates any law or regulation of the commission relating to kelp.

The proceedings shall be conducted at one of the commission's regularly scheduled meetings.

HISTORY:
Enacted 1957. Amended Stats 1986 ch 1244 § 6.

§ 6657. Permits to harvest kelp for scientific purposes

The commission may, subject to such regulations as it may deem proper, grant permits to any department of the United States Government or to any scientific or any educational institution, to harvest kelp at any time for scientific or experimental purposes without the payment of the kelp license or privilege tax imposed by this chapter.

HISTORY:
Enacted 1957.

ARTICLE 2. ROYALTIES

§ 6680. Amount of royalty

In addition to the license fee provided for in this chapter, every person harvesting kelp or other aquatic plants shall pay a royalty, as the commission may prescribe, of not less than five cents ($0.05) per ton of wet kelp or wet aquatic plants harvested.

Any revenues derived from such royalties shall not be available for expenditures until appropriated.

HISTORY:
Enacted 1957. Amended Stats 1967 ch 1348 § 2.

ARTICLE 3. EXCLUSIVE LEASES

§ 6700. Lease of exclusive harvesting privilege

The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed, or part thereof, if the commission determines that the lease is in the public interest. The commission shall describe the kelp beds of the state and adopt regulations for the leasing of the beds.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6701. Application for lease

Persons wishing to lease the exclusive privilege to harvest kelp shall submit a written application to the commission. An application shall include all of the following, and any other information the commission may prescribe:

(a) The number of the kelp bed or beds to be leased.

(b) The designated number of square miles in each bed.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6701.5. Deposit to accompany application; Refund

A deposit of not less than forty dollars ($40) for each square mile, or fraction thereof, of the total area of the kelp bed or beds which are designated in the application shall be submitted with the application. The deposit shall be refunded to the person making the application unless a lease is executed.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6702. Publication of notice; Bids; Award of lease

(a) If the commission finds that the kelp beds included in the application are available for lease and that the lease would be in the public interest, the commission shall publish a notice that the area is being considered for leasing.

(b) The commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located, describing the area to be leased and the type of operation to be conducted. Except as provided in this subdivision, the publication shall be made pursuant to Section 6066 of the Government Code.

(c) If the commission receives more than one application for the lease of a kelp bed or beds, it shall advertise for bids on the area being considered for leasing. The commission shall award the lease of that area to the highest qualified bidder.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6703. Term of lease; Area limitation

The initial term of a lease for the exclusive privilege of harvesting kelp shall not exceed 20 years. No lessee shall have an exclusive lease, excluding subleases, to an area in

excess of 25 square miles or 50 percent of the total area of the kelp resource as shown on the maps of the resource prepared by the commission, whichever is greater.

HISTORY:
Added Stats 1984 ch 1373 § 2. Amended Stats 1988 ch 295 § 1.

§ 6704. Renewal of lease; Duration of term

(a) Each kelp bed lease entered into or renewed, on and after January 1, 1985, shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If the commission determines that the lessee has complied with the terms of the lease, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee.

(b) If terms for a renewal of the lease are not agreed upon, or the commission determines that the lessee has not complied with the terms of the lease, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(c) If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(d) The duration of the term of any renewal of a lease shall not exceed 20 years.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6705. Prior right to renew leases in effect on specified date

Notwithstanding Section 6704, with respect to any kelp lease in effect on January 1, 1983, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If the lessee does not renew the lease, or if terms are not agreed upon, the commission shall advertise for bids on the individual kelp beds comprising the lease. The term of any renewal of a lease shall not exceed 20 years. Any lease in effect on January 1, 1985, may be performed pursuant to its terms, notwithstanding this article, but any renewal of that lease is subject to this article.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6706. New Leases; Terms

Notwithstanding Sections 6703 and 6704, at any time during the term of a lease, the commission and the lessee may negotiate and enter into a new lease on terms agreed upon between the two parties, if the commission determines that such a new lease would be in the best interest of the state. The initial term of the new lease shall not exceed 20 years.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6707. Royalty payments; Forfeiture of lease

Each lease entered into, or renewed, on or after January 1, 1985, shall require, in addition to the license fee required by this chapter, a payment by the lessee or any sublessee of not less than the minimum royalty established under Article 2 (commencing with Section 6680), for all kelp harvested from the lease area, and shall provide for an annual advance payment of not less than forty dollars ($40) per square mile per year for the kelp bed leased, to be credited against the amount payable by the lessee, or sublessee, as the case may be, for each ton of kelp harvested during the ensuing year. The lease shall, in addition, include provisions for forfeiture of the lease if the annual payment is not made in advance.

HISTORY:
Added Stats 1984 ch 1373 § 2. Amended Stats 1988 ch 295 § 2.

§ 6708. Assignments and subleases

A lease may not be assigned, in whole or in part, by the lessee, either voluntarily or by operation of law, and no subleases or other rights may be granted thereunder by the lessee without the prior approval of the commission, subject to the conditions that the commission prescribes. The lease shall be forfeited in the event of a violation of this section. Each lease shall contain a statement of the contents of this section.

HISTORY:
Added Stats 1984 ch 1373 § 2. Amended Stats 1988 ch 295 § 3.

§ 6709. Approval of lease or renewal

A lease, or any renewal thereof, shall be submitted to, and approved by, the Department of General Services.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6710. Notice of exclusive privilege to be filed for record

When an exclusive privilege to harvest kelp has been granted by lease by the commission, the commission shall furnish a true copy thereof to the department. The department shall file a notice for record in the recorder's office of the county in which the kelp bed or beds, or part thereof, are located, setting forth the name of the person having the privilege, the description of the kelp bed or beds, or part thereof, and the time for which the privilege has been granted. The notice required to be filed for record under this section may be a copy of the executed lease.

HISTORY:
Added Stats 1984 ch 1373 § 2.

§ 6711. Provision of information to State Lands Commission

The department shall inform the State Lands Commission of all kelp bed leases executed pursuant to this chapter, and shall furnish the State Lands Commission with the information concerning these leases that it may require.

HISTORY:
Added Stats 1984 ch 1373 § 2.

ARTICLE 4. NONCOMMERCIAL USE OF KELP

§ 6750. Regulation by commission

The commission may regulate the taking, collecting, harvesting, gathering, or possession of kelp for purposes other than profit.

HISTORY:
Added Stats 1972 ch 468 § 1.

§ 6751. Inapplicable code provisions

The provisions of Article 1 (commencing with Section 6650), Article 2 (commencing with Section 6680), and Article 3 (commencing with Section 6700) of this chapter do not apply to the taking, collecting, harvesting, gathering, or possession of kelp under this article.

HISTORY:
Added Stats 1972 ch 468 § 1.

CHAPTER 7. AMPHIBIA

ARTICLE 1. FROGS

§ 6850. "Frog"

As used in this article, "frog" means all species of frog.

HISTORY:
Enacted 1957. Amended Stats 1975 ch 697 § 1.

§ 6851. Prohibited taking of frogs for commercial purposes

Except as otherwise provided in this code or in regulations adopted by the commission, it is unlawful to take or possess any frog for commercial purposes.

This article does not apply to frogs grown pursuant to Division 12 (commencing with Section 15000).

HISTORY:
Enacted 1957. Amended Stats 1975 ch 697 § 2; Stats 1982 ch 1486 § 16.5.

§ 6852. Authorized possession by person conducting business of selling frogs

Any person who conducts a place of business where frogs are sold to the public for food, or who takes or possesses frogs for sale to, or for use by, educational or scientific institutions for scientific purposes, may possess only at the place of business any number of frogs which have been legally obtained pursuant to this code or regulations adopted by the commission.

HISTORY:
Enacted 1957. Amended Stats 1975 ch 697 § 3; Stats 1982 ch 1486 § 17.

§ 6854. Prohibited taking of frogs with firearms

It is unlawful to take frogs by the use of firearms of any caliber or type.

HISTORY:
Enacted 1957. Amended Stats 1975 ch 697 § 5.

§ 6855. Permit to take and dispose of frogs constituting nuisance

The department may issue a permit to take and dispose of frogs under such limitations as the commission may prescribe, when, in the judgment of the department, such frogs are polluting the water supply in any area, or otherwise constitute a nuisance.

HISTORY:
Enacted 1957.

ARTICLE 2. FROG-JUMPING CONTESTS

§ 6880. "Frog-jumping contests"

As used in this article, "frog-jumping contest" means a contest generally and popularly known as a frog-jumping contest which is open to the public and is advertised or announced in a newspaper.

HISTORY:
Enacted 1957.

§ 6881. Governing article

Frogs to be used in frog-jumping contests shall be governed by this article only. Frogs to be so used may be taken at any time and without a license or permit.

HISTORY:
Enacted 1957.

§ 6882. Presumption that harmful taking is not for contest

If the means used for taking such frogs can, as normally used, seriously injure the frog, it shall be conclusively presumed the taking is not for the purposes of a frog-jumping contest.

HISTORY:
Enacted 1957.

§ 6883. Disposition of frogs killed in contest

Any person may possess any number of live frogs to use in frog-jumping contests, but if such a frog dies or is killed, it must be destroyed as soon as possible, and may not be eaten or otherwise used for any purpose.

HISTORY:
Enacted 1957.

§ 6884. Exception

A frog which is not kept in a manner which is reasonable to preserve its life is not within the coverage of this article.

HISTORY:
Enacted 1957.

§ 6885. Modification of article

The commission has no power to modify the provisions of this article by any order, rule, or regulation.

HISTORY:
Enacted 1957.

ARTICLE 3. COMMERCIAL USE OF AMPHIBIANS EXCEPT FROGS

§ 6895. "Native amphibians"

"Native amphibians" as used in this article means salamanders, toads, or any other member of the class amphibia native to California.

HISTORY:
Added Stats 1974 ch 605 § 9.

§ 6896. Rules

Except as otherwise provided in this chapter, the commission shall establish rules for the commercial take, sale, transport, export, or import of native amphibians.

HISTORY:
Added Stats 1974 ch 605 § 9.

CHAPTER 8. SALMON, STEELHEAD TROUT, AND ANADROMOUS FISHERIES PROGRAM ACT

ARTICLE 1. CITATION AND LEGISLATIVE FINDINGS

§ 6900. Citation of chapter

This chapter shall be known and may be cited as the Salmon, Steelhead Trout, and Anadromous Fisheries Program Act.

HISTORY:
Added Stats 1988 ch 1545 § 2.

§ 6901. Legislative findings

The Legislature, for purposes of this chapter, finds as follows:

(a) According to the department, the natural production of salmon and steelhead trout in California has declined to approximately 1,000,000 adult chinook or king salmon, 100,000 coho or silver salmon, and 150,000 steelhead trout.

(b) The naturally spawning salmon and steelhead trout resources of the state have declined dramatically within the past four decades, primarily as a result of lost stream habitat on many streams in the state.

(c) Much of the loss of salmon and steelhead trout and anadromous fish in the state has occurred in the central valley.

(d) Protection of, and an increase in, the naturally spawning salmon and steelhead trout resources of the state would provide a valuable public resource to the residents, a large statewide economic benefit, and would, in addition, provide employment opportunities not otherwise available to the citizens of this state, particularly in rural areas of present underemployment.

(e) Proper salmon and steelhead trout resource management requires maintaining adequate levels of natural, as compared to hatchery, spawning and rearing.

(f) Reliance upon hatchery production of salmon and steelhead trout in California is at or near the maximum percentage that it should occupy in the mix of natural and artificial hatchery production in the state. Hatchery production may be an appropriate means of protecting and increasing salmon and steelhead in specific situations; however, when both are feasible alternatives, preference shall be given to natural production.

(g) The protection of, and increase in, the naturally spawning salmon and steelhead trout of the state must be accomplished primarily through the improvement of stream habitat.

(h) Funds provided by the Legislature since 1978 to further the protection and increase of the fisheries of the state have been administered by the department in a successful program of contracts with local government and nonprofit agencies and private groups in ways that have attracted substantial citizen effort.

(i) The department's contract program has demonstrated that California has a large and enthusiastic corps of citizens that are eager to further the restoration of the stream and fishery resources of this state and that are willing to provide significant amounts of time and labor to that purpose.

(j) There is need for a comprehensive salmon, steelhead trout, and anadromous fisheries plan, program, and state government organization to guide the state's efforts to protect and increase the naturally spawning salmon, steelhead trout, and anadromous fishery resources of the state.

HISTORY:
Added Stats 1988 ch 1545 § 2. Amended Stats 2015 ch 154 § 82 (AB 1527), effective January 1, 2016.

§ 6902. Legislative declarations

The Legislature, for purposes of this chapter, declares as follows:

(a) It is the policy of the state to significantly increase the natural production of salmon and steelhead trout by the end of this century. The department shall develop a plan and a program that strives to double the current natural production of salmon and steelhead trout resources.

(b) It is the policy of the state to recognize and encourage the participation of the public in privately and publicly funded mitigation, restoration, and enhancement programs in order to protect and increase naturally spawning salmon and steelhead trout resources.

(c) It is the policy of the state that existing natural salmon and steelhead trout habitat shall not be diminished further without offsetting the impacts of the lost habitat.

HISTORY:
Added Stats 1988 ch 1545 § 2.

§ 6903. Policy of state regarding salmon release and return operations

It is the policy of the state and the department to encourage nonprofit salmon release and return operations subject to this code operated by, or on behalf of, licensed commercial salmon fishermen for the purpose of enhancing California's salmon populations and increasing the salmon harvest by commercial and recreational fishermen. The department shall, to the extent that funds and personnel are available, cooperate with fishing organizations in the siting and establishment of those operations to ensure the protection of natural spawning stocks of native salmon. The organizations conducting the operations may receive salmon eggs and juvenile salmon for the purposes of the operation, and, where appropriate, shall have priority to receive salmon eggs and juvenile salmon for those purposes after the needs of habitat mitigation efforts, and state hatcheries are met.

HISTORY:
Added Stats 1992 ch 984 § 1 (AB 751).

§ 6903.5. Encouragement of other specified nonprofit activities

The department shall encourage other nonprofit hatcheries and nonprofit artificial propagation operations, operated by, or on behalf of, licensed fishermen, for the purpose of rebuilding or enhancing marine fish populations, including, but not limited to, those for Dungeness crab, sea urchin, and California halibut, consistent with the protection of these species in the wild, in order to provide sustainable marine fish populations for harvest by commercial and recreational fishermen. The department shall, to the extent funds and personnel are available, cooperate with these nonprofit hatcheries and nonprofit artificial propagation operations in determining the feasibility, siting, and establishment of those activities and sharing technical information to ensure the protection of the marine environment.

HISTORY:
Added Stats 1992 ch 984 § 2 (AB 751).

ARTICLE 2. DEFINITIONS

§ 6910. Construction of chapter

Unless the context clearly requires a different meaning, the definitions in this article govern the construction of this chapter.

HISTORY:
Added Stats 1988 ch 1545 § 2.

§ 6911. "Production"

"Production" means the survival of fish to adulthood as measured by the abundance of the recreational and commercial catch together with the return of fish to the state's spawning streams.

HISTORY:
Added Stats 1988 ch 1545 § 2.

§ 6912. "Program"

"Program" means the program for protecting and increasing the naturally spawning

salmon and steelhead trout of the state provided for in Article 3 (commencing with Section 6920).

HISTORY:
Added Stats 1988 ch 1545 § 2.

ARTICLE 3. SALMON, STEELHEAD TROUT, AND ANADROMOUS FISHERIES PROGRAM

§ 6920. Preparation and maintenance of program; Consultation with public agencies

(a) The department shall, with the advice of the Advisory Committee on Salmon and Steelhead Trout and the Commercial Salmon Trollers Advisory Committee, prepare and maintain a detailed and comprehensive program for the protection and increase of salmon, steelhead trout, and anadromous fisheries.

(b) The department shall consult with every public agency whose policies or decisions may affect the goals of this program to determine if there are feasible means for those public agencies to help the department achieve the goals of this program.

HISTORY:
Added Stats 1988 ch 1545 § 2.

§ 6921. Identification of measures to implement policies

The program shall identify the measures the department will carry out to achieve the policies set forth in Section 6902.

HISTORY:
Added Stats 1988 ch 1545 § 2.

§ 6922. Elements of program

The program shall include, but is not limited to, all of the following elements:

(a) Identification of streams where the natural production of salmon and steelhead trout can be increased primarily through the improvement of stream and streambank conditions without effect on land ownership, land use practices, or changes in streamflow operations.

(b) Identification of streams where the natural production of salmon and steelhead trout can be increased only through the improvement of land use practices or changes in streamflow operations.

(c) Identification of streams where the protection of, and increase in, salmon and steelhead trout resources require, as a result of significant prior loss of stream habitat, the construction of artificial propagation facilities.

(d) A program element for evaluating the effectiveness of the program.

(e) Recommendations for an organizational structure, staffing, budgeting, long-term sources of funding, changes in state statutes and regulations and federal and local government policy and such other administrative and legislative actions as the department finds to be necessary to accomplish the purposes of this chapter.

(f) Identification of measures to protect and increase the production of other anadromous fisheries consistent with policies set forth in Section 6902.

(g) Identification of alternatives to, or mitigation of, manmade factors which cause the loss of juvenile and adult fish in California's stream system.

HISTORY:
Added Stats 1988 ch 1545 § 2.

§ 6923. Measures ineligible for funding

Measures which are the responsibility of other agencies or persons, such as the repair

or replacement of dysfunctional fish screens, are not eligible for funding under the program.

HISTORY:
Added Stats 1988 ch 1545 § 2.

§ 6924. Determination of initial elements of program; Report to Legislature and Advisory Committee

The department shall determine the initial elements of the program and transmit a report describing those elements to the Legislature and the Advisory Committee on Salmon and Steelhead Trout within six months of the effective date of this chapter.

HISTORY:
Added Stats 1988 ch 1545 § 2.

ARTICLE 4. EFFECT OF REDUCED WATER FLOWS

§ 6930. Study of effect of reduced waterflows on salmon and steelhead trout populations

(a) Subject to the availability of funds for the purposes of this section, the department shall contract with the University of California to conduct a study of the effects that reduced waterflows at the mouths and upstream estuaries of rivers selected under subdivision (b) would have on existing salmon and steelhead populations and on existing or prospective salmon and steelhead population restoration or reintroduction programs.

(b) The department shall select the rivers to be included in the study and shall limit its selection to rivers that are within the combined river systems described in paragraph (7) of subdivision (a) of Section 1215.5 of the Water Code, and that are the subject of an application that has been filed with the State Water Resources Control Board to appropriate water in an amount equal to more than three cubic feet per second or more than 500 acre feet per annum of storage, involving the delivery of water by means other than a pipeline, natural watercourse, well, or aqueduct to any place of use that is outside of the protected area described in paragraph (7) of subdivision (a) of Section 1215.5 of the Water Code.

(c) The findings of the study conducted under this section shall be a factor in any decision of the State Water Resources Control Board to approve or deny an application to appropriate water from any river selected under this section. If the application involves the delivery of water, by means other than a pipeline, natural watercourse, well, or aqueduct, to any place of use that is outside of the protected area described in paragraph (7) of subdivision (a) of Section 1215.5 of the Water Code, the board may not approve that application until after the study has been completed.

(d) Any study conducted pursuant to this section shall conclude within five years of the start of that study.

(e) This section applies to the University of California only if the Regents of the University of California, by resolution, make it applicable to the university.

HISTORY:
Added Stats 2002 ch 985 § 1 (AB 858). Amended Stats 2003 ch 681 § 1 (AB 635).

CHAPTER 9. COHO SALMON HABITAT ENHANCEMENT LEADING TO PRESERVATION (REPEALED)

§ 6950. Citation of chapter [Repealed]

HISTORY:
Added Stats 2012 ch 541 § 2 (AB 1961), effective January 1, 2013, repealed January 1, 2018. Former Chapter 9, entitled "Interagency Aquatic Invasive Species Council", consisting of §§ 6950–6957, was added Stats 2002 ch 599 § 1, and repealed Stats 2005 ch 77 § 10.

§ 6952. Definitions [Repealed]

HISTORY:
Added Stats 2012 ch 541 § 2 (AB 1961), effective January 1, 2013, repealed January 1, 2018.

§ 6953. Approval of a coho salmon habitat enhancement; Suspension or revocation [Repealed]

HISTORY:
Added Stats 2012 ch 541 § 2 (AB 1961), effective January 1, 2013, repealed January 1, 2018.

§ 6954. Coho Salmon Recovery Account [Repealed]

HISTORY:
Added Stats 2012 ch 541 § 2 (AB 1961), effective January 1, 2013, repealed January 1, 2018.

§ 6955. Emergency regulations [Repealed]

HISTORY:
Added Stats 2012 ch 541 § 2 (AB 1961), effective January 1, 2013, repealed January 1, 2018.

§ 6956. Repeal of chapter [Repealed]

HISTORY:
Added Stats 2012 ch 541 § 2 (AB 1961), effective January 1, 2013, repealed January 1, 2018.

PART 1.7. CONSERVATION AND MANAGEMENT OF MARINE LIVING RESOURCES

CHAPTER 1. GENERAL POLICIES

§ 7050. Legislative findings and declarations; State policy and objective

(a) The Legislature finds and declares that the Pacific Ocean and its rich marine living resources are of great environmental, economic, aesthetic, recreational, educational, scientific, nutritional, social, and historic importance to the people of California.

(b) It is the policy of the state to ensure the conservation, sustainable use, and, where feasible, restoration of California' s marine living resources for the benefit of all the citizens of the state. The objective of this policy shall be to accomplish all of the following:

(1) Conserve the health and diversity of marine ecosystems and marine living resources.

(2) Allow and encourage only those activities and uses of marine living resources that are sustainable.

(3) Recognize the importance of the aesthetic, educational, scientific, and recreational uses that do not involve the taking of California's marine living resources.

(4) Recognize the importance to the economy and the culture of California of sustainable sport and commercial fisheries and the development of commercial aquaculture consistent with the marine living resource conservation policies of this part.

(5) Support and promote scientific research on marine ecosystems and their components to develop better information on which to base marine living resource management decisions.

(6) Manage marine living resources on the basis of the best available scientific information and other relevant information that the commission or department possesses or receives.

(7) Involve all interested parties, including, but not limited to, individuals from the sport and commercial fishing industries, aquaculture industries, coastal and ocean tourism and recreation industries, marine conservation organizations, local governments, marine scientists, and the public in marine living resource management decisions.

(8) Promote the dissemination of accurate information concerning the condition of, or management of, marine resources and fisheries by seeking out the best available information and making it available to the public through the marine resources management process.

(9) Coordinate and cooperate with adjacent states, as well as with Mexico and Canada, and encourage regional approaches to management of activities and uses that affect marine living resources. Particular attention shall be paid to coordinated approaches to the management of shared fisheries.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7051. Application of policies and regulations

(a) A regulation adopted pursuant to this part shall apply only to ocean waters and bays. Notwithstanding any other provision of this part, nothing contained in this part grants the department or any other agency of the state any regulatory authority not in existence on January 1, 1999, in any river upstream of the mouth of such river, in the Sacramento–San Joaquin Delta or in any other estuary.

(b) The policies in this part shall apply only to fishery management plans and regulations adopted by the commission on or after January 1, 1999. No power is delegated to the commission or the department by this part to regulate fisheries other than the nearshore fishery, the white sea bass fishery, emerging fisheries, and fisheries for which the commission or department had regulatory authority prior to January 1, 1999.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

CHAPTER 2. MARINE FISHERIES GENERALLY

§ 7055. Legislative findings and declarations regarding state policy

The Legislature finds and declares that it is the policy of the state that:

(a) California's marine sport and commercial fisheries, and the resources upon which they depend, are important to the people of the state and, to the extent practicable, shall be managed in accordance with the policies and other requirements of this part in order to assure the long-term economic, recreational, ecological, cultural, and social benefits of those fisheries and the marine habitats on which they depend.

(b) Programs for the conservation and management of the marine fishery resources of California shall be established and administered to prevent overfishing, to rebuild depressed stocks, to ensure conservation, to facilitate long-term protection and, where feasible, restoration of marine fishery habitats, and to achieve the sustainable use of the state's fishery resources.

(c) Where a species is the object of sportfishing, a sufficient resource shall be maintained to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport.

(d) The growth of commercial fisheries, including distant-water fisheries, shall be encouraged.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7056. Objectives of fishery system

In order to achieve the primary fishery management goal of sustainability, every sport and commercial marine fishery under the jurisdiction of the state shall be managed under a system whose objectives include all of the following:

(a) The fishery is conducted sustainably so that long-term health of the resource is not sacrificed in favor of short-term benefits. In the case of a fishery managed on the basis of maximum sustainable yield, management shall have optimum yield as its objective.

(b) The health of marine fishery habitat is maintained and, to the extent feasible, habitat is restored, and where appropriate, habitat is enhanced.

(c) Depressed fisheries are rebuilt to the highest sustainable yields consistent with environmental and habitat conditions.

(d) The fishery limits bycatch to acceptable types and amounts, as determined for each fishery.

(e) The fishery management system allows fishery participants to propose methods to prevent or reduce excess effort in marine fisheries.

(f) Management of a species that is the target of both sport and commercial fisheries or of a fishery that employs different gears is closely coordinated.

(g) Fishery management decisions are adaptive and are based on the best available scientific information and other relevant information that the commission or department possesses or receives, and the commission and department have available to them essential fishery information on which to base their decisions.

(h) The management decisionmaking process is open and seeks the advice and assistance of interested parties so as to consider relevant information, including local knowledge.

(i) The fishery management system observes the long-term interests of people dependent on fishing for food, livelihood, or recreation.

(j) The adverse impacts of fishery management on small-scale fisheries, coastal communities, and local economies are minimized.

(k) Collaborative and cooperative approaches to management, involving fishery participants, marine scientists, and other interested parties are strongly encouraged, and appropriate mechanisms are in place to resolve disputes such as access, allocation, and gear conflicts.

(*l*) The management system is proactive and responds quickly to changing environmental conditions and market or other socioeconomic factors and to the concerns of fishery participants.

(m) The management system is periodically reviewed for effectiveness in achieving sustainability goals and for fairness and reasonableness in its interaction with people affected by management.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7058. Conforming to policies

Any fishery management regulation adopted by the commission shall, to the extent practicable, conform to the policies of Sections 7055 and 7056.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 2002 ch 559 § 4 (AB 892).

§ 7059. Legislative findings and declarations regarding departmental responsibilities; Commission's and department's duties

(a) The Legislature finds and declares all of the following:

(1) Successful marine life and fishery management is a collaborative process that requires a high degree of ongoing communication and participation of all those involved in the management process, particularly the commission, the department, and those who represent the people and resources that will be most affected by fishery management decisions, especially fishery participants and other interested parties.

(2) In order to maximize the marine science expertise applied to the complex issues of marine life and fishery management, the commission and the department are encouraged to continue to, and to find creative new ways to, contract with or otherwise effectively involve Sea Grant staff, marine scientists, economists, collaborative fact-finding process and dispute resolution specialists, and others with the necessary expertise at colleges, universities, private institutions, and other agencies.

(3) The benefits of the collaborative process required by this section apply to most marine life and fishery management activities including, but not limited to, the development and implementation of research plans, marine managed area plans, fishery management plans, and plan amendments, and the preparation of fishery status reports such as those required by Section 7065.

(4) Because California is a large state with a long coast, and because travel is time consuming and costly, the involvement of interested parties shall be facilitated, to the extent practicable, by conducting meetings and discussions in the areas of the coast and in ports where those most affected are concentrated.

(b) In order to fulfill the intent of subdivision (a), the commission and the department shall do all of the following:

(1) Periodically review marine life and fishery management operations with a view to improving communication, collaboration, and dispute resolution, seeking advice from interested parties as part of the review.

(2) Develop a process for the involvement of interested parties and for factfinding and dispute resolution processes appropriate to each element in the marine life and fishery management process. Models to consider include, but are not limited to, the take reduction teams authorized under the Marine Mammal Protection Act (16 U.S.C. Sec. 1361 et seq.) and the processes that led to improved management in the California herring, sea urchin, prawn, angel shark, and white seabass fisheries.

(3) Consider the appropriateness of various forms of fisheries comanagement, which involves close cooperation between the department and fishery participants, when developing and implementing fishery management plans.

(4) When involving fishery participants in the management process, give particular consideration to the gear used, involvement of sport or commercial sectors or both sectors, and the areas of the coast where the fishery is conducted in order to ensure adequate involvement.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 1999 ch 483 § 9 (AB 76).

CHAPTER 3. FISHERIES SCIENCE

§ 7060. Legislative findings and declarations regarding research requirement

(a) The Legislature finds and declares that for the purposes of sustainable fishery management and this part, essential fishery information is necessary for federally and state-managed marine fisheries important to the people of this state to provide sustainable economic and recreational benefits to the people of California. The Legislature further finds and declares that acquiring essential fishery information can best be accomplished through the ongoing cooperation and collaboration of participants in fisheries.

(b) The department, to the extent feasible, shall conduct and support research to obtain essential fishery information for all marine fisheries managed by the state.

(c) The department, to the maximum extent practicable and consistent with Section 7059, shall encourage the participation of fishermen in fisheries research within a framework that ensures the objective collection and analysis of data, the collaboration of fishermen in research design, and the cooperation of fishermen in carrying out research.

(d) The department may apply for grants to conduct research and may enter into contracts or issue competitive grants to public or private research institutions to conduct research.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7062. External peer review

(a) The department shall establish a program for external peer review of the scientific basis of marine living resources management documents. The department, in its discretion and unless otherwise required by this part, may submit to peer review, documents that include, but are not limited to, fishery management plans and plan amendments, marine resource and fishery research plans.

(b) The department may enter into an agreement with one or more outside entities that are significantly involved with researching and understanding marine fisheries and are not advocacy organizations. These entities may include, but not be limited to, the Sea Grant program of any state, the University of California, the California State University, the Pacific States Marine Fisheries Commission, or any other entity approved by the commission to select and administer peer review panels, as needed. The peer review panels shall be composed of individuals with technical expertise specific to the document to be reviewed. The entity with which the department enters into an agreement for a peer review shall be responsible for the scientific integrity of the peer review process. Each peer reviewer may be compensated as needed to ensure competent peer review. Peer reviewers shall not be employees or officers of the department or the commission and shall not have participated in the development of the document to be reviewed.

(c) The external peer review entity, within the timeframe and budget agreed upon by the department and the external scientific peer review entity, shall provide the department with the written report of the peer review panel that contains an evaluation of the scientific basis of the document. If the report finds that the department has failed to demonstrate that a scientific portion of the document is based on sound scientific knowledge, methods, and practices, the report shall state that finding, and the reasons for the finding. The department may accept the finding, in whole or in part, and may revise the scientific portions of the document accordingly. If the department disagrees with any aspect of the finding of the external scientific peer review, it shall explain, and include as part of the record, its basis for arriving at such a determination in the analysis prepared for the adoption of the final document, including the reasons why it has determined that the scientific portions of the document are based on sound scientific knowledge, methods, or practice. The department shall submit the external scientific peer review report to the commission with any peer reviewed document that is to be adopted or approved by the commission.

(d) The requirements of this section do not apply to any emergency regulation adopted pursuant to subdivision (b) of Section 11346.1 of the Government Code.

(e) Nothing is this section shall be interpreted, in any way, to limit the authority of the commission or department to adopt a plan or regulation.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

CHAPTER 4. COMMISSION AND DEPARTMENT

§ 7065. Reports by director

(a) The director shall report annually in writing to the commission on the status of

sport and commercial marine fisheries managed by the state. The date of the report shall be chosen by the commission with the advice of the department. Each annual report shall cover at least one-fourth of the marine fisheries managed by the state so that every fishery will be reported on at least once every four years. The department shall, consistent with Section 7059, involve expertise from outside the department in compiling information for the report, which may include, but need not be limited to, Sea Grant staff, other marine scientists, fishery participants, and other interested parties.

(b) For each fishery reported on in an annual report, the report shall include information on landings, fishing effort, areas where the fishery occurs, and other factors affecting the fishery as determined by the department and the commission. Each restricted access program shall be reviewed at least every five years for consistency with the policies of the commission on restricted access fisheries.

(c) Notwithstanding subdivision (a), the first annual report shall be presented to the commission on or before September 1, 2001, and shall cover all the marine fisheries managed by the state. To the extent that the requirements of this section and Section 7073 are duplicative, the first annual report may be combined with the plan required pursuant to Section 7073.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 1999 ch 483 § 10 (AB 76).

§ 7066. Legislative findings and declarations; Identifying depressed fisheries; Recommendations

(a) The Legislature finds and declares that a number of human-caused and natural factors can affect the health of marine fishery resources and result in marine fisheries that do not meet the policies and other requirements of this part.

(b) To the extent feasible, the director's report to the commission pursuant to Section 7065 shall identify any marine fishery that does not meet the sustainability policies of this part. In the case of a fishery identified as being depressed, the report shall indicate the causes of the depressed condition of the fishery, describe steps being taken to rebuild the fishery, and, to the extent practicable, recommend additional steps to rebuild the fishery.

(c) The director's report to the commission pursuant to Section 7065, consistent with subdivision (m) of Section 7056, shall evaluate the management system and may recommend modifications of that system to the commission.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 1999 ch 483 § 11 (AB 76).

CHAPTER 5. FISHERY MANAGEMENT PLANS-GENERAL POLICIES

§ 7070. Legislative findings and declarations regarding management plans

The Legislature finds and declares that the critical need to conserve, utilize, and manage the state's marine fish resources and to meet the policies and other requirements stated in this part require that the state's fisheries be managed by means of fishery management plans.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7071. Application of statutory provisions and management plans

(a) Any white seabass fishery management plan adopted by the commission on or before January 1, 1999, shall remain in effect until amended pursuant to this part.

Notwithstanding paragraph (2) of subdivision (b) of Section 7073, any white seabass fishery management plan adopted by the commission and in existence on January 1, 1999, shall be amended to comply with this part on or before January 1, 2002.

(b) In the case of any fishery for which the commission has management authority, including white seabass, regulations that the commission adopts to implement a fishery management plan or plan amendment for that fishery may make inoperative, in regard to that fishery, any fishery management statute that applies to that fishery, including, but not limited to, statutes that govern allowable catch, restricted access programs, permit fees, and time, area, and methods of taking.

(c) On and after January 1, 2000, the commission may adopt regulations as it determines necessary, based on the advice and recommendations of the department, and in a process consistent with Section 7059, to regulate all emerging fisheries, consistent with Section 7090, all fisheries for nearshore fish stocks, and all fisheries for white seabass. Regulations adopted by the commission may include, but need not be limited to, establishing time and area closures, requiring submittal of landing and permit information, regulating fishing gear, permit fees, and establishing restricted access fisheries.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 1999 ch 483 § 11.5 (AB 76); Stats 2002 ch 559 § 5 (AB 892).

§ 7072. Nature of fishery management plan

(a) Fishery management plans shall form the primary basis for managing California's sport and commercial marine fisheries.

(b) Fishery management plans shall be based on the best scientific information that is available, on other relevant information that the department possesses, or on the scientific information or other relevant information that can be obtained without substantially delaying the preparation of the plan.

(c) To the extent that conservation and management measures in a fishery management plan either increase or restrict the overall harvest or catch in a fishery, fishery management plans shall allocate those increases or restrictions fairly among recreational and commercial sectors participating in the fishery.

(d) Consistent with Article 17 (commencing with Section 8585), the commission shall adopt a fishery management plan for the nearshore fishery on or before January 1, 2002, if funds are appropriated for that purpose in the annual Budget Act or pursuant to any other law.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 1999 ch 483 § 12 (AB 76); Stats 2000 ch 388 § 2.9 (AB 2941); Stats 2002 ch 559 § 6 (AB 892).

§ 7073. Master plan

(a) On or before September 1, 2001, the department shall submit to the commission for its approval a master plan that specifies the process and the resources needed to prepare, adopt, and implement fishery management plans for sport and commercial marine fisheries managed by the state. Consistent with Section 7059, the master plan shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons.

(b) The master plan shall include all of the following:

(1) A list identifying the fisheries managed by the state, with individual fisheries assigned to fishery management plans as determined by the department according to conservation and management needs and consistent with subdivision (f) of Section 7056.

(2) A priority list for preparation of fishery management plans. Highest priority shall be given to fisheries that the department determines have the greatest need for

changes in conservation and management measures in order to comply with the policies and requirements set forth in this part. Fisheries for which the department determines that current management complies with the policies and requirements of this part shall be given the lowest priority.

(3) A description of the research, monitoring, and data collection activities that the department conducts for marine fisheries and of any additional activities that might be needed for the department to acquire essential fishery information, with emphasis on the higher priority fisheries identified pursuant to paragraph (2).

(4) A process consistent with Section 7059 that ensures the opportunity for meaningful involvement in the development of fishery management plans and research plans by fishery participants and their representatives, marine scientists, and other interested parties.

(5) A process for periodic review and amendment of the master plan.

(c) The commission shall adopt or reject the master plan or master plan amendment, in whole or in part, after a public hearing. If the commission rejects a part of the master plan or master plan amendment, the commission shall return that part to the department for revision and resubmission pursuant to the revision and resubmission procedures for fishery management plans as described in subdivision (a) of Section 7075.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 1999 ch 483 § 13 (AB 76).

§ 7074. Interim protocols

(a) The department shall prepare interim fishery research protocols for at least the three highest priority fisheries identified pursuant to paragraph (2) of subdivision (b) of Section 7073. An interim fishery protocol shall be used by the department until a fishery management plan is implemented for that fishery.

(b) Consistent with Section 7059, each protocol shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons.

(c) Interim protocols shall be submitted to peer review as described in Section 7062 unless the department, pursuant to subdivision (d), determines that peer review of the interim protocol is not justified. For the purpose of peer review, interim protocols may be combined in the following circumstances:

(1) For related fisheries.

(2) For two or more interim protocols that the commission determines will require the same peer review expertise.

(d) The commission, with the advice of the department, shall adopt criteria to be applied in determining whether an interim protocol may be exempted from peer review.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 1999 ch 483 § 14 (AB 76).

CHAPTER 6. FISHERY MANAGEMENT PLAN PREPARATION, APPROVAL, AND REGULATIONS

§ 7075. Management plan and amendment procedure

(a) The department shall prepare fishery management plans and plan amendments, including any proposed regulations necessary to implement plans or plan amendments, to be submitted to the commission for adoption or rejection. Prior to submitting a plan or plan amendment, including any proposed regulations necessary for implementation, to the commission, the department shall submit the plan to peer review pursuant to Section 7062, unless the department determines that peer review of the plan or plan amendment may be exempted pursuant to subdivision (c). If the department makes that

determination, it shall submit its reasons for that determination to the commission with the plan. If the commission rejects a plan or plan amendment, including proposed regulations necessary for implementation, the commission shall return the plan or plan amendment to the department for revision and resubmission together with a written statement of reasons for the rejection. The department shall revise and resubmit the plan or plan amendment to the commission within 90 days of the rejection. The revised plan or plan amendment shall be subject to the review and adoption requirements of this chapter.

(b) The department may contract with qualified individuals or organizations to assist in the preparation of fishery management plans or plan amendments.

(c) The commission, with the advice of the department and consistent with Section 7059, shall adopt criteria to be applied in determining whether a plan or plan amendment may be exempted from peer review.

(d) Fishery participants and their representatives, fishery scientists, or other interested parties may propose plan provisions or plan amendments to the department or commission. The commission shall review any proposal submitted to the commission and may recommend to the department that the department develop a fishery management plan or plan amendment to incorporate the proposal.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7076. Advice and peer review for management plan

(a) To the extent practicable, and consistent with Section 7059, the department shall seek advice and assistance in developing a fishery management plan from participants in the affected fishery, marine scientists, and other interested parties. The department shall also seek the advice and assistance of other persons or entities that it deems appropriate, which may include, but is not limited to, Sea Grant, the National Marine Fisheries Service, the Pacific States Marine Fisheries Commission, the Pacific Fishery Management Council, and any advisory committee of the department.

(b) In the case of a fishery management plan or a plan amendment that is submitted to peer review, the department shall provide the peer review panel with any written comments on the plan or plan amendment that the department has received from fishery participants and other interested parties.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7077. Public review of plan

A fishery management plan or plan amendment, or proposed regulations necessary for implementation of a plan or plan amendment, developed by the department shall be available to the public for review at least 30 days prior to a hearing on the management plan or plan amendment by the commission. Persons requesting to be notified of the availability of the plan shall be notified in sufficient time to allow them to review and submit comments at or prior to a hearing. Proposed plans and plan amendments and hearing schedules and agendas shall be posted on the department's Internet website.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7078. Public hearings on plan or amendment

(a) The commission shall hold at least two public hearings on a fishery management plan or plan amendment prior to the commission's adoption or rejection of the plan.

(b) The plan or plan amendment shall be heard not later than 60 days following receipt of the plan or plan amendment by the commission. The commission may adopt the plan or plan amendment at the second public hearing, at the commission's meeting

following the second public hearing, or at any duly noticed subsequent meeting, subject to subdivision (c).

(c) When scheduling the location of a hearing or meeting relating to a fishery management plan or plan amendment, the commission shall consider factors, including, among other factors, the area of the state, if any, where participants in the fishery are concentrated.

(d) Notwithstanding Section 7550.5 of the Government Code, prior to the adoption of a fishery management plan or plan amendment that would make inoperative a statute, the commission shall provide a copy of the plan or plan amendment to the Legislature for review by the Joint Committee on Fisheries and Aquaculture or, if there is no such committee, to the appropriate policy committee in each house of the Legislature.

(e) The commission shall adopt any regulations necessary to implement a fishery plan or plan amendment no more than 60 days following adoption of the plan or plan amendment. All implementing regulations adopted under this subdivision shall be adopted as a regulation pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission's adoption of regulations to implement a fishery management plan or plan amendment shall not trigger an additional review process under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Regulations adopted by the commission to implement a plan or plan amendment shall specify any statute or regulation of the commission that is to become inoperative as to the particular fishery. The list shall designate each statute or regulation by individual section number, rather than by reference to articles or chapters.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

CHAPTER 7. CONTENTS OF FISHERY MANAGEMENT PLANS

§ 7080. Information included in management plan

Consistent with subdivision (b) of Section 7072, each fishery management plan prepared by the department shall summarize readily available information about the fishery including, but not limited to, all of the following:

(a) The species of fish and their location, number of vessels and participants involved, fishing effort, historical landings in the sport and commercial sectors, and a history of conservation and management measures affecting the fishery.

(b) The natural history and population dynamics of the target species and the effects of changing oceanic conditions on the target species.

(c) The habitat for the fishery and known threats to the habitat.

(d) The ecosystem role of the target species and the relationship of the fishery to the ecosystem role of the target species.

(e) Economic and social factors related to the fishery.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7081. Function of fishery research protocol

Consistent with subdivision (b) of Section 7072, each fishery management plan or plan amendment prepared by the department shall include a fishery research protocol that does all of the following:

(a) Describe past and ongoing monitoring of the fishery.

(b) Identify essential fishery information for the fishery, including, but not limited to, age and growth, minimum size at maturity, spawning season, age structure of the

population, and, if essential fishery information is lacking, identify the additional information needed and the resources and time necessary to acquire the information.

(c) Indicate the steps the department shall take to monitor the fishery and to obtain essential fishery information, including the data collection and research methodologies, on an ongoing basis.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7082. Measures included in plans and amendments

Each fishery management plan or plan amendment prepared by the department shall contain the measures necessary and appropriate for the conservation and management of the fishery according to the policies and other requirements in this part. The measures may include, but are not limited to, all of the following:

(a) Limitations on the fishery based on area, time, amount of catch, species, size, sex, type or amount of gear, or other factors.

(b) Creation or modification of a restricted access fishery that contributes to a more orderly and sustainable fishery.

(c) A procedure to establish and to periodically review and revise a catch quota in any fishery for which there is a catch quota.

(d) Requirement for a personal, gear, or vessel permit and reasonable fees.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7083. Conservation and management measures

(a) Each fishery management plan prepared by the department shall incorporate the existing conservation and management measures provided in this code that are determined by the department to result in a sustainable fishery.

(b) If additional conservation and management measures are included in the plan, the department shall, consistent with subdivision (b) of Section 7072, summarize anticipated effects of those measures on relevant fish populations and habitats, on fishery participants, and on coastal communities and businesses that rely on the fishery.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7084. Minimizing adverse effects on habitat

(a) Consistent with subdivision (b) of Section 7072, each fishery management plan or plan amendment prepared by the department for a fishery that the department has determined has adverse effects on marine fishery habitat shall include measures that, to the extent practicable, minimize adverse effects on habitat caused by fishing.

(b) Subdivision (a) does not apply to activities regulated by Chapter 6 (commencing with Section 6650) of Part 1.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7085. Fisheries where bycatch occurs

Consistent with subdivision (b) of Section 7072, each fishery management plan or plan amendment prepared by the department, in fisheries in which bycatch occurs, shall include all of the following:

(a) Information on the amount and type of bycatch.

(b) Analysis of the amount and type of bycatch based on the following criteria:

(1) Legality of the bycatch under any relevant law.

(2) Degree of threat to the sustainability of the bycatch species.

(3) Impacts on fisheries that target the bycatch species.
(4) Ecosystem impacts.

(c) In the case of unacceptable amounts or types of bycatch, conservation and management measures that, in the following priority, do the following:
(1) Minimize bycatch.
(2) Minimize mortality of discards that cannot be avoided.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7086. Overfishing

(a) Consistent with subdivision (b) of Section 7072, each fishery management plan or plan amendment prepared by the department shall specify criteria for identifying when the fishery is overfished.

(b) In the case of a fishery management plan for a fishery that has been determined to be overfished or in which overfishing is occurring, the fishery management plan shall contain measures to prevent, end, or otherwise appropriately address overfishing and to rebuild the fishery.

(c) Any fishery management plan, plan amendment, or regulation prepared pursuant to subdivision (b), shall do both of the following:
(1) Specify a time period for preventing or ending or otherwise appropriately addressing overfishing and rebuilding the fishery that shall be as short as possible, and shall not exceed 10 years except in cases where the biology of the population of fish or other environmental conditions dictate otherwise.
(2) Allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7087. Review and regulations

(a) Each fishery management plan prepared by the department shall include a procedure for review and amendment of the plan, as necessary.

(b) Each fishery management plan or plan amendment prepared by the department shall specify the types of regulations that the department may adopt without a plan amendment.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

§ 7088. List of inoperative provisions

Each fishery management plan and plan amendment shall include a list of any statutes and regulations that shall become inoperative, as to the particular fishery covered by the fishery management plan or plan amendment, upon the commission's adoption of implementing regulations for that fishery management plan or plan amendment.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241).

CHAPTER 8. EMERGING FISHERIES

§ 7090. Legislative findings and declarations; Proactive approach to emerging fisheries

(a) The Legislature finds and declares that a proactive approach to management of emerging fisheries will foster a healthy marine environment and will benefit both

commercial and sport fisheries and other marine-dependent activities. Therefore, the commission, based upon the advice and recommendations of the department, shall encourage, manage, and regulate emerging fisheries consistent with the policies of this part.

(b) For purposes of this section, "emerging fishery," in regard to a marine fishery, means both of the following:

(1) A fishery that the director has determined is an emerging fishery, based on criteria that are approved by the commission and are related to a trend of increased landings or participants in the fishery and the degree of existing regulation of the fishery.

(2) A fishery that is not an established fishery. "Established fishery," in regard to a marine fishery, means, prior to January 1, 1999, one or more of the following:

(A) A restricted access fishery has been established in this code or in regulations adopted by the commission.

(B) A fishery, for which a federal fishery management plan exists, and in which the catch is limited within a designated time period.

(C) A fishery for which a population estimate and catch quota is established annually.

(D) A fishery for which regulations for the fishery are considered at least biennially by the commission.

(E) A fishery for which this code or regulations adopted by the commission prescribes at least two management measures developed for the purpose of sustaining the fishery. Management measures include minimum or maximum size limits, seasons, time, gear, area restriction, and prohibition on sale or possession of fish.

(c) The department shall closely monitor landings and other factors it deems relevant in each emerging fishery and shall notify the commission of the existence of an emerging fishery.

(d) The commission, upon the recommendation of the department, may do either, or both, of the following:

(1) Adopt regulations that limit taking in the fishery by means that may include, but not be limited to, restricting landings, time, area, gear, or access. These regulations may remain in effect until a fishery management plan is adopted.

(2) Direct the department to prepare a fishery management plan for the fishery and regulations necessary to implement the plan.

(e) A fishery management plan for an emerging fishery shall comply with the requirements for preparing and adopting fishery management plans contained in this part. In addition to those requirements, to allow for adequate evaluation of the fishery and the acquisition of essential fishery information, the fishery management plan shall provide an evaluation period, which shall not exceed three years unless extended by the commission. During the evaluation period, the plan shall do both of the following:

(1) In order to prevent excess fishing effort during the evaluation period, limit taking in the fishery by means that may include, but need not be limited to, restricting landings, time, area, gear, or access to a level that the department determines is necessary for evaluation of the fishery.

(2) Contain a research plan that includes objectives for evaluating the fishery, a description of the methods and data collection techniques for evaluating the fishery, and a timetable for completing the evaluation.

(f) The commission is authorized to impose a fee on an emerging fishery in order to pay the costs of implementing this chapter. The fees may include, but need not be limited to, ocean fishing stamps and permit fees. The fees may not be levied in excess of the necessary costs to implement and administer this chapter. The commission may reduce fees annually if it determines that sufficient revenues exist to cover costs incurred by the department in administering this chapter. The commission and the department, with the advice of fishery participants and other interested parties, shall consider alternative ways to fund the evaluation of emerging fisheries.

(g) An emerging fishery is subject to this section unless the department incorporates the fishery into a fishery management plan developed under Sections 7070 to 7088, inclusive.

(h) In the event that this section is found to conflict with Section 1022, 8614, or 8615, this section shall prevail.

HISTORY:
Added Stats 1998 ch 1052 § 8 (AB 1241). Amended Stats 1999 ch 483 § 16 (AB 76); Stats 2002 ch 559 § 7 (AB 892); Stats 2018 ch 477 § 5 (AB 1573), effective January 1, 2019.

PART 2. SPORT FISHING

CHAPTER 1. GENERALLY

ARTICLE 1. APPLICATION OF PART

§ 7100. Application of provisions

The provisions of this part apply to the taking and possession of fish for any purpose other than commercial.

HISTORY:
Enacted 1957.

ARTICLE 1.5. SPORT FISHING REGULATIONS

§ 7110. Automatic process to conform sport fishing regulations to federal regulations

(a) The commission may establish by regulation an automatic process to conform its sport fishing regulations to federal regulations.

(b) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to conforming actions implemented pursuant to the automatic process specified in subdivision (a).

(c) The department shall provide public notice of a conforming action implemented pursuant to this section.

HISTORY:
Added Stats 2016 ch 546 § 24 (SB 1473), effective January 1, 2017.

§ 7115. Identification of sport fishing areas by department and human health advisories

(a) The department shall identify property it owns or manages that includes areas for sport fishing accessible to persons with disabilities.

(b) Commencing with the booklet of sport fishing regulations published by the commission in 1986, the availability of sport fishing areas, identified by the department as accessible to persons with disabilities under subdivision (a), shall be noted in the booklet of regulations, together with telephone numbers and instructions for obtaining a list of those areas from regional department offices.

(c) Commencing with the booklet of sport fishing regulations published in 1987, the booklet shall also contain any human health advisories relating to fish that are formally issued by the State Department of Public Health, or summaries of those human health advisories. The summaries shall be prepared in consultation with the State Department of Public Health.

HISTORY:
Added Stats 2016 ch 546 § 24 (SB 1473), effective January 1, 2017.

ARTICLE 2. GENERAL PROVISIONS

§ 7120. Aggregate bag possession limits under sport fishing license

It is unlawful for any person to possess more than one daily bag limit of any fish taken under a license issued pursuant to Article 3 (commencing with Section 7145) unless authorized by regulations adopted by the commission.

HISTORY:
Enacted 1957. Amended Stats 1996 ch 870 § 7 (AB 3245); Stats 2016 ch 546 § 25 (SB 1473), effective January 1, 2017; Stats 2017 ch 26 § 8 (SB 92), effective June 27, 2017.

§ 7121. Unlawful sale, purchase or possession of fish or amphibia

Except as otherwise provided by this code or by regulation, it is unlawful to sell or purchase any fish or amphibia taken in, or brought into, the waters of the state, or brought ashore at any point in the state.

It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or processed, any fish or amphibia taken on any boat, barge, or vessel which carries sport fishermen, except those fish may be possessed in such a place only for the purposes of canning or smoking under regulations adopted by the commission.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1686 § 5, effective September 30, 1984; Stats 1990 ch 747 § 2 (AB 3803).

§ 7123. Monitoring marlin catch

The department shall develop a voluntary participation program for the use of departmental observers on board vessels to monitor the taking of marlin by sportfishermen. The department shall, in accordance with Section 1012, procure insurance against the liability of the owners or operators of vessels boarded by observers in the event of injury to or death of any such observer in the course and scope of employment as an observer.

HISTORY:
Added Stats 1980 ch 886 § 3, effective September 14, 1980.

ARTICLE 3. SPORT FISHING LICENSES

§ 7145. Persons required to procure license

(a) Except as otherwise provided in this article, every person 16 years of age or older who takes any fish, reptile, or amphibian for any purpose other than profit shall first obtain a valid license for that purpose and shall have that license on his or her person or in his or her immediate possession or where otherwise specifically required by law or regulation to be kept when engaged in carrying out any activity authorized by the license. In the case of a person diving from a boat, the license may be kept in the boat, or in the case of a person diving from the shore, the license may be kept within 500 yards of the shore.

(b)(1) This section does not apply to an owner of privately owned real property, or the owner's invitee, who, without providing compensation, takes fish for purposes other than profit from a lake or pond that is wholly enclosed by that owner's real property and that is located offstream and does not at any time derive water from, or supply water to, any permanent or intermittent artificial or natural lake, pond, stream, wash, canal, river, creek, waterway, aqueduct, or similar water conveyance system of the state. Access and control of the real property shall be under the direct authority of the owner and not that of another person or entity.

(2) This subdivision does not, and shall not be construed to, authorize the introduction, migration, stocking, or transfer of aquatic species, prohibited species, or any

other nonnative or exotic species into state waters or waterways. This subdivision does not supersede or otherwise affect any provision of law that governs aquaculture, including, but not limited to, the operation of trout farms, or any activity that is an adjunct to or a feature of, or that is operated in conjunction with, any other enterprise operated for a fee, including, but not limited to, private parks or private recreation areas.

HISTORY:
Enacted 1957. Amended Stats 1987 ch 772 § 1; Stats 1989 ch 826 § 2; Stats 1995 ch 744 § 1 (AB 347); Stats 2003 ch 741 § 12 (SB 1049); Stats 2007 ch 285 § 109 (AB 1729), effective January 1, 2008.

§ 7147. License requirements for persons fishing from boat or vessel

The owner or operator of a boat or vessel licensed pursuant to Section 7920 shall not permit any person to fish from that boat or vessel unless that person has, in his or her possession, a valid California sport fishing license and any required stamp, report card, or validation issued pursuant to this code.

HISTORY:
Added Stats 1992 ch 701 § 4 (SB 1565), effective September 14, 1992. Amended Stats 1993 ch 1177 § 1 (AB 1150); Stats 2003 ch 741 § 13 (SB 1049); Stats 2007 ch 285 § 110 (AB 1729), effective January 1, 2008.

§ 7149. [Section repealed 2016.]

HISTORY:
Added Stats 1978 ch 1259 § 3, operative January 1, 1980. Amended Stats 1979 ch 1104 § 1, effective September 28, 1979; Stats 1980 ch 1302 § 2; Stats 1981 ch 69 § 1, effective June 17, 1981, operative July 1, 1981; Stats 1983 ch 1117 § 8; Stats 1985 ch 1463 § 24; Stats 1986 ch 1368 § 24; Stats 1990 ch 1706 § 14 (AB 3158); Stats 1995 ch 293 § 4 (AB 1916); Stats 1998 ch 247 § 5 (AB 2230), operative until January 1, 2002; Stats 2001 ch 112 § 37 (AB 435), repealed January 1, 2002, ch 753 § 8 (AB 1673); Stats 2003 ch 741 § 14 (SB 1049); Stats 2012 ch 565 § 20 (SB 1148), effective January 1, 2013; Repealed Stats 2015 ch 683 § 20 (SB 798), effective January 1, 2016. The repealed section related to the eligibility and issuance of sport fishing license and stamps, section's inapplicability to entitlements issued by Automated License Data System and fees.

§ 7149.05. Eligibility and issuance of sport fishing license and stamps; Section applicable to entitlements issued by Automated License Data System; Fees

(a) A sport fishing license granting the privilege to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit shall be issued to any of the following:

(1) A resident, 16 years of age or older, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of thirty-one dollars and twenty-five cents ($31.25).

(2) A nonresident, 16 years of age or older, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of eighty-four dollars ($84).

(3) A nonresident, 16 years of age or older for the period of 10 consecutive days beginning on the date specified on the license upon payment of the fee set forth in paragraph (1).

(4) A resident or nonresident, 16 years of age or older, for two designated days, upon payment of one-half the fee set forth in paragraph (1). Notwithstanding Section 1053, more than one single day license issued for different days may be issued to, or possessed by, a person at one time.

(5) A resident or nonresident, 16 years of age or older, for one designated day upon payment of a base fee of ten dollars ($10).

(b) California sport fishing license validations shall be issued by authorized license agents in the same manner as sport fishing licenses, and no compensation shall be paid to the authorized license agent for issuing the validations except as provided in Section 1055.1.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

(d) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(e) The commission shall adjust the amount of the fees specified in subdivision (d), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:

Added Stats 2001 ch 112 § 40 (AB 435), operative January 1, 2002. Amended Stats 2003 ch 741 § 15 (SB 1049); Stats 2012 ch 565 § 21 (SB 1148), effective January 1, 2013.

§ 7149.2. Issuance of lifetime sport fishing license

(a) In addition to Section 7149.05, the department shall issue a lifetime sport fishing license under this section. A lifetime sport fishing license authorizes the taking of fish, amphibians, or reptiles anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sport fishing license is valid for a one-year period from January 1 through December 31 and may be renewed annually, regardless of any lapse of the license, at no additional cost to the licensee. A lifetime sport fishing license is not transferable. A lifetime sport fishing license does not include any special tags, stamps, or fees.

(b) A lifetime sport fishing license may be issued to residents of this state, as follows:

(1) To a person 62 years of age or over, upon payment of a base fee of three hundred sixty-five dollars ($365).

(2) To a person 40 years of age or over and less than 62 years of age, upon payment of a base fee of five hundred forty dollars ($540).

(3) To a person 10 years of age or over and less than 40 years of age upon payment of a base fee of six hundred dollars ($600).

(4) To a person less than 10 years of age upon payment of a base fee of three hundred sixty-five dollars ($365).

(c) Nothing in this section requires a person less than 16 years of age to obtain a license to take fish, amphibians, or reptiles for purposes other than profit.

(d) Nothing in this section exempts a license applicant from meeting other qualifications or requirements otherwise established by law for the privilege of sport fishing.

(e) Upon payment of a base fee of two hundred forty-five dollars ($245), a person holding a lifetime sport fishing license shall be entitled annually to the privileges afforded to a person holding a second-rod stamp or validation issued pursuant to Section 7149.45, a sport fishing ocean enhancement stamp or validation issued pursuant to subdivision (a) of Section 6596.1, one steelhead trout report restoration card issued pursuant to Section 7380, and one salmon report card issued pursuant to regulations adopted by the commission. Lifetime privileges issued pursuant to this subdivision are not transferable.

(f) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

HISTORY:

Added Stats 1988 ch 1060 § 2, operative until January 1, 1994. Amended Stats 1990 ch 664 § 2, (AB 3791); Stats 1993 ch 1099 § 3 (AB 1353); Stats 1997 ch 424 § 4 (SB 263); Stats 2003 ch 741 § 18 (SB 1049); Stats 2004 ch 183 § 113 (AB 3082); Stats 2007 ch 285 § 111 (AB 1729), effective January 1, 2008; Stats 2015 ch 683 § 21 (SB 798), effective January 1, 2016; Stats 2017 ch 26 § 9 (SB 92), effective June 27, 2017.

§ 7149.3. License not required for taking of rattlesnakes

Notwithstanding Section 7149.05, a sport fishing license is not required for a resident to take a rattlesnake (genus Crotalus or Sistrurus).

HISTORY:
Added Stats 1984 ch 472 § 1. Amended Stats 2015 ch 683 § 22 (SB 798), effective January 1, 2016.

§ 7149.4. [Section repealed 2016.]

HISTORY:
Added Stats 1994 ch 554 § 1 (SB 2115), effective September 11, 1994. Amended Stats 2001 ch 112 § 43 (AB 435), ch 753 § 10 (AB 1673); Stats 2007 ch 285 § 112 (AB 1729), effective January 1, 2008; Repealed Stats 2015 ch 683 § 23 (SB 798), effective January 1, 2016. The repealed section related to a second-rod sportfishing stamp and document issuance not through the Automated License Data System.

§ 7149.45. Second-rod sport fishing validation, document issuance through the Automated License Data System

(a) It is unlawful for any person to fish with two rods without first obtaining a second-rod sport fishing validation, in addition to a valid California sport fishing license validation, and having that validation affixed to his or her valid sport fishing license. Any person who has a valid second-rod sport fishing validation affixed to his or her valid sport fishing license may fish with two rods in inland waters in any sport fishery in which the regulations of the commission provide for the taking of fish by angling, except those waters in which only artificial lures or barbless hooks may be used and the waters of the Smith River in Del Norte County.

(b) The department or an authorized license agent shall issue a second-rod sport fishing validation upon payment of a base fee of seven dollars and fifty cents ($7.50) during the 1995 calendar year and subsequent years, as adjusted under Section 713.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 44 (AB 435). Amended Stats 2001 ch 753 § 11 (AB 1673); Stats 2007 ch 285 § 113 (AB 1729), effective January 1, 2008; Stats 2009 ch 294 § 14 (AB 1442), effective January 1, 2010.

§ 7149.5. Job Corps enrollees to be considered state residents for purpose of obtaining sport fishing license

For the purpose of obtaining a sport fishing license, enrollees in the Job Corps, created by the Economic Opportunity Act of 1964 (Public Law 88-452), shall be deemed to be residents of California.

HISTORY:
Added Stats 1965 ch 1086 § 2.

§ 7149.7. Maximum yearly free sportfishing days

Notwithstanding Section 7145, the director may designate not more than two days, which may or may not be consecutive, in each year as free sportfishing days during which residents and nonresidents may, without having a sportfishing license and without the payment of any fee, exercise the privileges of a holder of a sportfishing license, subject to all of the limitations, restrictions, conditions, laws, rules, and regulations applicable to the holder of a sportfishing license.

HISTORY:
Added Stats 1991 ch 47 § 1 (AB 530), effective June 5, 1991.

§ 7149.8. Abalone report card; Fee

(a) A person shall not take abalone from ocean waters unless he or she first obtains, in addition to a valid California sport fishing license and any applicable license validation or stamp issued pursuant to this code, an abalone report card, and maintains that report card in his or her possession while taking abalone.

(b) The department or an authorized license agent shall issue an abalone report card upon payment of a fee of fifteen dollars ($15) in the 2004 license year, which shall be adjusted annually thereafter pursuant to Section 713.

(c) The commission shall adjust the amount of the fees specified in subdivision (b) as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:
Added Stats 2001 ch 112 § 46 (AB 435). Amended Stats 2003 ch 741 § 19 (SB 1049); Stats 2012 ch 559 § 23 (AB 2402), effective January 1, 2013.

§ 7149.9. Deposit of fees from abalone stamps in Abalone Restoration and Preservation Account; Use

(a) Fees received by the department pursuant to Section 7149.8 shall be deposited in the Abalone Restoration and Preservation Account within the Fish and Game Preservation Fund, which is hereby created. Notwithstanding Section 13340 of the Government Code, the moneys in the account are continuously appropriated, without regard to fiscal year, to the department to be used only for the Recreational Abalone Management Program. For the purposes of this article, "program" means the Recreational Abalone Management Program. The program shall include the following:

(1) Research and management of abalone and abalone habitat. For the purposes of this section, "research" includes, but is not limited to, investigation, experimentation, monitoring, and analysis; and "management" means establishing and maintaining an optimal sustainable utilization.

(2) Supplementary funding of allocations for the enforcement of statutes and regulations applicable to abalone, including, but not limited to, the acquisition of special equipment and the production and dissemination of printed materials, such as pamphlets, booklets, and posters, aimed at compliance with recreational abalone regulations.

(3) Direction for volunteer groups relating to abalone and abalone habitat management, presentations of abalone related matters at scientific conferences and educational institutions, and publication of abalone related material.

(b) At least 15 percent of the funds deposited in the account shall be used for program activities south of San Francisco. To the extent possible, participants in the management activities of the program in that area shall be former commercial abalone divers.

(c) The department shall maintain internal accounts that ensure that the fees received pursuant to Section 7149.8 are disbursed for the purposes of subdivision (a). Not more than 20 percent of the fees received pursuant to Section 7149.8 shall be used for administration by the department.

(d) Unencumbered fees collected pursuant to Section 7149.8 during any previous calendar year may be expended for the purposes of subdivisions (a) and (b). All interest and other earnings on the fees received pursuant to Section 7149.8 shall be deposited in the account and shall be used for the purposes of subdivisions (a) and (b).

HISTORY:
Added Stats 1997 ch 787 § 6 (SB 463).

§ 7150. Reduced fee license

(a) Upon application to the department's headquarters office in Sacramento and payment of a base fee of four dollars ($4), as adjusted pursuant to Section 713, the following persons, who have not been convicted of any violation of this code, shall be issued a reduced fee sport fishing license that is valid for one year as specified in paragraphs (1) and (2) of subdivision (a) of Section 7149.05 and that authorizes the licensee to take any fish, reptile, or amphibians anywhere in this state as otherwise authorized pursuant to this code and regulations adopted pursuant thereto for purposes other than profit:

(1) A disabled veteran having a 50 percent or greater service-connected disability upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Veterans Administration or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) A member of the military who is a "recovering service member" pursuant to Section 1602(7) of the federal National Defense Authorization Act for Fiscal Year 2008 (Public Law 110-181). A person shall be eligible for a reduced fee sport fishing license pursuant to this paragraph upon the submission of a letter, online or in hardcopy, to the department from that person's commanding officer or from a military medical doctor stating that the person is a recovering service member.

(3) A person over 65 years of age who is a resident of this state and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12200 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12200 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section. The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a reduced fee license during the following calendar year.

(b) A person applying for a reduced fee sport fishing license shall submit adequate documentation for the department to determine whether the applicant is, in fact, eligible for a reduced fee sport fishing license. The documentation shall be in the form of a letter or other document, as specified by the department, from a public agency, except as provided in paragraphs (1) and (2) of subdivision (a). The department shall not issue a reduced fee sport fishing license to any person unless it is satisfied that the applicant has provided adequate documentation of eligibility for that license.

(c) The adjustment of the base fee pursuant to Section 713 specified in subdivision (a) shall be applicable to the fishing license years beginning on or after January 1, 1996.

HISTORY:

Added Stats 1983 ch 1117 § 10. Amended Stats 1994 ch 849 § 31 (SB 2113); Stats 2000 ch 238 § 1 (AB 2057); Stats 2007 ch 279 § 1 (AB 1144), effective January 1, 2008; Stats 2012 ch 409 § 1 (SB 1287), effective January 1, 2013; Stats 2015 ch 683 § 24 (SB 798), effective January 1, 2016.

§ 7151. Eligibility for free license

(a) Upon application to the department, the following persons, if they have not been convicted of any violation of this code, shall be issued, free of any charge or fee, a sport fishing license, that authorizes the licensee to take any fish, reptile, or amphibian anywhere in this state for purposes other than profit:

(1) Any blind person upon presentation of proof of blindness. "Blind person" means a person with central visual acuity of 20/200 or less in the better eye, with the aid of the best possible correcting glasses, or central visual acuity better than 20/200 if the widest diameter of the remaining visual field is no greater than 20 degrees. Proof of blindness shall be by certification from a qualified licensed optometrist or ophthalmologist or by presentation of a license issued pursuant to this paragraph in any previous license year.

(2) Every resident Native American who, in the discretion of the department, is financially unable to pay the fee required for the license.

(3) Any developmentally disabled person, upon presentation of certification of that disability from a qualified licensed physician, or the director of a state regional center for the developmentally disabled.

(4) Any person who is a resident of the state and who is so severely physically disabled as to be permanently unable to move from place to place without the aid of a wheelchair, walker, forearm crutches, or a comparable mobility-related device. Proof of the disability shall be by certification from a licensed physician or surgeon or, by

presentation of a license issued pursuant to this paragraph in any previous license year after 1996.

(b) Sport fishing licenses issued pursuant to paragraph (2) of subdivision (a) are valid for the calendar year of issue or, if issued after the beginning of the year, for the remainder thereof.

(c) Sport fishing licenses issued pursuant to paragraphs (1), (3), and (4) of subdivision (a) are valid for five calendar years, or if issued after the beginning of the first year, for the remainder thereof.

(d) Upon application to the department, the department may issue, free of any charge or fee, a sport fishing license to groups of mentally or physically handicapped persons under the care of a certified federal, state, county, city, or private licensed care center that is a community care facility as defined in subdivision (a) of Section 1502 of the Health and Safety Code, to organizations exempt from taxation under Section 501(c)(3) of the federal Internal Revenue Code, or to schools or school districts. Any organization that applies for a group fishing license shall provide evidence that it is a legitimate private licensed care center, tax-exempt organization, school, or school district. The license shall be issued to the person in charge of the group and shall be in his or her possession when the group is fishing. Employees of private licensed care centers, tax-exempt organizations, schools, or school districts are exempt from Section 7145 only while assisting physically or mentally disabled persons fishing under the authority of a valid license issued pursuant to this section. The license shall include the location where the activity will take place, the date or dates of the activity, and the maximum number of people in the group. The licenseholder shall notify the local department office before fishing and indicate where, when, and how long the group will fish.

(e) Upon application to the department, the department may issue, free of any charge or fee, a sport fishing license to a nonprofit organization for day-fishing trips that provide recreational rehabilitation therapy for active duty members of the United States military who are currently receiving inpatient care in a military or Veterans Administration hospital and veterans with service-connected disabilities. The license shall be valid for the calendar year of issue or, if issued after the beginning of the year, for the remainder of that year. The license shall be issued to the person in charge of the group, and shall be in the licenseholder's possession when the group is fishing. The organization shall notify the local department office before fishing and indicate where, when, and how long the group will fish. To be eligible for a license under this subdivision, an organization shall be registered to do business in this state or exempt from taxation under Section 501(c) of the federal Internal Revenue Code.

(f) On January 15 of each year, the department shall determine the number of free sport fishing licenses in effect during the preceding year under subdivisions (a), (d), and (e).

(g) There shall be appropriated from the General Fund a sum equal to two dollars ($2) per free sport fishing license in effect during the preceding license year under subdivisions (a) and (d), as determined by the department pursuant to subdivision (f). That sum may be appropriated annually in the Budget Act for transfer to the Fish and Game Preservation Fund and appropriated in the Budget Act from the Fish and Game Preservation Fund to the department for the purposes of this part.

HISTORY:

Added Stats 1983 ch 1117 § 12. Amended Stats 1986 ch 762 § 4; Stats 1994 ch 849 § 32 (SB 2113); Stats 1995 ch 293 § 5 (AB 1916); Stats 1996 ch 870 § 7.5 (AB 3245); Stats 1998 ch 485 § 77 (AB 2803); Stats 1999 ch 83 § 56 (SB 966); Stats 2004 ch 431 § 9 (AB 2760); Stats 2006 ch 769 § 1 (AB 2268), effective January 1, 2007.

§ 7153. Exception as to requirement of license

(a) A sport fishing license is not required to take fish by any legal means, for any purpose other than profit, from a public pier, as defined by the commission, in the ocean waters of the state, or while angling at an aquaculture facility site that is registered pursuant to Section 235 of Title 14 of the California Code of Regulations.

(b) For purposes of this section, "ocean waters" include, but are not limited to, the open waters adjacent to the ocean and any island; the waters of any open or enclosed bay contiguous to the ocean; the San Francisco and San Pablo Bays, with any tidal bay belonging thereto; and any slough or estuary, if found between the Golden Gate Bridge and the Benicia-Martinez Bridge.

HISTORY:
Enacted 1957. Amended Stats 1976 ch 155 § 1; Stats 2002 ch 573 § 1 (SB 2090); Stats 2007 ch 285 § 114 (AB 1729), effective January 1, 2008.

§ 7155. Right of members of Yurok Indian tribe to take fish from Klamath River; Conditions

Notwithstanding any other provision of this code, California Indians who are bona fide registered members of the Yurok Indian Tribe may take fish, for subsistence purposes only, from the Klamath River between the mouth of that river and the junction of Tectah Creek with it, exclusive of tributaries, without regard to seasons, under the following conditions:

(a) Upon application therefor, the department shall issue to any Yurok Indian who is listed on the register of the Yurok Tribal Organization, as furnished to the department, a renewable, nontransferable permit to take fish pursuant to this section for a period of one calendar year. Any Indian of the Yurok tribe while taking fish pursuant to this section shall have upon his person such valid permit, and shall display it upon the request of any duly authorized officer.

(b) Hand dip nets, and hook and line only may be used for taking fish pursuant to this section.

(c) Pursuant to this section not more than three trout or salmon or combination thereof, or more than one sturgeon, may be taken in any one day. There is no bag limit on any other fish.

(d) No Yurok Indian while fishing pursuant to this section may be accompanied by any person who does not possess a valid permit as prescribed by this section. It is unlawful for any person who does not hold such permit to accompany any Yurok Indian who is taking fish pursuant to this section.

(e) The sale of any fish taken under the provisions of this section shall constitute cause for permanent revocation by the commission of the permit held by the person making the sale.

HISTORY:
Enacted 1957.

ARTICLE 4. RECIPROCAL SPORT FISHING LICENSES

§ 7180. [Section repealed 2016.]

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1150 § 8; Stats 1967 ch 421 § 1; Stats 1973 ch 343 § 1; Stats 2001 ch 112 § 47 (AB 435); Stats 2007 ch 285 § 115 (AB 1729), effective January 1, 2008; Repealed Stats 2015 ch 683 § 25 (SB 798), effective January 1, 2016. The repealed section related to taking fish or amphibians for purposes other than profit from Colorado River and adjacent waters, license and special use stamp requirements, document issuance not through the Automated License Data System and a fee.

§ 7180.1. Taking fish or amphibia for purposes other than profit from Colorado River and adjacent waters; License and special use stamp requirements, document issuance through the Automated License Data System; Fee (Operation contingent)

(a) Any person taking fish or amphibia for purposes other than profit from or on a boat or other floating device on the waters of the Colorado River and on adjacent waters,

except canals, drains, or ditches used to transport water used for irrigation or domestic purposes, shall have in his or her possession a valid sportfishing license issued by either the State of Arizona or State of California.

(b) In addition to either of the licenses, a person taking fish or amphibia as indicated shall have in his or her possession a Colorado River special use validation. If he or she is a person having in his or her possession a valid California sportfishing license, he or she shall have an Arizona special use validation to fish legally the waters described above. If he or she is a person having in his or her possession a valid Arizona sportfishing license, he or she shall have a California special use validation to fish legally the waters described above.

(c) A special use validation, when accompanied by the proper license, permits fishing in any portion of those waters, and permit fishermen to enter the waters from any point. The fee for a Colorado River special use validation is three dollars ($3).

(d) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 48 (AB 435).

§ 7181. [Section repealed 2016.]

HISTORY:
Enacted 1957. Amended Stats 1967 ch 420 § 1; Stats 2001 ch 112 § 49 (AB 435); Repealed Stats 2015 ch 683 § 26 (SB 798), effective January 1, 2016. The repealed section related to fishing from shores of Colorado River, license and use stamp requirements, document issuance not through the Automated License Data System and exceptions.

§ 7181.1. Fishing from shores of Colorado River; License and use stamp requirements, document issuance through the Automated License Data System; Exceptions (Operation contingent)

(a) A person fishing from the shore in the waters of the Colorado River located in Arizona or California shall have in his or her possession a valid sportfishing license issued by the state that has jurisdiction over that shore. That shoreline fishing does not require a Colorado River special use validation as long as the fisherman remains on the shore and does not embark on the water. Any person, however, having in his or her possession a valid Arizona sportfishing license and a California special use validation may fish from the shore in the waters of the Colorado River, or adjacent waters, except canals, drains, and ditches used to transport water used for irrigation or domestic purposes, located in California without a sport fishing license issued by the State of California.

(b) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 50 (AB 435).

§ 7182. [Section repealed 2016.]

HISTORY:
Enacted 1957. Amended Stats 1957 ch 880 § 3; Stats 2001 ch 112 § 51 (AB 435); Repealed Stats 2015 ch 683 § 27 (SB 798), effective January 1, 2016. The repealed section related to place and manner of sale of California and Arizona sport fishing licenses and special use stamps and document issuance not through the Automated License Data System.

§ 7182.1. Place and manner of sale of California and Arizona sport fishing licenses and special use stamps, document issuance through the Automated License Data System (Operation contingent)

(a) Arizona Colorado River special use validations shall be issued by California authorized license agents under the supervision of the department in the same manner

as sportfishing licenses are issued, and California sportfishing licenses and California Colorado River special use validations shall be issued by Arizona license dealers under the supervision of the Arizona Game and Fish Commission.

(b) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 52 (AB 435).

§ 7183. [Section repealed 2016.]

HISTORY:
Enacted 1957. Amended Stats 1957 ch 880 § 4; Stats 1963 ch 303 § 1, effective May 8, 1963; Stats 2001 ch 112 § 53 (AB 435); Stats 2015 ch 154 § 83 (AB 1527), effective January 1, 2016; Repealed Stats 2015 ch 683 § 28 (SB 798), effective January 1, 2016. The repealed section related to the issuance of California sport fishing licenses and Arizona special use stamps to licensed dealers, document issuance not through the Automated License Data System and audit reports and remittances.

§ 7183.1. Issuance of California sport fishing licenses and special use validations, and Arizona special use validations, documents issued through Automated License Data System; Audit reports and remittances (Operation contingent)

(a) The Arizona Game and Fish Commission shall handle California sportfishing licenses and California special use validations and issue them through Arizona license dealers. Prior to August 31 of each year, that commission shall make an audit report and send a remittance for those issued to the department.

(b) The department shall handle Arizona special use validations and issue them through California license dealers. Prior to August 31 of each year that department shall make an audit report and send a remittance for those issued to the Arizona Game and Fish Commission.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 54 (AB 435). Amended Stats 2015 ch 154 § 84 (AB 1527), effective January 1, 2016, operation contingent.

§ 7184. [Section repealed 2016.]

HISTORY:
Enacted 1957. Amended Stats 1963 ch 303 § 2, effective May 8, 1963; Stats 2001 ch 112 § 55 (AB 435); Repealed Stats 2015 ch 683 § 29 (SB 798), effective January 1, 2016. The repealed section related to the duration of California and Arizona special use stamps and document issuance not through the Automated License Data System.

§ 7184.1. Duration of California and Arizona special use stamps, document issuance through the Automated License Data System (Operation contingent)

(a) An Arizona special use validation is valid from January 1 to December 31, inclusive, of each year, to coincide with the period for which a California sportfishing license is issued.

(b) A California special use validation is valid for one year to coincide with the period for which an Arizona fishing license is issued.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 56 (AB 435).

§ 7185. Operative date of article; Duration of article

This article shall become operative and remain effective so long as the commission finds and determines that under the laws of the State of Arizona substantially similar Arizona licenses are authorized to be issued to licensees of the State of California upon substantially the same terms and conditions as are provided for in this article as to the issuance of California licenses to licensees of the State of Arizona.

HISTORY:
Enacted 1957.

§ 7186. [Section repealed 2016.]

HISTORY:
Added Stats 1963 ch 303 § 3, effective May 8, 1963. Amended Stats 2001 ch 112 § 57 (AB 435). Repealed Stats 2015 ch 683 § 30 (SB 798), effective January 1, 2016. The repealed section related to Arizona sport fishing licenses valid for less than one year, issuance of special use stamp valid for same period, change of Arizona licenses from calendar to fiscal year basis and document issuance not through the Automated License Data System.

§ 7186.1. Arizona sport fishing licenses valid for less than one year; Issuance of special use stamp valid for same period; Change of Arizona licenses from calendar to fiscal year basis; Document issuance through the Automated License Data System (Operation contingent)

(a) When the director determines from the Secretary of State that copies of the law of the State of Arizona have been received by the Secretary of State that provides for an Arizona resident sportfishing license valid for a period of less than one year, a California special use validation valid for the same period as the Arizona resident sportfishing license may be issued for a fee of one dollar ($1).

(b) If Arizona issues a resident sportfishing license for a term less than one year for the purpose of changing to a calendar year license from a fiscal year license, that license shall be deemed to be a license upon substantially the same terms and conditions as are provided for the issuance of California licenses to licensees of the State of Arizona for the purposes of Section 7185.

(c) This section applies only to licenses, permits, reservations, tags, and other entitlements issued through the Automated License Data System.

HISTORY:
Added Stats 2001 ch 112 § 58 (AB 435).

ARTICLE 5. PROCESSING AND PRESERVING OF FISH TAKEN UNDER SPORT FISHING LICENSE

§ 7230. Inscription on cans of fish taken under sport fishing license; Sale or purchase prohibited

(a) Subject to Section 7121, fish lawfully taken under a sport fishing license may be canned or smoked by a fish cannery or processor as a service for a licensed sport fisherman.

(b) Any cannery or packing plant in which fish that have been taken under a sport fishing license are canned, shall emboss or imprint on the top of each can the words “not to be sold” in letters of such size as to be clearly legible, and the embossment or imprint shall remain affixed to the can.

(c) Any cannery or packing plant in which fish that have been taken under a sport fishing license are smoked shall permanently imprint on each package the words “not to be sold” in letters of such size as to be clearly legible, and the imprint shall remain visible on the package.

(d) Fish canned or smoked under this section shall not be sold, purchased, or offered for sale.

HISTORY:
Enacted 1957. Amended Stats 1971 ch 203 § 1. Stats 1985 ch 1403 § 3.

§ 7232. Processing of offal from fish taken under sport fishing license

Notwithstanding Section 7121 any offal from a fish taken under a sport fishing license which is delivered by the license holder to a fish canner or fish processor may be processed, used, or sold by that fish canner or fish processor.

Nothing in this section authorizes a holder of a sport fishing license to sell, or a fish canner or fish processor to purchase from a holder of a sport fishing license, any fish, or any portion thereof, taken under a sport fishing license.

HISTORY:
Added Stats 1984 ch 533 § 1.

CHAPTER 2. PARTICULAR VARIETIES OF FISH

ARTICLE 1. SPINY LOBSTER

§ 7256. Method of taking spiny lobster

Spiny lobster may not be taken under a sport fishing license except by use of a hoop net or by hand.

HISTORY:
Added Stats 1961 ch 1315 § 1.

ARTICLE 1.3. NATIVE CALIFORNIA TROUT

§ 7260. Importance of self-sustaining native trout populations; Designation of "Heritage Trout Waters"; Funding

(a) The Legislature finds and declares all of the following:

(1) California has the greatest biodiversity of native trout species of any state in the nation. Trout can be found in more than 18,000 miles of California's cooler streams. California's trout are the principal sport fish in 3,581 cold-water lakes and reservoirs.

(2) Self-sustaining native trout populations in "Heritage Trout Waters" that retain and promote genetic trout diversity and overall sustainable watershed and ecosystem environmental health are state policy.

(b) Funding for "Heritage Trout Waters" is a priority for the Hatchery and Inland Fisheries Fund.

(c) The commission may designate "Heritage Trout Waters" to recognize the beauty, diversity, historical significance, and special values of California's native trout. The commission's designation shall meet both of the following criteria:

(1) Only waters supporting populations that best exemplify indigenous strains of native trout within their historic drainages may qualify for designation.

(2) Only waters providing anglers with an opportunity to catch native trout consistent with the conservation of the native trout may qualify for designation.

(3) Any stocking of heritage trout waters shall meet the criteria established by Chapter 7.2 (commencing with Section 1725) of Division 2.

HISTORY:
Added Stats 2002 ch 645 § 1 (AB 2013). Amended Stats 2012 ch 565 § 22 (SB 1148), effective January 1, 2013.

§ 7261. Listing of native California trout

The following are native California trout:

(a) Coastal cutthroat trout.
(b) Lahontan cutthroat trout.
(c) Paiute cutthroat trout.
(d) Coastal rainbow trout/steelhead.
(e) Eagle Lake rainbow trout.
(f) Kern River rainbow trout.
(g) Goose Lake redband trout.
(h) McCloud River redband trout.
(i) Warner Valley redband trout.
(j) Little Kern golden trout.
(k) California golden trout.

HISTORY:
Added Stats 2002 ch 645 § 1 (AB 2013).

ARTICLE 1.5. PISMO CLAMS

§ 7290. Possession out of shell prohibited; Exception

No pismo clam not in the shell may be possessed, except when it is being prepared for immediate consumption.

HISTORY:
Enacted 1957.

ARTICLE 2. CLAMS GENERALLY, MOLLUSKS, AND CRUSTACEANS

§ 7332. Possession at night of instrument capable of digging clams

No instrument capable of being used to dig clams may be possessed between one-half hour after sunset and one-half hour before sunrise, on any beach of this State, except tools and implements used in the work of cleaning, repairing, or maintaining such beach when possessed by a person authorized by appropriate authority to perform such work.

HISTORY:
Enacted 1957.

ARTICLE 3. GIANT SEABASS

§ 7350. Taking under sport fishing license limited to hook and line

Giant seabass (Stereolepis gigas) may not be taken under a sport fishing license except by hook and line when engaged in the taking of other fish.

This section, and any regulations of the commission relating thereto, shall supersede Section 2353.

HISTORY:
Added Stats 1981 ch 654 § 1.

ARTICLE 4. BAY–DELTA SPORT FISHING

§ 7360. [Section repealed 2010.]

HISTORY:
Added Stats 2001 ch 112 § 60 (AB 435). Amended Stats 2003 ch 741 § 21 (SB 1049), ch 796 § 2 (SB 692); Stats 2004

ch 431 § 10 (AB 2760); Repealed Stats 2009 ch 381 § 1 (AB 1052), effective January 1, 2010. The repealed section related to Bay-Delta Sport Fishing Enhancement Stamp or validation.

§ 7361. Funds

(a) Fees received by the department from the sale of the Bay-Delta Sport Fishing Enhancement Stamp or validation shall be deposited in a separate account in the Fish and Game Preservation Fund. The Bay-Delta Sport Fishing Enhancement Stamp or validation shall not be required, and no fee shall be collected, as of January 1, 2010.

(b) The department shall expend the funds in that account for the long-term, sustainable benefit of the primary Bay-Delta sport fisheries, including, but not limited to, striped bass, sturgeon, black bass, halibut, salmon, surf perch, steelhead trout, and American shad. Funds shall be expended to benefit sport fish populations, sport fishing opportunities, and anglers within the tidal waters of the San Francisco Bay Delta and the main stem of the Sacramento and San Joaquin Rivers, including major tributaries, below the most downstream dam, and consistent with the requirements of the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) and the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3), the ecosystem restoration component of the CALFED Programmatic Record of Decision dated August 28, 2000, and applicable commission policies.

(c) It is the intent of the Legislature that these funds be used to augment, not replace, funding that would otherwise be allocated to Bay-Delta sport fisheries from the sale of fishing licenses, the California Bay-Delta Authority, or other federal, state, or local funding sources.

HISTORY:

Added Stats 1997 ch 398 § 1 (SB 699), operative until January 1, 2002. Amended Stats 2001 ch 753 § 12 (AB 1673); Stats 2003 ch 741 § 23 (SB 1049), ch 796 § 4 (SB 692); Stats 2004 ch 183 § 114 (AB 3082); Stats 2006 ch 77 § 2 (AB 1803), effective July 18, 2006; Stats 2009 ch 381 § 2 (AB 1052), effective January 1, 2010.

§ 7362. Grant program; Priority areas for funding; Outreach

(a) The department, in consultation with the advisory committee created pursuant to Section 7363, shall develop a grant program to support activities consistent with Section 7361.

(b) The department, in consultation with the advisory committee, shall develop priority areas for funding under the grant program. The department shall give the advisory committee an opportunity to review any draft public solicitation notice before that notice is finalized and released to the public.

(c) The advisory committee shall assist the department in providing outreach to encourage wide participation in the grant program.

(d) The department shall provide the advisory committee a copy of all grant applications. The advisory committee shall have a minimum of 30 days to review projects and provide recommendations to the department.

HISTORY:

Added Stats 2009 ch 381 § 4 (AB 1052), effective January 1, 2010.

§ 7363. Bay-Delta sport fishing enhancement stamp fund advisory committee

(a) The director shall appoint a Bay-Delta Sport Fishing Enhancement Stamp Fund Advisory Committee, consisting of nine members. The committee members shall be selected from names of persons submitted by anglers and associations representing Bay-Delta anglers of this state and shall serve at the discretion of the director for terms of not more than four years. The director shall appoint persons to the committee who possess experience in subjects with specific value to the committee and shall attempt to balance the perspective of different anglers.

(b) The advisory committee shall recommend to the department projects and budgets for the expenditure of the funds from the account established in Section 7361. The department shall give full consideration to the committee's recommendations.

(c) The department shall submit to the advisory committee and the Chief Clerk of the Assembly and the Secretary of the Senate for distribution to the appropriate fiscal and policy committees of the Legislature, at least annually, on or before January 10 of each year, an accounting of funds derived from the Bay-Delta Sport Fishing Enhancement Stamps and validations, including the funds generated and expended and administrative expenditures, and the status of programs funded pursuant to this article. In addition, the department shall report, at least annually, to the committee on the status of projects undertaken with funds from that stamp or validation, including reporting the department's reasoning in cases where committee recommendations are not followed.

(d) The department shall post on its Internet Web site projects undertaken with funds from the account established in Section 7361. At a minimum, the Internet Web site shall list the project title, applicant, a brief description of the project, the amount approved, and the project's status.

HISTORY:
Added Stats 1997 ch 398 § 1 (SB 699), as F & G C § 7362. Amended Stats 2001 ch 753 § 13 (AB 1673); Stats 2003 ch 741 § 24 (SB 1049), ch 796 § 5 (SB 692); Stats 2004 ch 183 § 115 (AB 3082); Stats 2008 ch 637 § 1 (AB 2162), effective January 1, 2009; Amended and renumbered by Stats 2009 ch 381 § 3 (1052), effective January 1, 2010.

§ 7364. Spending plan for stamp revenues; Tracking project expenditures; Payroll costs

(a) The department shall do all of the following:

(1) In consultation with the advisory committee, develop a spending plan that focuses on identifying and funding viable projects and monitoring revenues to assist the department in effectively expending available stamp revenues in a manner consistent with the purposes described in Section 7361. The spending plan shall be completed by January 31, 2010. Upon completion, a copy of the spending plan shall be provided to the Legislature.

(2) Track and report the costs of projects funded pursuant to this article by doing both of the following:

(A) Improve the tracking of individual project expenditures by assigning a separate account to each project within the department's accounting system.

(B) Require a project manager to approve all expenditures directly related to the manager's projects, periodically reconcile records for each project with accounting records, and report expenditures to staff responsible for preparing advisory committee reports.

(3) Reimburse the department's general fund appropriation for any lease payment charged to the department's general fund appropriation on or before January 1, 2010, that was eligible to be paid from the account established in Section 7361.

(4) Ensure that employees of the department appropriately charge their time to projects funded pursuant to this article by providing guidelines to employees concerning when to charge activities to the account established in Section 7361.

(b) The department shall not charge payroll costs to the account established in Section 7361 for employee activities that are not related to the implementation of this article. The department shall determine whether any other expenditure has been inappropriately charged to the account established in Section 7361 and shall make all necessary accounting adjustments.

HISTORY:
Added Stats 2009 ch 381 § 6 (AB 1052), effective January 1, 2010.

ARTICLE 5. STURGEON

§ 7370. Sturgeon; Sale, purchase, taking and possession for commercial purposes prohibited

(a) It is unlawful to take or possess for commercial purposes, buy or sell, or offer to buy

or sell, a whole sturgeon, or part of a sturgeon, including, but not limited to, its eggs, except as follows:

(1) A sturgeon, part of a sturgeon, sturgeon eggs, taken or possessed by, and the cultured progeny of, an aquaculturist who is registered under Section 15101, may be bought or sold subject to regulations of the commission.

(2) A sturgeon, part of a sturgeon, sturgeon eggs, taken commercially in another state that permits the sale of sturgeon, and lawfully imported under Section 2363, may be possessed, bought, or sold.

(3) Sturgeon, or part of a sturgeon, taken pursuant to a sport fishing license, that is processed in accordance with Section 7230.

(b) For purposes of this section, it is prima facie evidence that a sturgeon or part of a sturgeon is possessed for commercial purposes, if the possession is more than two times the sport bag limit.

HISTORY:

Added Stats 1983 ch 310 § 1. Amended Stats 1985 ch 1403 § 6; Stats 2007 ch 328 § 2 (AB 1187), effective January 1, 2008; Stats 2015 ch 154 § 85 (AB 1527), effective January 1, 2016.

ARTICLE 6. STEELHEAD TROUT [INOPERATIVE JULY 1, 2022; REPEALED EFFECTIVE JANUARY 1, 2023]

§ 7380. Fishing report-restoration card; Cost of card [Inoperative July 1, 2022; Repealed effective January 1, 2023]

(a) In addition to a valid California sport fishing license and any applicable sport license stamp issued pursuant to this code, after January 1, 1993, a person taking steelhead trout in inland waters shall have in his or her possession a valid nontransferable steelhead trout fishing report-restoration card issued by the department. The cardholder shall record certain fishing information on the card as designated by the department. The month, day, and location fished shall be recorded before the cardholder begins fishing for the day and when the cardholder moves to another location listed on the back of the report-restoration card. The cardholder shall immediately record catch information upon keeping a steelhead trout and immediately record catch information regarding released steelhead trout whenever the cardholder finishes fishing for the day, or moves to another location listed on the back of the report-restoration card. The cardholder shall return the card to the department on a schedule or date established by the department.

(b) The base fee for the card shall be five dollars ($5) for the 2004 license year, which may be adjusted annually thereafter pursuant to Section 713. The funds received by the department from the sale of the card shall be deposited in the Fish and Game Preservation Fund and shall be available for expenditure upon appropriation by the Legislature. The department shall maintain the internal accountability necessary to ensure that all restrictions and requirements pertaining to the expenditure of these funds are met.

(c) The commission shall adopt regulations necessary to implement this section. These regulations shall include, but not be limited to, procedures necessary to obtain appropriate steelhead trout resources management information, a requirement that the card contain a statement explaining potential uses of the funds received as authorized by Section 7381, and a requirement that the cards be returned to the department.

HISTORY:

Added Stats 1991 ch 1037 § 2 (AB 2187). Amended Stats 1997 ch 240 § 1 (SB 183), effective August 6, 1997; Stats 2002 ch 594 § 1 (AB 2783); Stats 2003 ch 741 § 26 (SB 1049); Stats 2006 ch 297 § 1 (AB 2773), effective January 1, 2007; Stats 2011 ch 217 §§ 1, 2 (AB 528), effective January 1, 2012, inoperative July 1, 2022, repealed January 1, 2023 (repealer amended).

§ 7381. Card revenue [Inoperative July 1, 2022; Repealed effective January 1, 2023]

(a) Revenue received pursuant to Section 7380 may be expended, upon appropriation by the Legislature, only to monitor, restore, or enhance steelhead trout resources consistent with Sections 6901 and 6902, and to administer the fishing report-restoration card program. The department shall submit all proposed expenditures, including proposed expenditures for administrative purposes, to the Advisory Committee on Salmon and Steelhead Trout for review and comment before submitting a request for inclusion of the appropriation in the annual Budget Bill. The committee may recommend revisions in any proposed expenditure to the Legislature and the commission.

(b) The department shall report to the Legislature on or before July 1, 2021, regarding the steelhead trout fishing report-restoration card program's projects undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendations for revising the fishing report-restoration card requirement, if any. The report submitted pursuant to this subdivision shall be submitted in compliance with Section 9795 of the Government Code.

HISTORY:

Added Stats 1991 ch 1037 § 2 (AB 2187). Amended Stats 1997 ch 240 § 2 (SB 183), effective August 6, 1997; Stats 2002 ch 594 § 2 (AB 2783); Stats 2006 ch 297 § 2 (AB 2773), effective January 1, 2007; Stats 2011 ch 217 §§ 1, 2 (AB 528), effective January 1, 2012, inoperative July 1, 2017, repealed January 1, 2018. Amended Stats 2017 ch 305 § 1 (SB 144), effective September 26, 2017, inoperative July 1, 2022, repealed January 1, 2023 (repealer amended).

§ 7382. Repeal of article [Inoperative July 1, 2022; Repealed effective January 1, 2023]

This article shall become inoperative on July 1, 2022, and, as of January 1, 2023, is repealed, unless a later enacted statute that is enacted before January 1, 2023, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 2002 ch 594 § 3 (AB 2783). Amended Stats 2006 ch 297 § 3 (AB 2773), effective January 1, 2007. Stats 2011 ch 217 § 2 (AB 528), effective January 1, 2012, inoperative July 1, 2017, repealed January 1, 2018. Amended Stats 2017 ch 305 § 2 (SB 144), effective September 26, 2017, inoperative July 1, 2022, repealed January 1, 2023.

ARTICLE 7. RECREATIONAL ABALONE ADVISORY COMMITTEE

§ 7400. Appointment of members; Eligibility; Meetings

(a) The director shall appoint a Recreational Abalone Advisory Committee consisting of nine members who shall serve without compensation. The members of the advisory committee shall be selected as follows:

(1) Six members who are not officers or employees of the department. The six members shall be residents of California and meet the following requirements:

(A) Two members shall reside north of the southern boundary line of Marin County and a line extending due east from the easternmost point of Marin County located in San Pablo Bay. The two members shall be selected from nominations submitted by the Northern California Shellfish Assessment Program or by individuals or organizations that actively participate in the recreational abalone fishery, except that not more than one of the members selected shall be an active or former commercial abalone diver or involved in commercial seafood processing or marketing.

(B) Two members shall reside south of the southern boundary line of Marin County and a line extending due east from the easternmost point of Marin County located in San Pablo Bay and north of the boundary between Santa Barbara and San Luis Obispo Counties and a line extending due east from the easternmost point in that boundary line. The two members shall be selected from nominations submitted

by the Central California Council of Divers, the Southern California Shellfish Assessment Program, the Northern California Shellfish Assessment Program, or by individuals or organizations that actively participate in the recreational abalone fishery, except that not more than one of the members selected shall be an active or former commercial abalone diver or involved in commercial seafood processing or marketing.

(C) Two members shall reside south of the boundary between Santa Barbara and San Luis Obispo Counties and a line extending due east from the easternmost point in that boundary line. The two members shall be selected from nominations submitted by the Greater Los Angeles Council of Divers, the San Diego Council of Divers, the Channel Islands Council of Divers, the Southern California Shellfish Assessment Program, or by individuals or organizations that actively participate in the recreational abalone fishery, except that not more than one of the members selected shall be an active or former commercial abalone diver or involved in commercial seafood processing or marketing.

(2) One member shall represent the department in enforcement activities and shall be selected from personnel in the Wildlife Protection Division.

(3) Two members shall be marine scientists who are or have been involved in abalone research at universities, state universities, or in state or federal programs. Not more than one of the persons shall be an officer or employee of the department.

(b) No member shall be involved in or profit from the culture for sale (commercial aquaculture) of abalone.

(c) The advisory committee shall meet at least once each calendar year to review proposals and recommend to the director projects and budgets for the expenditure of fees received pursuant to Section 7149.8. The committee may review progress reports and the results of projects funded under this article and make recommendations to the director regarding abalone resource management.

HISTORY:
Added Stats 1997 ch 787 § 7 (SB 463).

PART 3. COMMERCIAL FISHING

CHAPTER 1. GENERALLY

ARTICLE 1. APPLICATION OF PART

§ 7600. Taking and possession of fish for commercial purposes

The provisions of this part apply to the taking and possession of fish for any commercial purpose. This part does not apply to activities governed under Division 12 (commencing with Section 15000).

HISTORY:
Enacted 1957. Amended Stats 1982 ch 1486 § 18; Stats 1983 ch 131 § 2, effective June 27, 1983.

§ 7601. "Owner" or "vessel owner"

"Owner" or "vessel owner" means the person or persons designated as the registered owner of a vessel on a certificate of documentation issued by the United States Coast Guard or on a copy of the vessel registration issued by the vessel registration agency of the state where the owner is a resident. For purposes of this section, the vessel registration agency in California is the Department of Motor Vehicles.

HISTORY:
Added Stats 1996 ch 870 § 8 (AB 3245).

ARTICLE 1.3. COMMERCIAL FISHERIES CAPACITY REDUCTION PROGRAM

§ 7630. Legislative intent

It is the intent of the Legislature to enact legislation establishing a comprehensive program to allow California groundfish fishermen to participate in any federally established buy–back program for the Pacific groundfish fishery.

HISTORY:
Added Stats 2002 ch 962 § 1 (AB 2888), effective September 27, 2002.

ARTICLE 1.5. FEDERAL REGULATION

§ 7650. Definitions

As used in this article:

(a) "Act" means the Magnuson–Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.).

(b) "Council" means the Pacific Fishery Management Council established pursuant to the act, or its successor agency.

(c) "Fishery" has the same meaning as defined in Section 1802(13) of Title 16 of the United States Code.

(d) "Joint committee" means the Joint Committee on Fisheries and Aquaculture created pursuant to Resolution Chapter 88 of the Statutes of 1981.

(e) "Optimum," with respect to the yield from a fishery, has the same meaning as defined in Section 1802(28) of Title 16 of the United States Code.

(f) "Secretary" means the federal Secretary of Commerce.

HISTORY:
Added Stats 1976 ch 1160 § 1. Amended Stats 1984 ch 1301 § 1, effective September 20, 1984; Stats 2002 ch 559 § 8 (AB 892).

§ 7652. Adoption of regulations

Upon the preparation by the council, and the recommendation by the council to the secretary, of a fishery management plan or amendment thereto pursuant to the act, or upon the approval by the secretary of a fishery management plan, or amendment thereto, pursuant to the act, the director may do the following to conform state law or regulations of the commission to the fishery management plan, or amendment thereto, if the director finds that the action is necessary to achieve optimum yield in California and that it is necessary to avoid a substantial and adverse effect on the plan by that state law or the regulations in order to continue state jurisdiction pursuant to Section 1856 of the act:

(a) Adopt regulations that would make inoperative any statute or regulation of the commission, including, but not limited to, statutes or regulations regulating bag limits, methods of taking, and seasons for taking of fish for commercial purposes.

Any regulation adopted by the director pursuant to this subdivision shall specify the particular statute or regulation of the commission to be inoperative.

(b) Adopt regulations governing phases of the taking of fish for commercial purposes that are not presently regulated by statute or regulation of the commission.

(c) Adopt regulations governing phases of the taking of fish for commercial purposes that are presently regulated by statute or regulation of the commission, but only if the statutes or regulations are first made inoperative pursuant to subdivision (a) for the effective period of the regulations adopted by the director pursuant to this subdivision.

(d) Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code does not apply to this article.

HISTORY:
Added Stats 1976 ch 1160 § 1. Amended Stats 1984 ch 1301 § 2, effective September 20, 1984; Stats 1987 ch 1422 § 2; Stats 1996 ch 870 § 9 (AB 3245).

§ 7652.1. Public hearing; Notice

(a) Notwithstanding any other section of this article or any other provisions of law, the director shall hold a public hearing or hearings in the area of the fishery under consideration after a recommendation by the council to the secretary of a fishery management plan or amendment thereto pursuant to the act, or after approval by the secretary of a fishery management plan or amendment thereto pursuant to the act. If the secretary approves a fishery management plan or amendment thereto which is substantially identical to the fishery management plan or amendment thereto which has been recommended by the council and the director has held a public hearing on the council's recommended fishery management plan or amendment thereto, the director is not required to hold a second public hearing under this section after the approval by the secretary.

(b) The hearing shall be held not less than four days after the recommendation by the council to the secretary of a fishery management plan or amendment thereto or after the approval by the secretary of a fishery management plan or amendment thereto.

The director shall arrange the time and place of the hearing, shall provide adequate public notice and adequate notice to the appropriate standing policy committee of each house of the Legislature and to the joint committee, and shall convene the hearing at the time and place arranged.

(c) At the hearing or hearings, the director shall take evidence of the effects any proposed regulation would have on the state's fishery resources, the commercial or recreational fishing industry, and the state's ability to manage fishery resources in state waters.

(d) After the hearings, the director shall submit a written report to the Legislature which summarizes the reasons for the proposed regulation.

HISTORY:
Added Stats 1982 ch 184 § 1, effective April 30, 1982. Amended Stats 1984 ch 1301 § 3, effective September 20, 1984.

§ 7652.2. Authority to repeal or amend regulations; Public hearing; Notice; Taking evidence; Report

(a) The director may repeal or amend any regulation adopted pursuant to Section 7652 or any other regulation to conform the regulation to federal regulations pursuant to the act, if the director finds that this action is necessary to achieve optimum yield in California.

(b) Notwithstanding any other section of this article or any other provision of law, the director shall hold a public hearing or hearings in the area of the fishery under consideration before the director repeals or amends any regulation pursuant to this section. The director shall arrange the time and place of the hearing, shall provide adequate public notice and adequate notice to the appropriate standing policy committee of each house of the Legislature and to the joint committee, and shall convene the hearing at the time and place arranged.

(c) At the hearing or hearings, the director shall take evidence of the effects the proposed repeal or amendment would have on the state's fishery resources, the commercial or recreational fishing industry, and the state's ability to manage fishery resources in state waters.

(d) After the hearings, the director shall submit a written report to the Legislature which summarizes the reasons for the proposed repeal or amendment.

HISTORY:
Added Stats 1984 ch 1301 § 5, effective September 20, 1984.

§ 7652.3. Prerequisites to adopting, amending, or repealing regulations; Report to Legislature

(a) The director shall not adopt, amend, or repeal any regulation pursuant to this article until the director has held one or more hearings and submitted a report to the Legislature pursuant to Section 7652.1 or 7652.2, whichever is applicable.

(b) The report to the Legislature shall be delivered or placed in the United States Postal Service addressed to the Chairperson of the Joint Committee on Fisheries and Aquaculture and to the chairperson of the appropriate policy committee of each house of the Legislature.

HISTORY:
Added Stats 1984 ch 1301 § 6, effective September 20, 1984.

§ 7653. Report to legislature

Upon the adoption of any regulations pursuant to Section 7652, the director shall report to the Legislature which statutes or regulations of the commission need to be amended or repealed, and any regulations adopted by the director that need to be enacted as statutes, to conform state law to any fishery management plan, or amendment thereto, that has been approved by the secretary to avoid any substantial and adverse effect on such plan, or its amendments, by such state law.

HISTORY:
Added Stats 1976 ch 1160 § 1.

§ 7654. Legislative findings and declarations

The Legislature finds and declares:

(a) That the actions taken by the federal Pacific Fishery Management Council have resulted in significant economic losses to California's salmon and groundfish fisheries, have caused significant waste of fish, and have failed to manage and conserve fisheries for their optimum yield.

(b) That the California Salmon Fishery has been severely affected by regulations imposed by the Pacific Fishery Management Council and the federal Department of Commerce.

(c) That the membership of the Pacific Fishery Management Council has never included a commercial salmon troll fisherman and has at times lacked balance and representation from major fisheries subject to the fishery management plans of the council.

HISTORY:
Added Stats 1984 ch 1323 § 3 as § 7660. Renumbered Stats 1985 ch 106 § 35.

§ 7655. State representation on Pacific Fishery Management Council

(a) It is the policy of the State of California that the state be represented on the Pacific Fishery Management Council by people who are knowledgeable about fisheries directly subject to the fishery management plans of the council. Nominations and appointments to the Pacific Fishery Management Council shall be a balanced representation of interested parties, including, but not limited to, representatives from the commercial salmon troll fishery, the groundfish fishery, the coastal pelagic species fishery, the seafood processing industry, the commercial passenger carrying fishing industry, nongovernmental environmental organizations, and marine scientists.

(b) When the Governor nominates persons for any seat on the Pacific Fishery Management Council, those individuals shall be knowledgeable of California's fishery resources and its fishing industry. Further, the nominations may be made after consultation with fishery organizations and other interested parties, including parties representing the public's interest in the fishery resources and marine environment.

HISTORY:
Added Stats 1984 ch 1323 § 4, as F & G C § 7661. Renumbered Stats 1985 ch 106 § 36. Amended Stats 2000 ch 388 § 3 (AB 2941); Stats 2004 ch 854 § 1 (SB 512).

ARTICLE 1.6. SALMON MANAGEMENT

§ 7660. "Advisory committee"

As used in this article:

(a) "Advisory committee" means the Advisory Committee on Salmon and Steelhead Trout, established pursuant to Resolution Chapter 141 of the Statutes of 1983, except that there shall be two additional members appointed by the Joint Committee on Fisheries and Aquaculture after consultation with the Director of Fish and Game and the Fish and Game Commission.

HISTORY:
Added Stats 1984 ch 1686 § 7, effective September 30, 1984.

§ 7661. [Section renumbered 1985.]

HISTORY:
Added Stats 1984 ch 1323 § 4 as part of Article 1.5. Renumbered § 7655 Stats 1985 ch 106 § 36.

§ 7662. Consultation with advisory committee and user group representatives

The department shall consult with the advisory committee and representatives of every user group known to the department on the progress being made in the development of the annual and long–term salmon management plans.

HISTORY:
Added Stats 1984 ch 1686 § 7, effective September 30, 1984.

ARTICLE 1.7. VESSEL, HULL, AND MACHINERY LOSS POOLING

§ 7690. Pooling of funds to pay claims or losses

(a) Any person engaged in the business of licensed commercial fishing may enter into an arrangement with other authorized persons for the pooling of funds to pay claims or losses arising out of loss or damage to a vessel or machinery used in the business of commercial fishing and owned by a member of the pool.

A pool established pursuant to this section is not, and shall not be, subject to the Insurance Code and is not a member of the California Insurance Guarantee Association under Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(b) The pool established pursuant to this section shall have initial pooled resources of not less than two hundred fifty thousand dollars ($250,000) and the pool shall operate under generally acceptable accounting principles.

(c) All participating persons in any pool established pursuant to this section shall agree to pay premiums or make other mandatory financial contributions or commitments necessary to ensure a financially sound risk pool.

(d) For the purpose of this section, "person engaged in the business of licensed commercial fishing" and "authorized person" mean any natural person, partnership, corporation, limited liability company, or other person or entity engaged in the business of fishing for commercial purposes for which that person or its agents or employees are required to be licensed.

HISTORY:
Added Stats 1988 ch 930 § 2. Amended Stats 1994 ch 1010 § 123 (SB 2053).

ARTICLE 2. GENERAL PROVISIONS

§ 7700. Definitions

As used in this chapter:

(a) "Reduction plant" means any plant used in the reduction or conversion of fish into fish flour, fishmeal, fish scrap, fertilizer, fish oil, or other fishery products or byproducts.

(b) "Packer" means any person canning fish or preserving fish by the common methods of drying, salting, pickling, smoking, cold packing, or vacuum packing.

(c) "Fish offal" means the heads, viscera, and other parts of fish taken off in preparing for canning, preserving, packing, and preparing for consumption in a fresh state.

(d) "Stamp," except where otherwise specified, includes an electronic validation of privileges issued to the licensee.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 189 § 1; Stats 2001 ch 112 § 62 (AB 435).

§ 7701. Regulation and control by commission; Extent and purpose

The commission may regulate and control fishing boats, barges, lighters or tenders, receptacles or vehicles containing fish, commercial fishermen, packers, reduction plants, plants where fish products are manufactured, and dealers in fish, or fishery products, insofar as necessary to insure the taking and delivery of fish and fishery products in a wholesome and sanitary condition to canning, packing or preserving plants, or to any plant where fishery products are manufactured, or to any fresh fish dealer, and to prevent deterioration and waste of fish.

HISTORY:
Enacted 1957.

§ 7702. Right of entry and examination of plants by department

The department may enter and examine any canning, packing, preserving, or reduction plant, or place of business where fish or other fishery products are packed, preserved, manufactured, bought or sold, or board any fishing boat, barge, lighter, tender, or vehicle or receptacle containing fish, and ascertain the amount of fish received, or kind and amount of fishery products packed or manufactured and the number and size of containers or cans for fishery products purchased, received, used, or on hand and may examine any books and records containing any account of fish caught, bought, canned, packed, stored or sold.

HISTORY:
Enacted 1957.

§ 7702.1. Public weighmaster's of fish, intended for cannery; Receipt as to weight

No sardines, anchovies, mackerel, or squid intended for or used in any cannery shall be unloaded from any vessel except at a weighing or measuring device approved by the Bureau of Weights and Measures. Such products shall be weighed by a public weighmaster licensed as an individual under the laws of this state and a receipt as to such weight shall be immediately issued by the weighmaster to the fisherman at the time of receipt of such products. Copies of such receipt shall be handled in the manner provided in Sections 8043 to 8047, inclusive.

HISTORY:
Added Stats 1959 ch 711 § 1, effective June 1, 1959. Amended Stats 1988 ch 246 § 1.

§ 7703. Establishment by commission of grades of fish or fishery products; Conformity required

The commission may establish grades for different varieties of fish or fishery products, which grades shall be conformed to by persons who take or use sardines for bait or who deliver fish or other fishery products to packers or to fresh fish dealers. Every packer of fish, fish dealer, or manufacturer of fish products shall conform to the grades established by the commission.

HISTORY:
Enacted 1957.

§ 7704. Deterioration or waste of fish; Use for reduction; Sale or possession of shark fin or tail

(a) It is unlawful to cause or permit deterioration or waste of a fish taken in the waters of this state, or brought into this state, or to take, receive, or agree to receive more fish than can be used without deterioration, waste, or spoilage.

(b) Except as permitted by this code, it is unlawful to use a fish, except fish offal, in a reduction plant or by a reduction process.

(c) Except as permitted by this code or by regulation of the commission, it is unlawful to sell, purchase, deliver for a commercial purpose, or possess on a commercial fishing vessel registered pursuant to Section 7881, a shark fin or tail or part of a shark fin or tail that has been removed from the carcass. However, a thresher shark fin or tail that has been removed from the carcass and whose original shape remains unaltered may be possessed on a registered commercial fishing vessel if the carcass corresponding to the fin or tail is also possessed.

HISTORY:
Enacted 1957. Amended Stats 1995 ch 371 § 1 (SB 458); Stats 1999 ch 483 § 17 (AB 76); Stats 2015 ch 154 § 86 (AB 1527), effective January 1, 2016; Stats 2016 ch 86 § 137 (SB 1171), effective January 1, 2017.

§ 7705. Chutes, conveyors, and receptacles to be open to view and inspection

All chutes or conveyors used to convey fish or fish offal to any receptacle, and all receptacles containing fish or fish offal to be used for reduction purposes, shall be so constructed and maintained that the fish or fish offal thereon or therein is at all times open to view and inspection.

HISTORY:
Enacted 1957.

§ 7706. Complaint against violator of specified code sections; Suspension of license; Conduct of proceedings

A written complaint may be made to the commission against any person who violates Section 7700 to 7705, inclusive, 7707, 7708, 8075 to 8080, inclusive, or 8153, or any regulation adopted thereunder, by any person having information or knowledge of the violation. If the person charged is found guilty of the offense charged, the commission may suspend, for a period not to exceed 90 days, any license issued by any state board or officer to that person to take, buy, sell, can, or preserve fish or fishery products. No other license shall be issued to that person during the period of suspension. The proceedings shall be conducted at one of the commission's regularly scheduled meetings.

HISTORY:
Enacted 1957. Amended Stats 1986 ch 1244 § 7.

§ 7707. Reduction plant in violation of specified code sections as nuisance; Temporary injunction; Abatement

Any reduction plant in which any fish or any part thereof is used in violation of the provisions of Sections 7700 to 7706, inclusive, 7708, 8151, 8153 to 8157, inclusive, and 8075 to 8080, inclusive, of this code, or in violation of any regulation of the commission, is a nuisance. Whenever the existence of such nuisance is shown to the satisfaction of the superior court of the county in which the reduction plant is situated, by complaint filed in the name of the people of the State of California, the court may issue a temporary injunction to abate and prevent the continuance or recurrence of such nuisance. If the existence of a nuisance is established in such action, an order of abatement shall be entered as part of the judgment in the case, which order shall direct the closing, for 12 months, of the building or place where such nuisance was maintained, and, during such time, the building or place shall be and remain in the custody of the court.

HISTORY:
Enacted 1957.

§ 7708. Regulations

The commission may make and enforce such regulations as may be necessary or convenient for carrying out any power, authority, or jurisdiction conferred under this article.

HISTORY:
Enacted 1957.

§ 7709. Regulations for taking for educational and scientific purposes

The commission may establish rules and regulations for the commercial taking of fish for educational and scientific purposes.

HISTORY:
Added Stats 1969 ch 689 § 3.

§ 7710. When taking in a fishery is being conducted in a manner that is not sustainable; Regulations

(a) If the director determines, based on the best available scientific information, or other relevant information that the director possesses or receives, and on at least one public hearing in the area of the fishery, that taking in a fishery is being conducted in a manner that is not sustainable, the director may order the closure of any waters or otherwise restrict the taking under a fishing license in state waters of that species. Any closure or restriction order shall be adopted by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

(b) The director shall bring to the attention of the commission within seven working days any regulations adopted pursuant to this section. Any regulations shall be effective for only 30 days unless the commission extends the closure or restriction under any authority it may have, or unless the director orders another closure or restriction, consistent with the requirements of subdivision (a).

(c) The department shall give notice of any hearing to be held pursuant to this section to the commission and its marine resources committee as far in advance of the hearing date as possible.

Nothing in this section or Section 7710.5 restricts any existing jurisdiction of the department with regard to the regulation of fisheries on the high seas.

HISTORY:
Added Stats 1974 ch 1227 § 1. Amended Stats 1975 ch 77 § 1; Stats 1977 ch 369 § 1; Stats 1981 ch 16 § 1, effective April 14, 1981; Stats 1998 ch 1052 § 9 (AB 1241); Stats 1999 ch 483 § 18 (AB 76).

§ 7710.1. Appeal of closure order

A closure or restriction under Section 7710, or the removal of a closure or restriction under Section 7710.5, may be appealed to the commission. The commission shall hear and decide the appeal within a time that is meaningful, taking into account the duration of the fishery and the economics of the fishery.

HISTORY:
Added Stats 1998 ch 1052 § 11 (AB 1241).

§ 7710.5. Removal of restriction

If, during the period that regulations adopted pursuant to Section 7710 are effective, the director determines, based on thorough and adequate scientific evidence and at least one public hearing in the area of the fishery, that any species or subspecies the taking of which was previously restricted, has recovered or additional evidence indicates that the resource is not in danger of irreparable injury, the director may remove the restriction on taking. Action to remove the restriction shall be by adoption of an emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

The director shall bring to the attention of the Legislature, within seven calendar days, any regulations adopted pursuant to this section.

HISTORY:
Added Stats 1974 ch 1227 § 2. Amended Stats 1975 ch 77 § 2; Stats 1977 ch 369 § 2; Stats 1984 ch 193 § 20.

§ 7712. Policy regarding fisheries closed or restricted under specified conditions

Where a fishery is closed or restricted due to the need to protect a fishery resource, marine mammals, or sea birds, or due to a conflict with other fisheries or uses of the marine environment, it shall be the policy of the department and the commission, consistent with budgetary and personnel considerations, to assist and foster the development of alternative fisheries or alternative fishing gear for those commercial fishermen affected by the restrictions, closures, or resource losses, including, but not limited to, the issuing of experimental fishing permits pursuant to Section 1022.

HISTORY:
Added Stats 1986 ch 1245 § 1. Amended Stats 1987 ch 1298 § 1, effective September 28, 1987; Stats 1991 ch 677 § 1 (SB 615), effective October 7, 1991; Stats 1999 ch 483 § 19 (AB 76); Stats 2018 ch 477 § 6 (AB 1573), effective January 1, 2019.

§ 7715. Area closure due to high level of toxic substances [Renumbered]

HISTORY:
Added Stats 1989 ch 486 § 1. Supplemented by Governor's Reorganization Plan No. 1 of 1991 § 7, effective July 17, 1991. Amended Stats 2000 ch 144 § 1 (AB 2872), effective July 19, 2000. Renumbered F & G C § 5523 by Stats 2016 ch 542 § 3 (SB 1287), effective January 1, 2017.

ARTICLE 3. COMMERCIAL FISHING LICENSES

§ 7850. Persons required to hold license; Registration of presence on board; Exception as to live fresh-water fish licensees

(a) Excepting persons expressly exempted under this code, no person shall use or operate, or assist in using or operating, any boat, aircraft, net, trap, line, or other appliance to take fish or amphibia for commercial purposes, and no person shall cause to be brought ashore, any fish or amphibia at any point in the state for the purpose of selling them in a fresh state or shall contribute materially to the activities on board the

commercial fishing vessel, unless the person holds a commercial fishing license issued by the department.

(b) Any person not required under subdivision (a) to hold a commercial fishing license shall register his or her presence on board the commercial fishing vessel in a log maintained by the owner or operator of the vessel according to the requirements of the department.

(c) As used in this section, "person" does not include persons who are less than 16 years of age, a partnership, corporation, or association. Any person, partnership, corporation, limited liability company, or association may pay the fees for a license issued to any person.

(d) This article does not apply to the taking, transporting, or selling of live freshwater fish for bait by the holder of a live freshwater bait fish license issued pursuant to Section 8460.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1150 § 9; Stats 1987 ch 702 § 1, effective September 18, 1987; Stats 1988 ch 1602 § 2, effective September 30, 1988; Stats 1991 ch 558 § 1 (AB 528); Stats 1994 ch 1010 § 124 (SB 2053).

§ 7850.5. Application to specified employees of fish receivers

Section 7850 does not apply to any person who is employed by the fish receiver to unload fish or fish products, or to load or unload food and supplies, on or from a commercial fishing boat at a dock.

HISTORY:
Added Stats 1991 ch 80 § 1 (AB 63), effective June 30, 1991.

§ 7851. Application; Contents

The application for a commercial fishing license shall contain a statement of the applicant's sex, age, height, weight, the color of eyes and hair, and a statement as to whether or not the applicant is a citizen of the United States.

HISTORY:
Enacted 1957. Amended Stats 1988 ch 1009 § 1; Stats 1992 ch 936 § 1 (SB 742), effective September 26, 1992.

§ 7852. Issuance of commercial fishing license; Fees

(a) The department shall issue a commercial fishing license to any resident who is 16 years of age or older, upon payment of a base fee of ninety-five dollars ($95) for each resident vessel crewmember or resident vessel operator.

(b) The department shall issue a commercial fishing license to any nonresident who is 16 years of age or older, upon payment of a base fee of two hundred eighty-five dollars ($285) for a nonresident vessel crewmember or nonresident vessel operator.

(c) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(d) The commission shall adjust the amount of the fees specified in subdivision (c), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

(e) Nothing in this section affects any other provision of law relating to the employment of minors.

HISTORY:
Added Stats 1990 ch 1703 § 6 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 5 (SB 1565), effective September 14, 1992, operative April 1, 1993; Stats 1996 ch 870 § 10 (AB 3245); Stats 2003 ch 741 § 27 (SB 1049); Stats 2012 ch 565 § 23 (SB 1148), effective January 1, 2013.

§ 7852.1. Fee refunds to estate

The department may refund the fees paid for a commercial fishing license or stamp, a commercial boat registration, or a commercial fishing permit to the estate of the

deceased holder of the license, stamp, registration, or permit, if proof is provided by the estate that the death of the holder occurred prior to the opening of the season for which the license, stamp, registration, or permit was valid. The department may deduct from the refund an amount equal to the cost of issuing the refund, but not to exceed twenty–five dollars ($25).

HISTORY:
Added Stats 1989 ch 673 § 2.

§ 7852.2. Renewal after deadline; Fees; Appeal for renewal

Notwithstanding any other provision of law, a commercial fishing license, stamp, permit, or other entitlement for which there is a renewal deadline shall not be renewed after that deadline, except as follows:

(a) In addition to the base fee for the license, stamp, permit, or other entitlement, the department shall assess a late fee for any renewal the application for which is received after the deadline, according to the following schedule:

(1) One to 30 days after the deadline, a fee of one hundred twenty-five dollars ($125).

(2) Thirty-one to 60 days after the deadline, a fee of two hundred fifty dollars ($250).

(3) Sixty-one days or more after the deadline, a fee of five hundred dollars ($500).

(b) The department shall not waive the applicable late fee. The late fees specified in this section are applicable beginning in the 2008 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(c) The department shall deny any application for renewal received after March 31 of the permit year following the year in which the applicant last held a valid permit for that fishery.

(d) An applicant who is denied renewal of a late application may submit a written appeal for renewal to the commission within 60 days of the date of the department's denial. The commission, upon consideration of the appeal, may grant renewal. If the commission grants renewal, it shall assess the applicable late fee pursuant to subdivision (a).

HISTORY:
Added Stats 2007 ch 279 § 3 (AB 1144), effective January 1, 2008.

§ 7852.25. Dishonored check as basis for denial of issuance or renewal

Notwithstanding any other provision of law, the department may deny the issuance or renewal of any licenses, permits, or other authorizations to take or possess fish for commercial purposes, or to conduct business involving fish, that are issued pursuant to this part or Division 12 (commencing with Section 15000), or the renewal thereof, if the applicant for that authorization or renewal has, within the preceding year, issued to the department a check that was dishonored by the bank upon which the check was drawn and the person has failed to reimburse the department for the amount due plus a fee of thirty dollars ($30) and any dishonored check charges incurred by the department.

HISTORY:
Added Stats 1992 ch 936 § 3 (SB 742), effective September 26, 1992.

§ 7852.27. Other identification

At all times when engaged in any activity described in Section 7850 or Article 7 (commencing with Section 8030) for which a commercial fishing license is required, the licensee shall have in his or her possession, or immediately available to the licensee, a valid driver's license or identification card issued to him or her by the Department of Motor Vehicles or by the entity issuing driver's licenses from the licensee's state of domicile. A current passport may be used in lieu of a valid driver's license or

identification card by a holder of a valid nonresident commercial fishing license issued pursuant to subdivision (b) of Section 7852. The licensee's driver's license, identification card or, if applicable, passport, shall be exhibited upon demand to any person authorized by the department to enforce this code or regulations adopted pursuant thereto.

HISTORY:
Added Stats 1992 ch 936 § 4 (SB 742), effective September 26, 1992. Amended Stats 1998 ch 525 § 2 (SB 2028); Stats 2007 ch 285 § 116 (AB 1729), effective January 1, 2008.

§ 7852.4. Required insurance covering certain minors working on vessel

The owner of a vessel upon which a person who is at least 16, but less than 18, years of age, and who is licensed under Section 7852 is working shall obtain, and maintain in full force and effect at all times that a person is working on or about the vessel, a policy of insurance that provides indemnification to the person licensed under Section 7852 in case of accident or injury while working on or about the vessel.

HISTORY:
Added Stats 1984 ch 656 § 2, effective August 16, 1984. Amended Stats 2004 ch 431 § 11 (AB 2760).

§ 7853. Suspension or revocation; Approach to vessel owned or operated by United States Government

The commission may suspend or revoke the commercial fishing license of any licensee who operates a vessel in waters within the territorial jurisdiction of the State and approaches:

(a) Within 500 yards of any vessel owned or operated by the United States Government or any department or agency thereof, except when necessary to comply with the laws or rules of navigation governing the safe movement of vessels; or

(b) So close to any vessel owned or operated by the United States or any department or agency thereof and engaged in transporting naval or military equipment or personnel as to interfere with such transportation or to enable the observation thereof, except when necessary to comply with the laws or rules of navigation governing the safe movement of vessels.

HISTORY:
Enacted 1957.

§ 7854. Filing of complaint

No license shall be suspended or revoked pursuant to Section 7853 until the filing of a complaint with the commission by any of the following:

(a) The commanding officer of a vessel owned or operated by the United States or any department or agency thereof.

(b) Any other officer of any such vessel who is authorized by his commanding officer to file such complaint.

(c) Any commanding officer of any military or naval activity affected by the licensee's operation of a vessel, or any other officer of such activity authorized by such commanding officer to file a complaint.

HISTORY:
Enacted 1957.

§ 7855. Suspension or revocation; Conduct of proceedings

The proceedings to revoke or suspend a commercial fishing license shall be conducted at one of the commission's regularly scheduled meetings.

HISTORY:
Enacted 1957. Amended Stats 1986 ch 1244 § 8.

§ 7856. Preparation of fish for human consumption aboard commercial fishing vessel; Possession of fish on commercial fishing vessel

Notwithstanding any other provision of this division, except as provided in subdivision (f) and except when prohibited by federal law, fish may be prepared for human consumption aboard a commercial fishing vessel only under the following conditions:

(a) The fish are taken under all existing commercial fishing laws and regulations and, except as provided in subdivision (f), the fish is of a species and size that can be lawfully taken under sportfishing regulations in the area where taken and are taken incidental to normal commercial fishing operations.

(b) The fish is separated from other fish and stored with other foodstuff for consumption by the crew and passengers aboard the vessel.

(c) The fish shall not be bought, sold, offered for sale, transferred to another person, landed, brought ashore, or used for a purpose other than consumption by the crew and passengers.

(d)(1) All fish shall be maintained in a condition that the species can be determined, and the size or weight can be determined if a size or weight limit applies, until the fish is prepared for immediate consumption.

(2) If the fish is filleted, a patch of skin shall be retained on each fillet as prescribed by the commission in the sportfishing regulations until the fish is prepared for immediate consumption.

(3) Fillets from fish possessed under sportfishing regulations shall be of the minimum length prescribed by commission regulations.

(e) A fish that may be possessed under sportfishing regulations shall not be possessed in excess of the sport bag limit for each crew member and passenger on board the vessel.

(f) Notwithstanding other provisions of this section, kelp bass, sand bass, spotted bass, yellowfin croaker, spotfin croaker, California corbina, and marlin, shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip. Lobster, salmon, or abalone shall not be possessed aboard a commercial fishing vessel while that vessel is on a commercial fishing trip for preparation for human consumption pursuant to this section unless that lobster, salmon, or abalone is taken and possessed in compliance with all applicable laws pertaining to commercial fishing methods of take, licenses, permits, and size limits. Sturgeon or striped bass shall not be possessed aboard a commercial fishing vessel. A person shall not take or possess a fish on a commercial fishing vessel under a sportfishing license while that vessel is engaged in a commercial fishing activity, including going to or from an area where fish are taken for commercial purposes.

HISTORY:

Added Stats 1987 ch 1422 § 3. Amended Stats 1989 ch 318 § 3; Stats 1990 ch 1633 § 1 (AB 3703); Stats 2015 ch 154 § 87 (AB 1527), effective January 1, 2016.

§ 7857. Conditions applicable to commercial license, permit, or other entitlement

Unless otherwise specified, the following conditions apply to each commercial fishing license, permit, or other entitlement issued to take, possess aboard a boat, or land fish for commercial purposes and to each commercial boat registration issued by the department, except licenses issued pursuant to Article 7 (commencing with Section 8030):

(a) The person to whom a commercial fishing permit or other entitlement is issued shall have a valid commercial fishing license issued pursuant to Section 7852 that is not revoked or suspended.

(b) The commission, after notice and opportunity for hearing, may suspend, revoke, or cancel commercial fishing privileges for a period of time to be determined by the commission for the following reasons:

(1) The person was not lawfully entitled to be issued the license, permit, or other entitlement.

(2) A violation of this code, the terms of the permit or other entitlement, or the regulations adopted pursuant thereto, by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(3) A violation of any federal law relating to the fishery for which the license, permit, or other entitlement was issued by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(c) The person to whom the commercial fishing license, permit, or other entitlement is issued shall be present when fish are being taken, possessed aboard a boat, or landed for commercial purposes. This subdivision does not apply to commercial fishing vessel permits or licenses.

(d) The commercial fishing license, permit, or other entitlement shall be in the licensee's, permittee's, or entitled person's possession, or immediately available to the licensee, permittee, or entitled person at all times when engaged in any activity for which the commercial fishing license, permit, or entitlement is required.

(e) Not more than one individual commercial fishing license, permit, or other entitlement of a single type shall be issued to an individual person and not more than one commercial vessel fishing license, permit, or other entitlement of a single type shall be issued for each vessel.

(f) Any landing of fish used to qualify for, or renew, a commercial fishing license, permit, or other entitlement shall be reported on landing receipts delivered to the department pursuant to Section 8046.

(g) In addition to any other requirements in Article 7.5 (commencing with Section 8040), the name of the person issued the commercial fishing license, permit, or other entitlement authorizing the taking of the fish shall be included on the landing receipt for that landing.

(h) An application for a commercial fishing license, permit, or other entitlement shall be made on a form containing the information the department may require. The commercial fishing license, permit, or other entitlement shall be signed by the holder prior to use.

(i) Any person who has had a commercial fishing license, permit, or other entitlement suspended or revoked shall not engage in that fishery, and shall not obtain any other commercial fishing license, permit, or other entitlement that authorizes engaging in that fishery, while the suspension or revocation is in effect.

(j) A commercial fishing license, permit, or other entitlement is not transferable unless otherwise expressly specified in this code.

(k) Every commercial fishing license, permit, stamp, commercial boat registration, or other entitlement issued pursuant to this part, except commercial fish business licenses issued pursuant to Article 7 (commencing with Section 8030), is valid from April 1 to March 31 of the next following calendar year or, if issued after the beginning of that term, for the remainder of that term.

(*l*) A person who holds a commercial fishing vessel permit or other entitlement authorizing the use of a vessel for commercial fishing shall also hold a valid commercial boat registration for that vessel, issued pursuant to Section 7881, that has not been suspended or revoked.

(m) A person who holds a commercial fishing license, permit, registration, or other entitlement, who moves or acquires a new address shall notify the department of the old and new addresses within three months of acquiring the new address.

(n) An application to transfer any permit or other entitlement to take fish for commercial purposes shall be deferred if the current holder of the permit or other entitlement is awaiting final resolution of any pending criminal, civil, or administrative action that could affect the status of the permit or other entitlement.

HISTORY:
Added Stats 1996 ch 870 § 12 (AB 3245). Amended Stats 1998 ch 525 § 3 (SB 2028); Stats 2018 ch 189 § 2 (AB 2369), effective January 1, 2019.

§ 7858. Additional conditions for conditional permit for limited entry fishery

In addition to the conditions specified in Section 7857, the following conditions apply to a commercial permit to take, possess aboard a boat, or land fish for commercial purposes in a limited entry fishery, as defined in Section 8100:

(a) The permit shall be renewed annually.

(b) Except as otherwise provided by law, an appeal for the denial of a renewal application or for a waiver of any landing requirements shall be reviewed and decided by the department. The appeal shall be received by the department or, if mailed, postmarked on or before March 31 following the permit year in which the applicant last held a valid permit for that fishery. The decision of the department may be appealed to the commission. This section does not apply to permits issued pursuant to Section 8550.

HISTORY:
Added Stats 1996 ch 870 § 13 (AB 3245). Amended Stats 1998 ch 525 § 4 (SB 2028).

ARTICLE 3.5. COMMERCIAL SALMON TROLLERS ENHANCEMENT AND RESTORATION PROGRAM [REPEALED EFFECTIVE JANUARY 1, 2029]

§ 7860. Salmon stamps; Application and fee [Repealed effective January 1, 2029]

(a) Except as provided in subdivision (f) or (g), no person who is 18 years of age or more and less than 70 years of age, on or before April 1 of the current license year, shall take salmon for commercial purposes or be on board a vessel on which salmon are taken for commercial purposes while salmon are being taken or transported unless that person has a commercial fishing salmon stamp issued pursuant to this section affixed to his or her commercial fishing license.

(b) Except as provided in subdivision (f) or (g), the operator of a vessel on which salmon are taken for commercial purposes shall not permit a person on board that vessel while salmon are being taken or transported unless that person was less than 18 years of age or 70 years of age or more on April 1 of the current license year or that person has a commercial fishing salmon stamp affixed to the person's commercial fishing license.

(c) Except as provided in this subdivision, the department shall issue a commercial fishing salmon stamp upon application therefor and payment of the fee of eighty-five dollars ($85). For any commercial salmon season preceded by a commercial salmon season in which the commercial troll salmon landings in this state equal or exceed 3,000,000 pounds dressed weight, as determined by the department, the fee shall be increased by twelve dollars and fifty cents ($12.50) for every 250,000 pounds over 3,000,000 pounds of dressed weight landings, except that the total fees as adjusted shall not exceed two hundred sixty dollars ($260).

(d) A commercial fishing salmon stamp is valid during the commercial salmon season of the year in which it was issued.

(e) Upon application and payment of an additional fee equal to that prescribed in subdivision (c), the department may issue an additional commercial fishing salmon stamp for a crewmember to the owner or operator of a vessel who holds a commercial fishing salmon stamp.

(f) Notwithstanding subdivision (a), one crewmember of a vessel for which a commercial fishing salmon stamp is issued pursuant to subdivision (e) may be aboard that vessel

and take salmon for commercial purposes as a crewmember on that vessel without obtaining a commercial fishing salmon stamp under the following conditions:

(1) The crewmember is designated by name and commercial fishing license number on a form furnished by the department before salmon are taken on the vessel when that crewmember is aboard.

(2) The crewmember has a valid commercial fishing license issued under Section 7850.

(3) The commercial fishing salmon stamp for the crewmember is affixed to the form prescribed in paragraph (1) on which the vessel registration number of the vessel is entered and on which the crewmember who is exempted by this subdivision is designated by the last entered name and commercial fishing license number.

(g) Persons who are exempt from the license requirements, or who are not required to be licensed, pursuant to Section 7850, are exempt from the requirements of this section.

HISTORY:

Added Stats 1982 ch 184 § 3, effective April 30, 1982. Amended Stats 1982 ch 1336 § 6; Stats 1986 ch 862 § 2; Stats 1987 ch 702 § 4, effective September 18, 1987; Stats 1989 ch 1400 § 3, effective October 2, 1989; Stats 2001 ch 753 § 16 (AB 1673); Stats 2013 ch 368 §§ 2, 8 (SB 197), effective January 1, 2014, repealed January 1, 2019; Stats 2015 ch 683 § 31 (SB 798), effective January 1, 2016, repealed January 1, 2019. Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7861. Use of funds collected; Information to be posted on Internet Web site [Repealed effective January 1, 2029]

(a) After deducting the administrative costs for issuing the commercial fishing salmon stamps, the department shall deposit the fees received pursuant to Section 7860 in the Commercial Salmon Stamp Dedicated Subaccount, which is hereby established in the Fish and Game Preservation Fund. The money in the subaccount shall be available to the department, upon appropriation by the Legislature, for new or expanded salmon restoration and enhancement programs in the state that will serve to increase ocean salmon landings. No money in this subaccount shall be used in lieu of other funds appropriated for salmon restoration and enhancement programs authorized by law on or before January 1, 1988.

(b)(1) Thirty dollars ($30) of the fees collected for each commercial fishing salmon stamp issued shall be allocated by the department to be used for raising chinook salmon to a yearling size, at which size they shall be released into state waters. The amount of salmon stamp revenues expended for this purpose in any fiscal year shall not exceed the amount expended by the department for the same purpose during the same period from other funds. The calculation of the amount expended by the department for this purpose shall not include expenditures made by the department for which reimbursements are received from state or federal agencies, public utilities, or private entities for raising chinook salmon to yearling size as part of a fish mitigation program instituted to compensate for the adverse effect of a dam on natural salmon production. If the department expends no funds other than moneys collected from the sale of commercial fishing salmon stamps or moneys for which reimbursements are received as part of an anadromous fish mitigation program for the raising of chinook salmon to yearling size within the period of a fiscal year, the fees prescribed in Section 7860 shall be reduced by an amount equivalent to that portion of the commercial fishing salmon stamp program, as specified in this subdivision.

(2) If the salmon stamps issued pursuant to Section 7860 raise more money for the purpose of this subdivision than is necessary to match the funds expended by the department during any fiscal year from other funds, then the excess salmon stamp revenue allocated pursuant to this subdivision shall be carried over into the following fiscal year.

(c) The department shall post on its Internet Web site an accounting of the projects undertaken with funds from the Commercial Salmon Stamp Dedicated Subaccount and the costs incurred to administer the program. At a minimum, the Internet Web site shall

list the project title, the applicant, a brief description of the project, the amount approved, and the status of the project.

(d) Any moneys that were in the Commercial Salmon Stamp Account as of March 14, 2013, and that were retained in the Fish and Game Preservation Fund shall be transferred to the Commercial Salmon Stamp Dedicated Subaccount.

HISTORY:

Added Stats 1982 ch 184 § 3, effective April 30, 1982. Amended Stats 1986 ch 862 § 3; Stats 1987 ch 702 § 5, effective September 18, 1987; Stats 2011 ch 565 § 1 (SB 470), effective January 1, 2012; Stats 2013 ch 368 §§ 3, 8 (SB 197), effective January 1, 2014, repealed January 1, 2019. Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7861.1. Payment of costs incurred in administration of program; Limitations [Repealed effective January 1, 2029]

Not more than 15 percent of the funds expended pursuant to Section 7861 may be used to pay the costs incurred in the administration of the program.

HISTORY:

Added Stats 1988 ch 1602 § 4, effective September 30, 1988. Amended Stats 2011 ch 565 § 2 (SB 470), effective January 1, 2012. Stats 2013 ch 368 §§ 4, 8 (SB 197), effective January 1, 2014, repealed January 1, 2019. Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7861.2. Additional funds [Repealed effective January 1, 2029]

Notwithstanding any other law, the department may receive on behalf of the Commercial Salmon Trollers Enhancement and Restoration Program, for deposit in the Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game Preservation Fund established pursuant to Section 7861, funds from sources in addition to funds derived from the sale of commercial fishing salmon stamps, including, but not limited to, grants from the federal government, grants from private foundations, money disbursed from court settlements, and donations and bequeaths from individuals. The additional nonfederal funds shall not be deposited in the Commercial Salmon Stamp Dedicated Subaccount unless the person or entity providing the funds specifically designates in writing, prior to or at the time of transmittal of the funds to the department, that the funds are intended solely for deposit to that subaccount. Funds received by the department that are not designated at the time of receipt as being intended solely for deposit to the Commercial Salmon Stamp Dedicated Subaccount shall be deposited in the Fish and Game Preservation Fund.

HISTORY:

Added Stats 1995 ch 828 § 1 (AB 704). Amended Stats 2013 ch 368 §§ 5, 8 (SB 197), effective January 1, 2014, repealed January 1, 2019; Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7861.3. Legislative intent [Repealed effective January 1, 2029]

It is the intent of the Legislature that the department use the moneys from the sale of commercial fishing salmon stamps allocated pursuant to subdivision (b) of Section 7861 and the matching share contributed by the department to raise approximately two million chinook salmon annually to yearling size to contribute to the replenishing of California's salmon resource. In no case shall moneys from the General Fund be used to match the salmon stamp revenues expended for this program. It is the further intent of the Legislature that the salmon stamp fee authorized in subdivision (b) of Section 7861 shall generate revenues equal to one–half the amount necessary to raise this number of salmon to yearling size.

HISTORY:

Added Stats 1986 ch 862 § 4. Amended Stats 2013 ch 368 § 8 (SB 197), effective January 1, 2014, repealed January 1, 2019; Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7861.4. Funding priority for projects involving salmon streams [Repealed effective January 1, 2029]

A priority for funding shall be given to programs and projects restoring, enhancing, and protecting salmon streams with funds appropriated pursuant to subparagraph (A) of paragraph (1) of subdivision (e) of Section 5907 of the Public Resources Code, that employ fishermen who are unemployed or underemployed as a result of commercial fishing restrictions within and immediately adjacent to the Klamath Management Zone imposed by federal laws or regulations.

HISTORY:

Added Stats 1989 ch 1237 § 1. Amended Stats 2013 ch 368 § 8 (SB 197), effective January 1, 2014, repealed January 1, 2019; Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7861.5. Purposes for allocation of funds from Commercial Salmon Stamp Account [Repealed effective January 1, 2029]

In consultation with the Commercial Salmon Trollers Advisory Committee, the department may allocate funds from the Commercial Salmon Stamp Dedicated Subaccount in the Fish and Game Preservation Fund for the following purposes:

(a) For restoration projects to assist in the recovery of salmon stocks listed as threatened or endangered under Chapter 1.5 (commencing with Section 2050) of Division 3, or the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.).

(b) As matching funds for federal salmon restoration moneys.

HISTORY:

Added Stats 2004 ch 713 § 2 (AB 2519). Amended Stats 2013 ch 368 §§ 6, 8 (SB 197), effective January 1, 2014, repealed January 1, 2019; Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7862. Commercial Salmon Trollers Advisory Committee [Repealed effective January 1, 2029]

A Commercial Salmon Trollers Advisory Committee shall be established consisting of six members selected by the director. One member shall be chosen from the personnel of the department. Four persons shall be selected, with alternates, from a list submitted by a fishermen's organization deemed to represent the commercial salmon fishermen of California. One member shall be selected, with an alternate, from lists submitted by individual commercial passenger fishing boat operators or by organizations deemed to represent the commercial passenger fishing boat operators of California. The term of appointment to the committee shall be for two years. Necessary and proper expenses, if any, and per diem shall be paid committee members from the special account created pursuant to subdivision (a) of Section 7861. The rate of per diem shall be the same as the rate established pursuant to Section 8902 of the Government Code.

The committee shall recommend programs and a budget from the special account to the department.

HISTORY:

Added Stats 1982 ch 1336 § 8. Amended Stats 1986 ch 862 § 5; Stats 1987 ch 702 § 7, effective September 18, 1987; Stats 2012 ch 728 § 50 (SB 71), effective January 1, 2013; Stats 2013 ch 368 § 8 (SB 197), effective January 1, 2014, repealed January 1, 2019. Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7862.5. Recommendations for creation of salmon related artwork [Repealed effective January 1, 2029]

(a) The Commercial Salmon Trollers Advisory Committee established under Section 7862 may recommend to the director that a nonprofit organization or the California Salmon Council be authorized to create or contract to create salmon or salmon fishing artwork and other materials based on that artwork, including, but not limited to, a stamp, and offer those items for sale to the public during 2003 and thereafter, for the

purpose of augmenting funding for the Commercial Salmon Trollers Enhancement and Restoration Program established under this article.

(b) The committee may not recommend a nonprofit organization or the California Salmon Council as authorized under subdivision (a), unless all of the following conditions are met:

(1) The proposed creation and sale of the artwork is pursuant to a written business plan presented to the committee.

(2) The committee determines that a reasonable share of the sales of any stamp will be remitted to the department for deposit into the Commercial Salmon Stamp Dedicated Subaccount established in the Fish and Game Preservation Fund under Section 7861.

(3) The committee determines that the creation and sale of the artwork will act to increase public awareness and support for the salmon stamp program and the restoration of salmon and their habitats in the state.

(4) Any other conditions deemed necessary by the committee for determining whether to recommend approval to the director have been met.

(c) The director, upon receiving the recommendation of the committee, and upon finding that there will be no new costs to the department, may authorize the recommended entity to create or contract to create salmon or salmon fishing artwork and other materials based on that artwork, including, but not limited to, a stamp, and offer those items for sale to the public, for the purpose described in subdivision (a).

(d) No person or entity, including, but not limited to, any nonprofit organization, may use the name of the Commercial Salmon Stamp, the Commercial Salmon Trollers Advisory Committee, or the Commercial Salmon Trollers Enhancement and Restoration Program for the sale of artwork and other materials, unless that person or entity has been approved by the director under this section for that purpose. The approval of the director under this section shall be for one year, after which the approval may be renewed for an additional year, upon recommendation of the committee.

(e) No artwork sold in the form of a stamp under this section conveys to the purchaser any entitlement to engage in the commercial salmon fishery.

(f) Proceeds from the sales of artwork and other materials sold under this section, after deduction of all reasonable costs borne by the nonprofit organization or California Salmon Council for creation of the artwork and conducting the sales, shall be deposited in the Commercial Salmon Stamp Dedicated Subaccount.

HISTORY:

Added Stats 2002 ch 962 § 2 (AB 2888), effective September 27, 2002. Amended Stats 2013 ch 368 §§ 7, 8 (SB 197), effective January 1, 2014, repealed January 1, 2019; Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029 (repealer amended).

§ 7863. Repeal date of article [Repealed effective January 1, 2029]

This article shall remain in effect only until January 1, 2029, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2029, deletes or extends that date.

HISTORY:

Added Stats 1982 ch 184 § 3, effective April 30, 1982. Amended Stats 1986 ch 862 § 6; Stats 1991 ch 1067 § 1 (AB 354), operative until January 1, 1997; Stats 1996 ch 250 § 1 (AB 2451); Stats 2000 ch 410 § 1 (AB 2482), repealed January 1, 2007; Stats 2006 ch 16 § 1 (AB 601), effective March 31, 2006, repealed January 1, 2012; Stats 2011 ch 565 § 3 (SB 470), effective January 1, 2012, repealed January 1, 2014; Stats 2013 ch 368 § 8 (SB 197), effective January 1, 2014, repealed January 1, 2019. Amended Stats 2018 ch 985 § 4 (SB 1309), effective January 1, 2019, repealed January 1, 2029.

ARTICLE 4. VESSEL REGISTRATION

§ 7880. Display of registration number by vessel; Method; Transferability of number

(a) A person owning or operating a vessel used in connection with fishing operations

for profit who has been issued a commercial boat registration pursuant to Section 7881 shall display, for the purpose of identification, a department registration number on the vessel in a manner designated by the department.

(b) The method of displaying the registration number on the vessel shall be determined by the department after consultation with the Division of Boating and Waterways, taking into consideration the responsibilities and duties of the Division of Boating and Waterways as prescribed in the Harbors and Navigation Code.

(c) The registration number is not transferable, and it is a permanent fixture upon the vessel for which it is originally issued.

HISTORY:

Enacted 1957. Amended Stats 1992 ch 28 § 1 (AB 1003); Stats 2015 ch 154 § 88 (AB 1527), effective January 1, 2016.

§ 7881. Application for commercial boat registration; Fee; Application of section; Report of loss of vessel

(a) Every person who owns or operates a vessel in public waters in connection with fishing operations for profit in this state, or who brings fish into this state, or who, for profit, permits persons to fish therefrom, shall submit an application for commercial boat registration on forms provided by the department and shall be issued a registration number.

(b) A commercial boat registration may be issued to any resident owner or operator of a vessel upon payment of a base fee of two hundred fifty dollars ($250). The commercial boat registration shall be carried aboard the vessel at all times, and shall be posted in a conspicuous place.

(c) A commercial boat registration may be issued to any nonresident owner or operator of a vessel upon payment of a base fee of seven hundred fifty dollars ($750). The commercial boat registration shall be carried aboard the vessel at all times and shall be posted in a conspicuous place.

(d) If a registered vessel is lost, destroyed, or sold, the owner of the vessel shall immediately report the loss, destruction, or sale to the department.

(e) This section does not apply to any person required to be licensed as a guide pursuant to Section 2536.

(f) The base fees specified in this section are applicable to the 2004 license year, and shall be adjusted annually thereafter pursuant to Section 713.

(g) The commission shall adjust the amount of the fees specified in subdivision (f), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:

Added Stats 1992 ch 28 § 3 (AB 1003). Amended Stats 1992 ch 701 § 8 (SB 1565), effective September 14, 1992, operative April 1, 1993; Stats 1996 ch 870 § 14; Stats 1998 ch 1052 § 12 (AB 1241); Stats 2001 ch 753 § 17 (AB 1673); Stats 2003 ch 741 § 30 (SB 1049); Stats 2012 ch 565 § 24 (SB 1148), effective January 1, 2013.

§ 7891. Control of fishing in State waters where delivery is to points beyond; Permit; Procedure on violation of section

The law relating to the subject of control of fishing in state waters when delivery is to points beyond state waters was adopted as an initiative measure at the General Election of November 8, 1938. The reference to Section 845 in the last sentence is to Sections 8630 to 8632, inclusive, of this code. It reads as follows:

1110—No person shall use or operate or assist in using or operating in this State or the waters thereof, any boat or vessel used in connection with fishing operations irrespective of its home port or port of registration, which fishing boat or vessel delivers or by which there is delivered to any point or place other than within this State any fish, mollusks or crustaceans which are caught in, or taken aboard said boat or vessel from, the waters of the Pacific Ocean within this State or on the high seas or elsewhere, unless a permit authorizing the same shall have been issued by the Fish and Game Commission.

Where it appears to the commission that such permit will not tend to prevent, impede or obstruct the operation, enforcement or administration of this code or any provision thereof, and will not tend to result in fish, mollusks or crustaceans in the waters of this State being taken or used otherwise than is authorized by this code, the commission may issue revocable permits under such rules and regulations and upon such terms and conditions as it may prescribe, to deliver fish, mollusks or crustaceans by the use of such boat or vessel outside of this State, provided that nothing herein shall authorize the transportation or carrying out of this State or any district thereof, of any fish, mollusks or crustaceans where the same is prohibited by law, and no permit shall be issued which may tend to deplete any species of fish, mollusk or crustacean, or result in waste thereof. Any person who uses or operates or assists in using or operating any boat or vessel in violation of the provisions of this section is guilty of a misdemeanor and such boat or vessel and the net, gear or other equipment of said boat or vessel is a public nuisance and shall be forfeited. It is the duty of every person authorized to make an arrest for the violation of any of the provisions of this code, to seize and keep such boat, vessel, net, gear or other equipment and to report such seizure to the commission. The commission shall thereupon commence, in the superior court of the county or city and county in which or nearest to which the seizure is made, proceedings for forfeiture of the seized property for its use in violation of this section, and such proceeding shall be had in the manner and according to the procedure provided by Section 845 of this code for the forfeiture of nets.

HISTORY:
Enacted 1957.

§ 7892. Registration for aircraft used in commercial fishing operations

The department shall issue to any person owning or operating an aircraft used in connection with commercial fishing operations in this state an aircraft registration for that aircraft. The registration shall be carried aboard the aircraft at all times when the aircraft is used in connection with commercial fishing operations. The fee for a commercial aircraft registration shall be two hundred dollars ($200).

HISTORY:
Added Stats 1996 ch 870 § 15 (AB 3245).

ARTICLE 5. COMMERCIAL PASSENGER FISHING BOAT LICENSES

§ 7920. Persons required to procure license; Application of article

The owner of any boat or vessel who, for profit, permits any person to take fish, shall procure a commercial passenger fishing boat license.

This article applies only to a boat or vessel whose owner or his or her employee or other representative is with it when it is used for fishing.

A person operating a guide boat, as defined in Section 46, is not required to obtain a commercial passenger fishing boat license.

HISTORY:
Enacted 1957. Amended Stats 1978 ch 443 § 10. Stats 1987 ch 200 § 3, effective July 23, 1987; Stats 2004 ch 431 § 12 (AB 2760).

§ 7921. Fee for commercial passenger fishing boat

The base fee for a commercial passenger fishing boat license is two hundred fifty dollars ($250) in the 2004 license year, which shall be adjusted annually thereafter pursuant to Section 713. The commercial passenger fishing vessel license shall be issued to the holder of a commercial boat registration issued pursuant to Section 7881.

HISTORY:
Added Stats 1993 ch 1177 § 4 (AB 1150), operative April 1, 1995. Amended Stats 1994 ch 849 § 34 (SB 2113), operative April 1, 1995; Stats 1996 ch 870 § 16 (AB 3245); Stats 2003 ch 741 § 31 (SB 1049).

§ 7923. Duty of licensee to keep record in English; Confidentiality

The holder of a license shall keep a true record in the English language of all fish taken, and shall comply with such regulations as the commission may prescribe. Such a record and the information contained in it shall be confidential, and the record shall not be a public record.

HISTORY:
Enacted 1957.

§ 7924. Forfeiture, suspension, or revocation

Licenses issued under this article are subject to forfeiture, suspension, or revocation for a violation of Section 7121 and for any offense for which a commercial fishing license may be forfeited, suspended, or revoked.

HISTORY:
Enacted 1957. Amended Stats 1980 ch 1052 § 2.

§ 7925. Commercial fishing salmon stamps; Vessels operating north of Point Arguello

(a) If a vessel is licensed under this article and is used to take salmon or has salmon aboard in ocean waters north of Point Arguello, there shall be on board that vessel, a total number of commercial fishing salmon stamps sufficient to have at least one for the operator and one for each crewmember required by United States Coast Guard regulations, excepting an operator or a crewmember who is exempt from the requirement under subdivision (b) of Section 7860. The commercial fishing salmon stamps shall be affixed to either the commercial fishing licenses of the operator and the crewmembers or, pursuant to subdivision (b), to the commercial passenger fishing license. No person shall operate, or cause to be operated, any vessel licensed under this article in violation of this subdivision. Vessels permitted as commercial salmon fishing vessels pursuant to Section 8234 are exempt from the requirements of this subdivision.

(b) Notwithstanding Section 1053, the department may issue to the owner or operator of a vessel licensed pursuant to this article, upon application and payment of the fees prescribed in subdivision (c) of Section 7860, one commercial fishing salmon stamp for the operator and not more than one additional commercial salmon stamp for each crewmember required by the United States Coast Guard regulations. The commercial fishing salmon stamps issued under this subdivision shall be affixed to the vessel's commercial passenger fishing boat license issued pursuant to this article.

HISTORY:
Added Stats 1986 ch 862 § 7. Amended Stats 1987 ch 702 § 8, effective September 18, 1987; Stats 1988 ch 1164 § 1; Stats 1991 ch 485 § 1 (AB 1376), effective October 3, 1991.

ARTICLE 6. COMMERCIAL FISHING REPORTS

§ 8010. Duties of department; Data, investigations and determination as to conservation measures

The department shall:

(a) Gather and prepare data of the commercial fisheries, showing particularly the extent of the fisheries and the extent to which the various species abound.

(b) Make such investigations of the biology and the environment of the living marine resources as will aid in the collection and preparation of the statistical

information necessary to determine the population dynamics of the species relative to their scientific management.

(c) Make such investigations as will disclose the optimum sustainable yield of the various marine resources.

(d) Determine what measures may be advisable to conserve any fishery, or to enlarge and assist any fishery where that may be done without danger to the supply.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 798 § 1.

§ 8022. Confidentiality of records; Publication as summaries

(a) The receipts, reports, or other records filed with the department pursuant to Article 2 (commencing with Section 7700) to Article 7.5 (commencing with Section 8040), inclusive, and the information contained therein, shall, except as otherwise provided in this section, be confidential, and the records shall not be public records. Insofar as possible, the information contained in the records shall be compiled or published as summaries, so as not to disclose the individual record or business of any person.

(b) Notwithstanding any other provision of law, the department may release the confidential information described in subdivision (a) to any federal agency responsible for fishery management activities, provided the information is used solely for the purposes of enforcing fishery management provisions and provided the information will otherwise remain confidential. The department may also release this information in accordance with Section 391 or pursuant to a court order, to a public or private postsecondary institution engaged in research under the terms of a legally binding confidentiality agreement, or under other conditions as the commission by regulation may provide.

(c) All forms, logs, books, covers, documents, electronic data, software, and other records of any kind issued or otherwise supplied, directly or indirectly, by the department, the purpose of which is to provide a means for reports, records, or other information to be filed with the department pursuant to Article 2 (commencing with Section 7700) to Article 7.5 (commencing with Section 8040), inclusive, continue to be the property of the department. Those forms, logs, books, covers, documents, electronic data, software, other records, or portions thereof remain the property of the department whether used, unused, attached, or detached from their original binding, packaging, or other medium and shall be immediately surrendered upon demand to a peace officer of the department acting in his or her official capacity, without being altered in any manner.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 1130 § 1; Stats 1975 ch 678 § 23; Stats 1983 ch 101 § 36; Stats 1986 ch 1049 § 17, effective September 24, 1986; Stats 2000 ch 388 § 4 (AB 2941); Stats 2007 ch 285 § 117 (AB 1729), effective January 1, 2008.

§ 8025. Suspension or revocation of privileges or license

(a) The commission, upon recommendation of the department, may suspend or revoke the commercial fishing privileges of any fisherman or the license of any person required to be licensed under Article 7 (commencing with Section 8030) who is convicted of a violation of this article or Article 7.5 (commencing with Section 8040).

(b) This section shall become operative on January 1, 1992.

HISTORY:
Added Stats 1990 ch 1703 § 16 (AB 2126), operative January 1, 1992.

§ 8026. Keeping records of fishing activities

(a) The commission may require the owner and operator of a commercial fishing vessel, the holder of a commercial fishing license or permit, and the owner and

licenseholder of a commercial passenger fishing boat to keep and submit a complete and accurate record of fishing activities in a form prescribed by the department.

(b) In addition to the penalty specified in subdivision (a) of Section 12002, failure to keep and submit records pursuant to subdivision (a) may result in the revocation or suspension of a license or permit by the department or the commission, when recommended by the department, for a period not to exceed one year.

HISTORY:
Added Stats 1989 ch 587 § 2.

ARTICLE 7. COMMERCIAL FISH BUSINESS LICENSES

§ 8030. Exemptions

Any person who engages in any business for profit involving fish shall be licensed pursuant to this article, except as follows:

(a) A commercial fisherman who sells fish only to persons licensed under this article to purchase or receive fish from commercial fishermen and who does not engage in any activity described in Section 8034, 8035, or 8036 unless licensed to engage in both activities.

(b) A person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait.

(c) A person who sells fish or aquaculture products only at retail to the ultimate consumer if that person does not conduct any activities described in Section 8033, 8035, or 8036.

(d) Pursuant to Division 12 (commencing with Section 15000), a person who deals only in products of aquaculture.

(e) A person who deals only with nonnative live products that are not utilized for human consumption but that are utilized solely for pet industry or hobby purposes and who does not engage in the activities described in Section 8033.1.

(f) A person who is employed by the fish receiver to unload fish or fish products from a commercial fishing boat at a dock.

(g) A person who purchases, sells, takes, or receives live marine fish for use as live bait, that are not brought ashore, and who does not engage in any activity described in Section 8033, 8033.1, 8034, 8035, or 8036.

(h) A person who does not purchase or obtain fish, but who acts as an agent for others while negotiating purchases, or sales of fish in return for a fee, commission, or other compensation.

HISTORY:
Added Stats 1990 ch 1703 § 18 (AB 2126), operative January 1, 1992. Amended Stats 1991 ch 80 § 3 (AB 63), effective June 30, 1991, operative January 1, 1993; Stats 1992 ch 742 § 2 (AB 2261); Stats 1998 ch 464 § 1 (AB 1928); Stats 2007 ch 285 § 118 (AB 1729), effective January 1, 2008.

§ 8031. Definitions

(a) The following definitions govern the construction of this article:

(1) "Process fish" means any activity for profit of preserving or preparing fish for sale or delivery to other than the ultimate consumer, including, but not limited to, cleaning, cutting, gutting, scaling, shucking, peeling, cooking, curing, salting, canning, breading, packaging, or packing fish. "Process fish" also means the activity for profit of manufacturing fish scraps, fish meal, fish oil, or fertilizer made from fish. "Process fish" does not include the cleaning, beheading, gutting, or chilling of fish by a licensed commercial fisherman which is required to preserve the fish while aboard a fishing vessel and which is to prevent deterioration, spoilage, or waste of the fish before they are landed and delivered to a person licensed to purchase or receive fish from a commercial fisherman.

(2) "Wholesale" means the purchase of fish from persons licensed to purchase or receive fish from a commercial fisherman, processors, importers, or any other wholesaler for the purpose of resale to other than the ultimate consumer.

(3) "Import" means receiving or purchasing fish taken outside of this state which are not landed in this state by a licensed commercial fisherman.

(4) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(b) This section shall become operative on January 1, 1993.

HISTORY:

Added Stats 1990 ch 1703 § 20, operative January 1, 1992. Amended Stats 1991 ch 80 § 3.2 (AB 63), effective June 30, 1991, operative January 1, 1993.

§ 8032. Issuance; Fee: Specialty licenses

(a) A commercial fish business license shall be issued that authorizes any or all activities described in Section 8033, 8034, 8035, or 8036. The annual fee for this license is one thousand three hundred seventy-three dollars ($1,373).

(b) Specialty licenses for part of, but not all, activities described in subdivision (a) shall be issued in five classes, as follows:

(1) Fish receiver's license, issued to any person engaged in the business of receiving fish as provided in Section 8033.

(2) Marine aquaria receiver's license, issued to any person engaged in the business of receiving live marine species indigenous to California waters from a person required to be a licensed commercial fisherman for the purpose of wholesaling or retailing those species for pet industry or hobby purposes as provided in Section 8033.1.

(3) Fish processor's license, issued to any person engaged in the business of processing fish as provided in Section 8034.

(4) Fish wholesaler's license, issued to any person who is engaged in the business of wholesaling fish as provided in Section 8035.

(5) Fish importer's license, issued to any person who is engaged in the business of importing fish as provided in Section 8036.

(c) The commission shall adjust the amount of the fee specified in subdivision (a), as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:

Added Stats 1990 ch 1703 § 22 (AB 2126), operative January 1, 1992. Amended Stats 1991 ch 80 § 3.4, effective June 30, 1991, operative January 1, 1993; Stats 1992 ch 701 § 12 (SB 1565), effective September 14, 1992, operative January 1, 1993, ch 742 § 3 (AB 2261), ch 1370 § 14 (AB 3193), effective October 27, 1992; Stats 2003 ch 741 § 33 (SB 1049); Stats 2012 ch 565 § 25 (SB 1148), effective January 1, 2013.

§ 8032.5. Commercial fish business license, permit, or other entitlement; Conditions

Unless otherwise specified, all of the following conditions apply to each commercial fish business license, permit, or other entitlement pursuant to this article:

(a) An application for a commercial fish business license, permit, or other entitlement shall be made on a form containing information as required by the department. The commercial fish business license shall be signed by the holder before use.

(b) Any person who has had a commercial fish business license suspended or revoked shall not engage in that business activity, and shall not receive any other commercial fish business license, permit, or other entitlement that authorizes engaging in that business activity, while the suspension or revocation is in effect.

(c) The commission, after notice and opportunity for hearing, may suspend, revoke, or cancel commercial fish business privileges for a period of time to be determined by the commission for any of the following reasons:

(1) The person was not lawfully entitled to be issued the license, permit, or other entitlement.

(2) Any violation of this code, the regulations adopted pursuant to this code, or the terms of the permit or other entitlement by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(3) Any violation of any federal law relating to the fishery for which the license, permit, or other entitlement was issued by the licensee, permittee, person holding the entitlement, or his or her agent, servant, employee, or person acting under the licensee's, permittee's, or entitled person's direction or control.

(d) A commercial fish business license, permit, or other entitlement is not transferable unless otherwise expressly specified in this code.

(e) Any person who holds a commercial fish business license, permit, or other entitlement, who moves or acquires a new or additional plant, facility, or other place of business for profit involving fish, shall notify the department of the address within three months of commencing business activities at the address.

(f) Each plant, facility, or other place of business in which an activity occurs that is required to be licensed under this article shall have a copy of each required license on display and available for inspection at any time by the department.

(g) Any person licensed pursuant to this article shall provide the department, at the time of application, with the business name, business address, and business telephone number for all locations doing business under the authority of the person's commercial fish business license, permit, or entitlement.

(h) Any person licensed pursuant to this article who is subject to landing fees, as defined in Section 8041, and who has failed to pay all landing fees and penalties pursuant to Section 8053, shall not be allowed to renew his or her commercial fish business license, permit, or entitlement until payment is made in full to the department.

(i) Any person licensed pursuant to this article who is subject to landing fees, as defined in Section 8041, who fails to submit landing receipts pursuant to Section 8046, may be subject to suspension or revocation of his or her commercial fish business license, permit, or entitlement.

HISTORY:

Added Stats 2007 ch 279 § 4 (AB 1144), effective January 1, 2008. Amended Stats 2017 ch 26 § 10 (SB 92), effective June 27, 2017.

§ 8033. Fish receiver's license

(a) Except as provided in Section 8033.1 or 8033.5, or subdivision (c) of Section 8047, any person who purchases or receives fish for commercial purposes from a fisherman who is required to be licensed under Section 7850, or any person who removes fish from the point of the first landing that the person has caught for his or her own processing or sale, shall obtain a fish receiver's license.

(b) The annual fee for a fish receiver's license is five hundred forty–nine dollars ($549).

(c) A cooperative association of fishermen may be licensed as fish receivers.

HISTORY:

Added Stats 1990 ch 1703 § 24 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 14 (SB 1565), effective September 14, 1992, operative January 1, 1993, ch 742 § 4 (AB 2261), ch 1370 § 15 (AB 3193), effective October 27, 1992; Stats 2003 ch 741 § 34 (SB 1049).

§ 8033.1. Marine aquaria receiver's license

(a) Any person engaged in any of the following activities involving species identified in subdivision (b) of Section 8597 shall obtain a nontransferable marine aquaria receiver's license:

(1) A Person who is required to have a marine aquaria collector's permit pursuant to Section 8597 who sells live marine organisms indigenous to California, that the person has taken, to the ultimate consumer.

(2) A person who purchases or receives live marine species indigenous to California for commercial purposes from any of the following:

(A) A fisherman who is required to have a marine aquaria collector's permit pursuant to subdivision (a) of Section 8597.

(B) A person who imports from neighboring states species that are also indigenous to California waters.

(b) A person required to be licensed as a marine aquaria receiver shall obtain all live marine organisms indigenous to California waters only from fishermen, aquaculturists, or importers holding current and appropriate licenses or permits.

HISTORY:
Added Stats 1992 ch 742 § 5 (AB 2261). Amended Stats 1993 ch 617 § 4 (AB 14), effective September 30, 1993.

§ 8033.2. Annual fee for marine aquaria receiver's license

The annual fee for the marine aquaria receiver's license is one thousand three hundred seventy–three dollars ($1,373).

HISTORY:
Added Stats 1993 ch 617 § 5 (AB 14), effective September 30, 1993. Amended Stats 2003 ch 741 § 35 (SB 1049).

§ 8033.5. Fisherman's retail license

(a) Any commercial fisherman who sells fish for other than marine aquaria pet trade or research purposes that he or she has taken to the ultimate consumer of that fish shall obtain a fisherman's retail license. The annual fee for a fisherman's retail license is sixty–nine dollars ($69).

(b) Any person required to obtain a license under this section who engages in any activity described in Section 8033, 8034, 8035, or 8036 shall also obtain an appropriate license to engage in those activities.

HISTORY:
Added Stats 1990 ch 1703 § 26 (AB 2126), operative January 1, 1992. Amended Stats 1991 ch 80 § 4.2, effective June 30, 1991, operative January 1, 1993; Stats 1992 ch 701 § 16 (SB 1565), effective September 14, 1992, operative January 1, 1993, ch 742 § 6 (AB 2261), ch 1370 § 16 (AB 3193), effective October 27, 1992; Stats 2003 ch 741 § 36 (SB 1049).

§ 8034. Fish processor's license

(a) Any person who processes fish for profit shall obtain a fish processor's license. The annual fee for a fish processor's license is five hundred forty–nine dollars ($549).

(b) Any person required to obtain a license under this section who takes his or her own fish shall also obtain a fish receiver's license or a commercial fish business license.

HISTORY:
Added Stats 1990 ch 1703 § 28 (AB 2126), operative January 1, 1992. Amended Stats 1991 ch 80 § 4.4 (AB 63), effective June 30, 1991, operative January 1, 1993; Stats 1992 ch 701 § 18 (SB 1565), effective September 14, 1992, operative January 1, 1993; Stats 2003 ch 741 § 37 (SB 1049).

§ 8035. Fish wholesaler's license

(a) Except for a person exempt under Section 8030, any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish from another person, who is required to be licensed as a fish receiver, fish processor, fish importer, or fish wholesaler under this article, shall obtain a fish wholesaler's license.

(b) The annual fee for a fish wholesaler's license is three hundred seventy-one dollars ($371).

(c) This section does not apply to either of the following:

(1) Persons required to have a marine aquaria receiver's license pursuant to Section 8033.1.

(2) Persons licensed pursuant to Section 8036 who only purchase or obtain fish from outside this state.

HISTORY:
Added Stats 1990 ch 1703 § 30 (AB 2126), operative January 1, 1992. Amended Stats 1991 ch 80 § 4.6 (AB 63), effective June 30, 1991, operative January 1, 1993; Stats 1992 ch 701 § (SB 1565), effective September 14, 1992, ch 742 § 7 (AB 2261), ch 1370 § 17 (AB 3193), effective October 27, 1992; Stats 2003 ch 741 § 38 (SB 1049); Stats 2009 ch 294 § 15 (AB 1442), effective January 1, 2010.

§ 8036. Fish importer's license; Fee

(a) Any person who purchases or receives fish that are taken outside of this state and brought into this state by a person who is not a licensed commercial fisherman, for the purpose of resale to other than the ultimate consumer, shall obtain a fish importer's license. The annual fee for a fish importer's license is five hundred forty-nine dollars ($549).

(b) Any person who, for the purpose of resale to other than the ultimate consumer, purchases or obtains fish within California in addition to fish that are purchased, obtained, or taken outside of the state, shall obtain both a wholesaler's license pursuant to Section 8035 and an importer's license pursuant to this section.

HISTORY:
Added Stats 1990 ch 1703 § 32 (AB 2126), operative January 1, 1992. Amended Stats 1991 ch 80 § 4.7 (AB 63), effective June 30, 1991, operative January 1, 1993; Stats 1992 ch 701 § 21 (SB 1565), effective September 14, 1992, operative January 1, 1993; Stats 2003 ch 741 § 39 (SB 1049); Stats 2009 ch 294 § 16 (AB 1442), effective January 1, 2010.

§ 8037. Persons engaging in activities requiring more than one class of license

(a) A person who engages in business involving fish which business activity would require more than one class of license under this article shall obtain either a commercial fish business license issued under subdivision (a) of Section 8032 or each of the specialty licenses which are required for the classes of activities engaged in. Each plant, facility, or other place of business in which an activity occurs that is required to be licensed shall have a copy of the required license.

(b) This section shall become operative on January 1, 1993.

HISTORY:
Added Stats 1990 ch 1703 § 34 (AB 2126), operative January 1, 1992. Amended Stats 1991 ch 80 § 4.9 (AB 63), effective June 30, 1991, operative January 1, 1993.

§ 8038. Validity of license

A license issued under this article is valid from January 1 to December 31, inclusive, or, if issued after the beginning of that term, for the remainder thereof.

HISTORY:
Added Stats 1993 ch 1117 § 1 (SB 1030).

§ 8039. Application of fees

The fees specified in this article are applicable to the 2004 license year and shall be adjusted annually thereafter pursuant to Section 713.

HISTORY:
Added Stats 2003 ch 741 § 40 (SB 1049).

ARTICLE 7.5. LANDING FEES

§ 8040. Definitions

The following definitions govern the construction of this article.

(a) "Commercial fisherman" means a person who has a valid, unrevoked commercial fishing license issued pursuant to Section 7850.

(b) "Landing fee" means a fee imposed on a fish receiver or processor, as described in Section 8041.

HISTORY:
Added Stats 1986 ch 1049 § 24, effective September 24, 1986. Amended Stats 2017 ch 26 § 12 (SB 92), effective June 27, 2017.

§ 8041. Persons required to pay landing fee

(a) The following persons shall pay the landing fee determined pursuant to Section 8042:

(1) Any person who is required to be licensed as a fish receiver, and any person who is licensed before January 1, 1987, as a wholesaler or a processor pursuant to former Section 8040 and who receives fish from commercial fishermen.

(2) Any commercial fisherman who sells fish to any person who is not a licensed fish receiver.

(b) Notwithstanding subdivision (a), a person licensed pursuant to Section 8460 who only takes, transports, or sells live freshwater fish for bait or a commercial fisherman who sells live freshwater fish for bait to such a licensed person, and a person licensed pursuant to Section 8033.1 who takes, transports, or sells live aquaria fish as described in Section 8597 or a commercial fisherman who sells live aquaria fish, are exempt from the landing fee imposed under this article. It is the intent of the Legislature that the license fee for live aquaria fish described in Section 8033.1 shall be in lieu of a landing fee imposed under this article.

(c) Notwithstanding subdivision (a), a person who purchases, sells, takes, or receives live marine fish for use as live bait as described in subdivision (g) of Section 8030 is exempt from the landing fee imposed under this article.

HISTORY:
Added Stats 1986 ch 1049 § 26, effective September 24, 1986. Amended Stats 1992 ch 742 § 9 (AB 2261); Stats 1998 ch 464 § 2 (AB 1928); Stats 2017 ch 26 § 13 (SB 92), effective June 27, 2017.

§ 8042. Amount of landing fee

The amount of the landing fee under this article shall be determined by multiplying the fee rate for the type of fish delivered by a commercial fisherman in this state in accordance with the schedule in Section 8051 by the number of pounds, or fraction thereof, delivered. If the fee is imposed based upon weight in the round, and the fish is cleaned, gutted, beheaded, or otherwise not in the round at the time of delivery, the fees shall be adjusted by a conversion factor as determined by the department by regulation.

HISTORY:
Added Stats 1986 ch 1049 § 28, effective September 24, 1986. Amended Stats 2017 ch 26 § 14 (SB 92), effective June 27, 2017.

§ 8043. Landing receipt; Form and contents

(a) Every commercial fisherman who sells or delivers fish that he or she has taken to any person who is not licensed under Article 7 (commencing with Section 8030), and every person who is required to be licensed under Article 7 (commencing with Section 8030) to conduct the activities of a fish receiver, as described in Section 8033, shall make a legible landing receipt record on a form to be furnished by the department. The landing

receipt shall be completed at the time of the receipt, purchase, or transfer of fish, whichever occurs first.

(b) The landing receipt shall show all of the following:

(1) The accurate weight of the species of fish received, as designated pursuant to Section 8045. Sablefish may be reported in dressed weight, and if so reported, shall have the round weights computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed weight.

(2) The name of the fisherman and the fisherman's identification number.

(3) The department registration number of the boat.

(4) The recipient's name and identification number, if applicable.

(5) The date of receipt.

(6) The price paid.

(7) The department origin block number where the fish were caught.

(8) The type of gear used.

(9) Any other information the department may prescribe.

(c) The numbered landing receipt forms in each individual landing receipt book shall be completed sequentially. A voided fish landing receipt shall have the word "VOID" plainly and noticeably written on the face of the receipt. A voided fish landing receipt shall be submitted to the department in the same manner as a completed fish landing receipt is submitted to the department. A fish receiver who is no longer conducting business as a licensed receiver shall forward all unused landing receipts and landing receipt books to the department immediately upon terminating his or her business activity.

HISTORY:

Enacted 1957 as F & G C § 8011. Amended Stats 1959 ch 992 § 1, effective June 16, 1959, operative August 1, 1959; Stats 1961 ch 1856 § 3; Stats 1970 ch 160 § 1; Amended and renumbered by Stats 1986 ch 1049 § 8, effective September 24, 1986; Amended Stats 1991 ch 485 § 2 (AB 1376), effective October 3, 1991; Stats 1993 ch 617 § 6 (AB 14), effective September 30, 1993; Stats 1998 ch 185 § 1 (SB 2184).

§ 8043.1. Landing receipts record by licensed marine aquaria receiver

(a) A person required to be licensed as a marine aquaria receiver shall make a legible, true, and complete record of the landing receipts on a form and in a manner prescribed by the department.

(b) The department may require any information from a person required to be licensed as a marine aquaria receiver it deems necessary to carry out this article.

(c) The landing receipt form shall be completed at the time the organisms are received from the commercial fisherman. A person required to be licensed as a marine aquaria receiver who takes his or her own organisms shall complete a marine aquaria landing receipt form at the time the organisms are brought ashore.

(d) The copies of the aquaria landing receipts shall be delivered to the department, as provided in Section 8046.

HISTORY:

Added Stats 1992 ch 742 § 10 (AB 2261). Amended Stats 2018 ch 601 § 1 (SB 269), effective January 1, 2019.

§ 8043.2. Fish sold directly to ultimate consumer

(a) A commercial fisherman licensed pursuant to Section 8033.5 who sells fish from a vessel directly to the ultimate consumer and who is required pursuant to Section 8043 to make a landing receipt shall make a landing receipt in either of the following ways:

(1) For each individual sale by that fisherman at the time of the sale.

(2) For each day that the fisherman is engaged in one or more sales to the ultimate consumers, the fisherman shall maintain an accurate tally sheet of sales, which shall include complete header and signature box information filled out prior to any sales, and the number of pounds by species of fish sold. The total of the daily sales shall be recorded at the completion of sales for that day on a landing receipt. A copy of the

completed tally sheet shall be attached to the corresponding landing receipt. The original completed tally sheet shall be attached to the fisherman's copy of the corresponding landing receipt and maintained for a period of four years.

(b) A commercial fisherman licensed pursuant to Section 8033.5 who sells directly to the ultimate consumer, or a commercial fisherman who sells or delivers fish that the fisherman has taken to any person who is not licensed under Article 7 (commencing with Section 8030) to conduct the activities of a fish receiver, shall not be considered a weighmaster for purposes of Chapter 7 (commencing with Section 12700) of Division 5 of the Business and Professions Code.

(c) A commercial fisherman selling his or her own catch to the ultimate customer, upon request by an authorized agent or employee of the department, shall immediately make available all fish in possession of the fisherman for inspection and sampling by the agent or employee. Pursuant to Section 8226, the fisherman shall relinquish the head from any sampled salmon with a missing adipose fin.

HISTORY:
Added Stats 1999 ch 502 § 1 (AB 1210), effective September 27, 1999.

§ 8045. Names used in landing receipt for designating species of fish

The names used in the landing receipt and transportation receipt made under Sections 8043 and 8047 for designating the species of fish dealt with shall be those in common usage unless otherwise designated by the department.

HISTORY:
Enacted 1957 as § 8013. Amended and Renumbered Stats 1986 ch 1049 § 10, effective September 24, 1986; Stats 2002 ch 962 § 3 (AB 2888), effective September 27, 2002.

§ 8046. Delivery and retention of landing receipt; Copies

(a) The original signed copy of the paper landing receipt made under Section 8043 or 8043.1 shall be delivered to the department on or before the 16th or last day of the month in which the fish were landed, whichever date occurs first after the landing. Landing receipt records completed and submitted electronically shall be submitted to the department within three business days of the landing. A copy of the landing receipt shall be delivered to the commercial fisherman at the time of the purchase or receipt of the fish. That copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time during that period by the department. A copy of the landing receipt shall be kept by the person licensed pursuant to Article 7 (commencing with Section 8030) who filled out the landing receipt for a period of four years and shall be available for inspection at any time within that period by the department.

(b) On delivery of sardines, anchovies, mackerel, squid, tuna, or bonito intended to be processed or sold as fresh fish, the person licensed pursuant to Article 7 (commencing with Section 8030) who filled out the landing receipt, upon request of the authorized agent described in subdivision (c), shall notify the authorized agent of the unloading and weighing of the fish and shall permit the authorized agent to be present at all times during the weighing of the fish.

(c) A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(d) For purposes of this section, "business day" means Monday to Friday, inclusive, excluding days designated as state or federal holidays.

HISTORY:
Enacted 1957 as § 8014. Amended Stats 1959 ch 992 § 2, effective June 16, 1959, operative August 1, 1959; Stats 1985 ch 955 § 1; Amended and renumbered by Stats 1986 ch 1049 § 11, effective September 24, 1986; Amended Stats 1990 ch 868 § 1 (AB 4190); Stats 1992 ch 742 § 11 (AB 2261), ch 1370 § 18 (AB 3193), effective October 27, 1992; Stats 1996 ch 870 § 17 (AB 3245); Stats 2018 ch 601 § 2 (SB 269), effective January 1, 2019.

§ 8046.1. Person landing groundfish subject to federal regulations to keep receipt on hand

In addition to the requirements of Section 8046, any person landing groundfish subject to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) shall keep a copy of the landing receipt on board the fishing vessel throughout, and for 15 days following, each period for which cumulative landings by individual vessels are limited.

HISTORY:

Added Stats 1992 ch 414 § 1 (AB 62), effective August 1, 1992, operative until April 1, 1993. Amended Stats 1993 ch 617 § 7 (AB 14), effective September 30, 1993, operative until April 1, 1995; Stats 1995 ch 753 § 1 (AB 25), effective October 10, 1995.

§ 8047. Other persons required to make landing receipt; Transportation receipt

(a)(1) A person licensed under Article 7 (commencing with Section 8030) who takes his or her own fish shall make a legible record in the form of the landing receipt as required by Sections 8043 and 8043.1 at the time the fish are brought ashore. The original signed copy of the landing receipt shall be delivered by the licensee to the department, as provided in Section 8046. A copy of the landing receipt shall be retained by the licensee for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(2) A person licensed under Section 8033.5 who sells his or her fish to a licensed receiver may use a transportation receipt to transport those fish only to that licensed receiver. The receiver shall complete a landing receipt for those fish. A person who sells his or her fish to the ultimate consumer shall complete a landing receipt pursuant to Sections 8043 and 8043.2. Transportation receipts shall be completed at the time the fish are transferred from the fishing vessel.

(b) Every commercial fisherman who sells fish taken from the waters of this state or brought into this state in fresh condition to persons not licensed to receive fish for commercial purposes pursuant to Article 7 (commencing with Section 8030) shall make a legible record in the form of the landing receipt required by Sections 8043 and 8043.1. Persons subject to Section 8043 shall remit the landing fee imposed by Section 8041. The person taking, purchasing, or receiving the fish, whether or not licensed under Article 7 (commencing with Section 8030), shall sign the landing receipt. The original signed copy of the landing receipt shall be delivered by the commercial fisherman to the department, as provided in Section 8046. A copy of the landing receipt shall be retained by the commercial fisherman for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the landing receipt shall be retained by the person taking, purchasing, or receiving the fish until they are prepared for consumption or otherwise disposed of. A copy of the landing receipt shall be delivered to an agent authorized in writing by the majority of the persons who participated in the taking of the fish, excluding the commercial fisherman receiving the original copy.

(c)(1) Every commercial fisherman or his or her designee, who transports, causes to be transported, or delivers to another person for transportation, any fish, except herring, taken from the waters of this state or brought into this state in fresh condition, shall fill out a transportation receipt according to the instructions and on forms provided by the department at the time the fish are brought ashore.

(2) The original signed copy of the transportation receipt shall be delivered by the commercial fisherman to the department on or before the 16th day or the last day of the month in which the fish were landed, whichever date occurs first after landing. A copy of the transportation receipt shall be retained by the commercial fisherman who

filled it out for a period of four years and shall be available for inspection at any time within that period by the department. A copy of the transportation receipt shall be given to and retained by the person transporting the fish until the fish are sold fresh, processed, or otherwise disposed of.

(3) The transportation receipt is required only for transit purposes.

(4) A person transporting fish from the point of first landing under a transportation receipt is not required to be licensed to conduct the activities of a fish receiver as described in Section 8033.

(5) The transportation book receipt shall be issued to an individual fisherman and is not transferable.

(d) The transportation receipt shall contain all of the following information:

(1) The name of each species of fish, pursuant to Section 8045.

(2) The date and time of the receipt.

(3) The accurate weight of the species of fish being transported. Sablefish may be reported in dressed weight, and if so reported, shall have the round weights computed, for purposes of management quotas, by multiplying 1.6 times the reported dressed weight.

(4) The name and identification number of the fisherman. The signature of the fisherman authorizing transportation.

(5) The name of the person transporting the fish.

(6) The name of the fish business, the fish business identification number, and the corresponding landing receipt number issued by the fish business to the commercial fisherman.

(7) The department registration number of the vessel and the name of the vessel.

(8) The department origin block number where the fish were caught.

(9) The port of first landing.

(10) Any other information the department may prescribe.

(e) The numbered transportation receipt forms in each individual transportation receipt book shall be completed sequentially. A voided fish transportation receipt shall have the word "VOID" plainly and noticeably written on the face of the receipt. A voided fish transportation receipt shall be submitted to the department in the same manner as a completed fish transportation receipt is submitted to the department. A commercial fisherman who is no longer conducting business as a licensed fisherman shall forward all unused transportation receipts and transportation receipt books to the department immediately upon terminating his or her business activity.

HISTORY:

Added Stats 1993 ch 617 § 9 (AB 14), effective September 30, 1993, operative April 1, 1997. Amended Stats 1994 ch 935 § 6 (SB 492), operative April 1, 1997; Stats 2002 ch 962 § 4 (AB 2888), effective September 27, 2002; Stats 2017 ch 26 § 15 (SB 92), effective June 27, 2017; Stats 2018 ch 601 § 3 (SB 269), effective January 1, 2019.

§ 8050. Accounting records

(a) In addition to the receipt required in Section 8043, every person licensed under Article 7 (commencing with Section 8030), and any commercial fisherman who sells fish to persons who are not licensed under Article 7 (commencing with Section 8030), and any person who deals in fresh or frozen fish for profit, shall keep accounting records in which all of the following shall be recorded:

(1) The names of the different species.

(2) The number of pounds sold, distributed, or taken of each different species.

(3) The name of the person to whom the fish were sold or distributed.

(4) The name, address, and phone number of the seller or distributor.

(5) The date of sale.

(6) The price paid.

(7) The intended use.

(b) Accounting record information required by this section that is transmitted from any person identified in subdivision (a) to any business that deals in fish for profit shall be in the English language.

(c) The accounting records shall be maintained by both buyer and seller for a period of three years and upon request, shall be open for inspection during normal business hours by the department. The accounting records shall be maintained within the State of California.

(d) The names used for designating the species of fish shall be those in common usage unless otherwise designated by the department.

HISTORY:
Added Stats 1986 ch 1049 § 37, effective September 24, 1986. Amended Stats 2003 ch 82 § 1 (AB 566).

§ 8051. Schedule of landing fee rates

(a) The landing fee imposed pursuant to Section 8041 shall be determined pursuant to Section 8042 by using the fee rates in the following schedule***, as adjusted pursuant to subdivision (b)***:

	Rate per pound
Lobster	$ 0.1333
Spot prawn and abalone	$ 0.1000
Salmon and swordfish, based only on the weight in the round	$ 0.0333
Halibut, sea cucumber, white seabass, sheephead, and Dungeness crab	$ 0.0333
Shortspine thornyhead, sablefish, lingcod, and prawns and shrimp (except spot prawn and pink shrimp)	$ 0.0133
Angel, thresher, and bonito sharks, based only on the weight in the round	$ 0.0097
All fish and invertebrates unless otherwise specified	$ 0.0067
Sea urchin, pink shrimp, smelts, soles, turbot, longspine thornyhead, night smelt, and sanddabs	$ 0.0047
Bonito, flounder, grenadiers, herring, and skates	$ 0.0027
Market squid	$ 0.0023
Anchovy, mackerel, sardines, and Pacific whiting	$ 0.0010

(b)(1) The fee rates specified in subdivision (a) are applicable to the 2020 calendar year, and shall be adjusted annually thereafter pursuant to this subdivision.

(2) The changes in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, shall be used as the index to determine an annual rate of increase or decrease in the fee rates specified in subdivision (a).

(3) The department shall determine the change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce, for the quarter ending March 31 of the current year compared to the quarter ending March 31 of the previous year. The relative amount of the change shall be multiplied by the current fee rates.

(4) The product of the calculation made pursuant to paragraph (3) shall be added to the applicable fee rate for the current year. The resulting amounts shall be the fee rates for the calendar year beginning on or after January 1 of the next succeeding calendar year.

(c) The calculations provided for in this section shall be reported by the department to the Legislature with the Governor's Budget Bill.

(d) The Legislature finds that all revenue generated by fee rates computed under this section, and used for the purposes for which they were imposed, are not subject to Article XIII B of the California Constitution.

HISTORY:
Added Stats 1992 ch 701 § 26 (SB 1565), effective September 14, 1992, operative January 1, 1994. Amended Stats

1993 ch 1117 § 2 (SB 1030), operative January 1, 1994; Stats 2017 ch 26 § 16 (SB 92), effective June 27, 2017; Stats 2019 ch 472 § 1 (SB 262), effective January 1, 2020.

§ 8051.4. Deposit and use of certain landing fees for Abalone Resources Restoration and Enhancement Program

(a) The landing fee collected pursuant to former Section 8051.3 shall be deposited in the Fish and Game Preservation Fund and shall be used only for the Abalone Resources Restoration and Enhancement Program. The department shall maintain internal accounts necessary to ensure that the funds are disbursed for the purposes in this section. The department may use for administration no more of the landing fee collected pursuant to former Section 8051.3 than an amount equal to the regularly approved department indirect overhead rate. Any interest on the revenues from the landing fee collected pursuant to former Section 8051.3 shall be deposited in the fund and used for the purposes in this subdivision.

(b) This section shall become operative on January 1, 2012.

HISTORY:

Added Stats 2011 ch 133 § 8 (AB 120), effective July 26, 2011, operative January 1, 2012. Amended Stats 2017 ch 26 § 17 (SB 92), effective June 27, 2017.

§ 8052. Use of landing fees

Landing fees shall be used only for the administration of laws relating to the commercial fishing industry, except as follows:

(a) Not less than 90 percent of the landing fee on herring taken for roe shall be expended for research and management activities to maintain and enhance the herring resources within the waters of this state.

(b) Not less than 90 percent of the landing fee on thresher shark or bonito (mako) shark shall be expended for the study required by, and for the costs of administering, Article 16 (commencing with Section 8561) of Chapter 2.

HISTORY:

Added Stats 1986 ch 1049 § 38, effective September 24, 1986. Amended Stats 1989 ch 207 § 2, effective July 25, 1989; Stats 2017 ch 26 § 18 (SB 92), effective June 27, 2017.

§ 8053. Payment of landing fees; Collection procedures

(a) Landing fees imposed by this article shall be paid quarterly to the department within 30 days after the close of each quarter.

(b) The department may adopt regulations specifying the procedures for collecting landing fees not paid within 30 days after the close of the quarter for which they are due. These procedures may include, but are not limited to, the procedures prescribed for sales and use taxes provided in Chapter 5 (commencing with Section 6451) and Chapter 6 (commencing with Section 6701) of Part 1 of Division 2 of the Revenue and Taxation Code.

HISTORY:

Enacted 1957 as § 8047. Amended and Renumbered Stats 1986 ch 1049 § 35, effective September 24, 1986; Stats 2001 ch 753 § 18 (AB 1673); Stats 2017 ch 26 § 19 (SB 92), effective June 27, 2017.

§ 8055. Limitations on use of privilege tax [Repealed]

HISTORY:

Enacted 1957. Repealed Stats 2017 ch 26 § 20 (SB 92), effective June 27, 2017. The repealed section related to limitation on the use of certain privilege tax moneys for the purpose of propagating salmon.

§ 8056. Payment and expenditure of moneys collected

Except as otherwise provided in this article, all moneys collected pursuant to this article shall be paid to the department, and shall be expended for the patrol of packing

plants, inspection and regulation of the fishing industry, and conservation work for the benefit of the commercial fishing industries.

HISTORY:
Enacted 1957.

§ 8057. Double payment of fee or penalty; Erroneous or illegal collection or computation

If the department determines that any fee or penalty has been paid more than once or has been erroneously or illegally collected or computed, the department shall set forth that fact in the records of the department. The excess amount collected or paid shall be credited on any amounts then due and payable from the person under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

HISTORY:
Added Stats 1959 ch 1988 § 1. Amended Stats 1963 ch 1241 § 1; Stats 2017 ch 26 § 21 (SB 92), effective June 27, 2017.

§ 8058. Claims for overpayment

In the event of overpayment of any of the fees imposed by this article, the feepayer may file a claim for refund or a claim for credit with the department. No refund or credit shall be approved by the department unless the claim is filed with the department within six months after the close of the calendar year in which the overpayment was made.

HISTORY:
Added Stats 1959 ch 1988 § 2. Amended Stats 2017 ch 26 § 22 (SB 92), effective June 27, 2017.

§ 8059. Claim for refund or credit for overpayment of landing fee

Every claim for refund or credit for overpayment of a landing fee shall be in writing and shall state the specific grounds upon which the claim is founded.

HISTORY:
Added Stats 1959 ch 1988 § 3. Amended Stats 1986 ch 1049 § 39, effective September 24, 1986; Stats 2017 ch 26 § 23 (SB 92), effective June 27, 2017.

§ 8060. Waiver of claim for overpayment

Failure to file a claim for refund or credit within the time prescribed in this article constitutes a waiver of any demand against the state on account of overpayment of a landing fee.

HISTORY:
Added Stats 1959 ch 1988 § 4. Amended Stats 1986 ch 1049 § 40, effective September 24, 1986; Stats 2017 ch 26 § 24 (SB 92), effective June 27, 2017.

§ 8061. Notice of disallowance of claim

Within 30 days after disallowing any claim for refund or credit for overpayment of a landing fee in whole or in part, the department shall serve notice of its action on the claimant, either personally or by mail. If served by mail, service shall be made pursuant to Section 1013 of the Code of Civil Procedure and shall be addressed to the licensee at his or her address as it appears in the records of the department, but the service shall be deemed complete at the time of the deposit of the notice in the mail without extension of time for any reason.

HISTORY:
Added Stats 1959 ch 1988 § 5. Amended Stats 1986 ch 1049 § 41, effective September 24, 1986; Stats 2017 ch 26 § 25 (SB 92), effective June 27, 2017.

§ 8062. Interest on overpayment

Interest shall be paid upon any overpayment of a landing fee at the rate of one-half of 1 percent per month from the date of overpayment. The interest shall be paid to the date the claim for refund or credit is approved by the department.

HISTORY:

Added Stats 1959 ch 1988 § 6. Amended Stats 1986 ch 1049 § 42, effective September 24, 1986; Stats 2017 ch 26 § 26 (SB 92), effective June 27, 2017.

§ 8063. When interest not allowed

If the department determines that any overpayment of a landing fee has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

HISTORY:

Added Stats 1959 ch 1988 § 7. Amended Stats 1986 ch 1049 § 43, effective September 24, 1986; Stats 2017 ch 26 § 27 (SB 92), effective June 27, 2017.

§ 8064. Injunction to prevent collection not permitted

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state or against any officer of the state to prevent or enjoin the collection under this article of any landing fee.

HISTORY:

Added Stats 1959 ch 1988 § 8. Amended Stats 1986 ch 1049 § 44, effective September 24, 1986; Stats 2017 ch 26 § 28 (SB 92), effective June 27, 2017.

§ 8065. Actions to recover

No suit or proceeding shall be maintained in any court for the recovery of any amount of landing fee alleged to have been erroneously paid or erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Sections 8058 and 8059.

HISTORY:

Added Stats 1959 ch 1988 § 9. Amended Stats 1986 ch 1049 § 45, effective September 24, 1986; Stats 2017 ch 26 § 29 (SB 92), effective June 27, 2017.

§ 8066. Jurisdiction, and venue; Limitation; Effect of failure to bring action within specified time

Within 90 days after the mailing of the notice of the department's action upon a claim filed pursuant to Sections 8058 and 8059, the claimant may bring an action against the department on the grounds set forth in the claim in a court of competent jurisdiction in any city or city and county of this State in which the Attorney General has an office for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

Failure to bring action within the time specified constitutes a waiver of any demand against the State on account of alleged overpayments.

HISTORY:

Added Stats 1959 ch 1988 § 10.

§ 8067. Action against department on its failure to mail notice of action on claim

If the department fails to mail notice of action on a claim for refund or credit for overpayment of a landing fee within six months after the claim is filed, the claimant may, before the mailing of notice by the department of its action on the claim, consider the claim disallowed and bring an action against the department on the grounds set forth in

the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

HISTORY:
Added Stats 1959 ch 1988 § 11. Amended Stats 1986 ch 1049 § 46, effective September 24, 1986; Stats 2017 ch 26 § 30 (SB 92), effective June 27, 2017.

§ 8068. Satisfaction of judgment for plaintiff

If judgment is rendered for the plaintiff, the amount of the judgment shall first be credited on any landing fee due and payable from the plaintiff to the state under this article. The balance of the judgment shall be refunded to the plaintiff.

HISTORY:
Added Stats 1959 ch 1988 § 12. Amended Stats 1986 ch 1049 § 47, effective September 24, 1986; Stats 2017 ch 26 § 31 (SB 92), effective June 27, 2017.

§ 8069. Interest on judgment

In any judgment, interest shall be allowed at the legal rate of interest on unsatisfied judgments, as provided in Section 685.010 of the Code of Civil Procedure, upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the department.

HISTORY:
Added Stats 1959 ch 1988 § 13. Amended Stats 1986 ch 1049 § 48, effective September 24, 1986.

§ 8070. Actions brought by other persons

A judgment shall not be rendered in favor of the plaintiff in any action brought against the department to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

HISTORY:
Added Stats 1959 ch 1988 § 14.

ARTICLE 8. REDUCTION PERMITS

§ 8075. Authority to grant

The commission may grant a permit, subject to such regulations as it may prescribe, to take and use fish by a reduction or extraction process.

HISTORY:
Enacted 1957.

§ 8076. Prohibited depletion or waste of fish

No reduction of fish shall be permitted which may tend to deplete the species, or result in waste or deterioration of fish.

HISTORY:
Enacted 1957.

§ 8077. Hearing, findings and conditions

No permit shall be issued except after a public hearing and a finding by the commission that the granting thereof would promote the economic utilization of the fish resources of the State in the public interest. In making such finding the commission shall

take into consideration the interest of the people of the State in the utilization and conservation of the fish supply and all economic and other factors relating thereto, including the efficient and economical operation of reduction plants.

HISTORY:
Enacted 1957.

§ 8078. Time for hearing; Continuances

A hearing pursuant to this article shall be held within 30 days after application for a permit, upon such notice as the commission shall prescribe. The commission may extend such a hearing from time to time for a total period of not more than 30 days.

HISTORY:
Enacted 1957.

§ 8079. Right of commission to limit total number of permits granted

The commission shall, whenever necessary to prevent overexpansion, to insure the efficient and economical operation of reduction plants, or to otherwise carry out the provisions of this article, limit the total number of permits which are granted.

HISTORY:
Enacted 1957.

§ 8079.1. Immediate license for disposal of dead or dying fish

Notwithstanding any other provision of this code or regulation adopted pursuant to this code, the director or a representative appointed by the director, may, without notice or a hearing, grant a license to a fish reduction plant to dispose of dead or dying fish. The license may be immediately issued by the director or the director's representative whenever that person determines, in that person's discretion, that an emergency situation exists. The estimated tonnage to be reduced shall be specified as a limit in the license.

HISTORY:
Added Stats 1965 ch 491 § 1. Amended Stats 2015 ch 154 § 89 (AB 1527), effective January 1, 2016.

§ 8080. Power of court

Nothing in this article restricts the power of any court in any proceeding relating to any matter arising out of the provisions of this article.

HISTORY:
Enacted 1957.

ARTICLE 9. LIMITED ENTRY FISHERIES

§ 8100. "Limited entry fishery"

"Limited entry fishery" means a fishery in which the number of persons who may participate or the number of vessels that may be used in taking a specified species of fish is limited by statute or regulation.

HISTORY:
Added Stats 1982 ch 877 § 1. Amended Stats 1996 ch 870 § 18 (AB 3245); Stats 1999 ch 483 § 20 (AB 76).

§ 8101. Eligibility for participation

(a) Any licensed fisherman shall be eligible for inclusion during the initial year of a limited entry fishery which is established by statute that becomes operative after January 1, 1982, or by regulation that becomes operative after January 1, 1999,

regardless of the prescribed conditions for entry into the fishery, if the fisherman presents to the department satisfactory evidence that he or she has been licensed as a California commercial fisherman for at least 20 years and has participated in the fishery for at least one of those 20 years, with qualifying participation in the fishery to be determined by the commission based on landings or other appropriate criteria.

(b) Fishermen who have established eligibility to participate in a limited entry fishery under this section are subject to conditions of continuing eligibility established by statute or regulation if those fishermen desire to maintain their eligibility.

HISTORY:
Added Stats 1982 ch 877 § 1. Amended Stats 1999 ch 483 § 21 (AB 76); Stats 2000 ch 388 § 4.5 (AB 2941).

§ 8102. Legislative findings and declarations; Issuance of permit to remaining partner upon death, incapacity, or retirement of permittee partner

(a) The Legislature finds and declares that, in some limited entry fisheries, two or more partners may be operating with one of the partners holding the permit to participate in the fishery. The Legislature further finds and declares that undocumented, de facto, family partnerships are a longstanding custom in these fisheries. The Legislature further finds and declares that great hardship results when the permittee partner is no longer able to continue working and leaves the other partner without a permit to continue participating in the fishery.

(b) In any limited entry fishery in which permits are allocated to participants in the fishery, and where the death, incapacity, or retirement of a permittee from that fishery would deprive a working partner of the permittee of the ability to continue to derive a livelihood from that fishery, a permit shall be issued, upon application, to one remaining partner.

(c) A working partner for the purposes of this section shall be a spouse, child (including an adopted child), or sibling of the permittee, whose investment or equity need not be proven by documentation, or a person who can prove an investment or equity in the vessel or gear used in the fishery, and who would otherwise have been eligible for a permit and did not obtain one because he or she was working with or was a partner with the permittee.

(d) The working partner shall also provide substantial evidence of an actual physical working participation aboard the vessel supported by the submission of documents filed with the Franchise Tax Board and supported by trip settlement sheets or similar documents that demonstrate earnings from that participation. "Trip settlement sheet" means a document prepared after a vessel has completed a fishing trip which displays the costs incurred, revenues received, and profits paid out. Investment or equity alone does not establish that the person is a working partner.

(e) Those existing working partners other than the family relationships specified in subdivision (c) may, not later than February 1, 1984, declare and prove the working partnership in a manner satisfactory to the department and request that the department state the fact of the working partnership upon the permit. Thereafter, a nonfamily working partnership shall be declared, proved, and noted upon any limited entry permit at the first issuance of the permit.

(f) This article does not apply to permits to take herring for roe in California.

HISTORY:
Added Stats 1983 ch 452 § 1. Amended Stats 1988 ch 1505 § 2.

§ 8103. Legislative findings and declarations; Transfer of limited entry fishery permits; "Accidental death"

(a) The Legislature finds and declares as follows:

(1) The accidental death of a limited entry permittee results in great hardships on the permittee's family.

(2) Under the law as it existed immediately prior to January 1, 1987, if a member of the permittee's family has not been actively working in the fishery, the limited entry permit could not be transferred to a member of the family, an action which deprives the family of the opportunity to continue to derive a livelihood from the fishery and which imposes greater hardships.

(3) When there is an accidental death of a limited entry permittee, a transition period is necessary to allow a family member to join the fishery and to become acclimated, knowledgeable, and experienced in the fishery.

(b) Notwithstanding Section 8102, the department shall transfer a permit for a limited entry fishery, upon application, to a parent, spouse, child, or sibling of a permittee whose death was the result of an accident which occurred after January 1, 1986.

(c) Application for the transfer of a permit pursuant to subdivision (b) shall be made on or before January 1, 1987, or not more than one year after the death of the permittee, whichever is later.

(d) The director may authorize another person, when requested by the new permittee, to serve in the place of the new permittee and to engage in fishing activities under the authority of the limited entry permit for not more than two years from the date of the permit transfer.

(e) "Accidental death" means death resulting directly and solely from any of the following:

(1) An accidental injury visible on the surface of the body or disclosed by an autopsy, sustained solely by external, violent, and accidental means.

(2) A disease or infection resulting directly from an accidental injury and beginning within 30 days after the date of the injury.

(3) An accidental drowning.

HISTORY:
Added Stats 1986 ch 1248 § 1. Amended Stats 1988 ch 120 § 1.

§ 8104. Vesting of limited entry fishery permit in decedent permittee's estate; Transfer of permit

Upon the death of a limited entry permittee, the permit shall vest in the permittee's estate or in the surviving community estate and may be transferred by the executor, administrator, personal representative, or surviving spouse to a qualified pointholder pursuant to Section 8552.2 or to a partner qualified pursuant to Section 8552.6. This transfer shall be initiated by notice to the department, in writing, sent by certified mail, within one year of the date of death. If no transfer is initiated within one year of the date of death, the permit shall revert to the department for disposition pursuant to Section 8552.4 and shall be thereafter treated as a herring permit that has not been renewed. The department may, upon written application, grant an extension of time up to one additional year for the transfer to be initiated.

HISTORY:
Added Stats 1989 ch 207 § 3, effective July 25, 1989.

ARTICLE 10. FAR OFFSHORE FISHING

§ 8110. Legislative findings and declarations

(a) The Legislature finds and declares that dramatic changes have very recently taken place in the methods and geographic areas of effort by California–based commercial fishermen.

(b) The Legislature further finds and declares that because the conditions which now exist could not be seen at the time of their inception, some existing regulations are now unreasonably restrictive. In some cases, existing statutes and regulations prohibit

California fishermen from participating in or landing in California the primary product, or the incidental product, of their effort in the newly developed far offshore fisheries. This situation is detrimental to the interests of the fishermen, the fish processors, and the consumers of California.

HISTORY:
Added Stats 1983 ch 675 § 1.

§ 8111. "Far offshore fishery"

"Far offshore fishery" means a fishery that lies outside the United States 200–mile exclusive economic zone, as defined by paragraph (6) of Section 1802 of Title 16 of the United States Code.

HISTORY:
Added Stats 1983 ch 675 § 1. Amended Stats 1995 ch 619 § 1 (AB 76).

§ 8112. Fish taken in far offshore fishery and landed by commercial fishing vessel

Notwithstanding any other section of this code, fish taken in a far offshore fishery, which may be lawfully imported, may be landed in this state by persons operating a commercial fishing vessel registered pursuant to Article 4 (commencing with Section 7880) who took the fish in the far offshore fishery.

HISTORY:
Added Stats 1983 ch 675 § 1. Amended Stats 1995 ch 619 § 2 (AB 76).

§ 8113. Declaration from operator of vessel prior to taking fish from far offshore fishery; Exception

(a) Prior to departure from any port in the United States for the purpose of taking fish in the far offshore fishery, the operator of any vessel landing fish in California that will be taken in the far offshore fishery shall file a declaration with the department on forms prescribed by the department.

(b) The declaration shall be valid when signed by the vessel operator and completed with information prescribed by the department.

(c) Upon completion of the trip and within 12 hours of arrival at a port in this state, the operator of the vessel shall complete and submit the return portion of the declaration to the department.

(d) This section does not apply to any commercial fisherman using or possessing only troll lines, as defined in subdivision (b) of Section 9025.5, or gear for angling, as defined in Section 15, for the taking or possession of albacore only.

HISTORY:
Added Stats 1995 ch 619 § 4 (AB 76). Amended Stats 2002 ch 573 § 2 (SB 2090).

§ 8114. Fishing in 200–mile exclusive economic zone

It is unlawful for the operator of any vessel operating under authority of this article to fish in, or land fish from, any waters within the United States 200–mile exclusive economic zone during any trip for which the operator filed a declaration with the department to fish in the far offshore fishery.

HISTORY:
Added Stats 1983 ch 675 § 1. Amended Stats 1995 ch 619 § 5 (AB 76).

ARTICLE 11. HIGH SEAS INTERCEPTION OF SALMON

§ 8120. Definitions

The definitions in this section govern the construction of this article:

(a) "Environmental purpose" means the intent to prevent or minimize adverse ecological effects to water quality.

(b) "High seas interception" means the unauthorized taking of salmon for commercial purposes outside the United States 200–mile fishery conservation zone. "Unauthorized" means contrary to a statute or regulation of the United States or this state or to a treaty or international fishery agreement, or in violation of a foreign law.

(c) "Humanitarian purpose" means the intent to provide medical services for a sick or injured person, or to prevent the loss of human life.

(d) "Process" means affecting the condition or location of salmon, including preparation, packaging, storage, refrigeration, or transportation.

(e) "Written instrument" means hand written or printed matter, including vessels' logs and papers, bills of lading and sale, documents relating to processing, shipping, and customs, and information stamped on or affixed to cans, crates, containers, freight, or other means of storage or packaging.

HISTORY:
Added Stats 1990 ch 745 § 2 (AB 3706).

§ 8121. Possession or sale of salmon obtained by high seas interception

It is unlawful for any person to do any of the following:

(a) To buy, sell, trade, process, or possess salmon, or attempt to buy, sell, trade, process, or possess salmon, with the knowledge that the salmon has been, or will be, obtained by high seas interception.

(b) To knowingly provide financing, premises, equipment, supplies, services, power, or fuel used to buy, sell, trade, process, or possess salmon that has been, or will be, obtained by high seas interception.

(c) Act as a broker or middleman, or otherwise act on behalf of another person, to arrange for or negotiate, or attempt to arrange for or negotiate, the purchase, sale, trade, processing, or possession of salmon, with the knowledge that the salmon has been, or will be, obtained by high seas interception.

HISTORY:
Added Stats 1990 ch 745 § 2 (AB 3706).

§ 8122. Written instrument related to salmon obtained by high seas interception

It is unlawful for any person to create, circulate, or possess any written instrument related to salmon with the knowledge that the written instrument conveys misleading or untrue information about the ownership, possession, processing, origin, destination, route of shipping, type, or condition of salmon, or the time, place, and manner of the taking of the salmon.

HISTORY:
Added Stats 1990 ch 745 § 2 (AB 3706).

§ 8123. Vessel containing salmon obtained by high seas interception

(a) If any person knows that a vessel contains salmon obtained by high seas interception or that the owner or operator of the vessel intends to engage in the high seas interception of salmon, it is unlawful for that person to do any of the following:

(1) Move persons, cargo, or other property to or from the vessel.

(2) Service or repair the vessel or its equipment.

(3) Provide the vessel with power, supplies, equipment, or fuel.

(4) Provide the vessel with information, other than weather reports, capable of aiding the high seas interception of salmon or frustrating or avoiding detection, including communicating the movements, intentions, or activities of state or federal law enforcement officials or other fishing vessels.

(5) Permit the vessel to dock or anchor, or to remain docked or anchored, if that person is responsible for the operation of the facility, harbor, or anchorage.

(b) This section does not prohibit any person from performing any act or acts set forth in subdivision (a), if that person reasonably believes that the act or acts were necessary for humanitarian or environmental purposes or to prevent a significant loss of property, if that person provides immediate notice, by the quickest available means, to the United States Coast Guard, the department, or any law enforcement agency as to the type of assistance provided and the circumstances involved.

HISTORY:
Added Stats 1990 ch 745 § 2 (AB 3706).

ARTICLE 12. COMMERCIAL FISHERIES CAPACITY REDUCTION PROGRAM

§ 8125. Commercial Fisheries Capacity Reduction Account established

There is hereby established the Commercial Fisheries Capacity Reduction Account in the Fish and Game Preservation Fund. Fees collected pursuant to Section 8126 shall be deposited into the account. Money in the account shall be used to repay the California fishermen's share of any federal loans used in the federal West Coast Groundfish Fishery Capacity Reduction Program (Sec. 212, P.L. 107–206). The commission may establish, by regulation, any additional program elements necessary to conform state law to federal law, in order to allow California groundfish fishermen to fully participate in the federally established buy–back program for the Pacific groundfish fishery.

HISTORY:
Added Stats 2003 ch 514 § 1 (AB 1354).

§ 8126. Establishment of capacity reduction fee

The commission shall establish a capacity reduction fee on the taking of certain species of fish and shellfish, consistent with the West Coast Groundfish Fishery Capacity Reduction Program. In establishing the fee, the commission shall also consider the administrative cost associated with collecting these fees.

HISTORY:
Added Stats 2003 ch 514 § 1 (AB 1354).

CHAPTER 2. PARTICULAR VARIETIES OF FISH

ARTICLE 1. GENERAL SEASON

§ 8140. Right to take fish where taking not prohibited for commercial purposes

All fish, the taking of which is not otherwise restricted for commercial purposes, by state or federal law or any regulations adopted pursuant to those laws, may be taken at any time for commercial purposes.

HISTORY:
Enacted 1957. Amended Stats 1992 ch 742 § 13 (AB 2261); Stats 1993 ch 617 § 13 (AB 14), effective September 30, 1993; Stats 1998 ch 1052 § 13 (AB 1241).

ARTICLE 2. SARDINES

§ 8150.5. Taking or possession of sardines prohibited; Exceptions

(a) Sardines may not be taken or possessed on any boat, barge, or vessel except pursuant to Section 8150.7.

(b) This section does not prohibit the possession or use of sardines imported into this state under a bill of lading identifying the country of origin.

(c) Imported sardines may be used for dead bait under regulations adopted by the commission.

HISTORY:
Added Stats 1967 ch 278 § 1, effective June 6, 1967. Amended Stats 1969 ch 1384 § 2; Stats 1973 ch 638 § 1; Stats 1983 ch 1300 § 7; Stats 1984 ch 883 § 1, effective September 5, 1984; Stats 1986 ch 763 § 1, effective September 15, 1986; Stats 1973 ch 638 § 1, operative January 1, 1990; Stats 1989 ch 858 § 1; Stats 1990 ch 848 § 1 (AB 3211), effective September 12, 1990; Stats 2000 ch 388 § 5 (AB 2941).

§ 8150.7. Legislative intent

It is the intent of the Legislature that the sardine resource be managed with the objective of maximizing the sustained harvest. The department shall manage the sardine resource in conformance with the federal fishery regulations as recommended by the Pacific Fishery Management Council and as adopted by the Secretary of Commerce.

HISTORY:
Added Stats 1973 ch 638 § 2. Amended Stats 2000 ch 388 § 6 (AB 2941).

§ 8154. Possession for unauthorized purpose

No person shall receive, possess, or sell sardines for any purpose except for that purpose specified on the fish receipt completed at the time of landing of those sardines pursuant to Section 8043.

HISTORY:
Added Stats 1989 ch 858 § 4.

ARTICLE 3. ANCHOVIES

§ 8180. Taking for bait or human consumption; Limitations as to place and amount

In any district or part of a district lying south of a line drawn east and west through Point Mugu, anchovies may be taken in any quantity for bait or for human consumption in a fresh state, or, by contract with the department, for hatchery food, not to exceed 500 tons per year.

HISTORY:
Enacted 1957.

§ 8181. Possession, transportation or sale; Conditions as to place of taking

Anchovies taken south of that line in waters not less than three nautical miles from the nearest point of land on the mainland shore, and anchovies taken north of that line in any waters, may be possessed, transported, sold, or otherwise dealt with in any district or part of a district south of that line.

HISTORY:
Enacted 1957.

§ 8182. Display by boat operator of boat registration number

The operator of a boat engaged in taking anchovies in waters south of the line described in Section 8180 shall at all times while operating the boat identify it by displaying on an exposed part of the superstructure, amidships on each side and on top of the house visible from the air, the department registration number of the boat, in 14-inch black numerals on white background.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 90 (AB 1527), effective January 1, 2016.

§ 8183. Taking in Humboldt Bay

(a) No anchovies may be taken for any purpose in Humboldt Bay, except under the following conditions:

(1) Anchovies may be taken between May 1 and December 1.

(2) Not more than 60 tons of anchovies may be taken between May 1 and December 1 of each year.

(3) Only bait nets, as defined in Section 8780, shall be used to take anchovy.

(4) Any game fish caught incidentally in bait nets shall be released by use of a hand scoop net or by dipping the cork line.

(b) An accurate record of all fishing operations shall be kept and is subject to inspection by the department.

(c) The commission may adopt regulations it determines are necessary to protect anchovy in Humboldt Bay, including, if applicable and based on credible science, a regulation that changes the permitted take amount established pursuant to paragraph (2) of subdivision (a).

HISTORY:
Added Stats 1971 ch 219 § 1, effective June 25, 1971. Amended Stats 1978 ch 942 § 1; Stats 1981 ch 94 § 1; Stats 1982 ch 552 § 1; Stats 1987 ch 269 § 2, effective July 27, 1987; Stats 1997 ch 186 § 2 (SB 144); Stats 2018 ch 985 § 5 (SB 1309), effective January 1, 2019.

§ 8190. Declaration of state policy regarding management of anchovy resource; Annual anchovy egg–larvae surveys; Effective date of legislation (Operative date contingent)

(a) It is the policy of the State of California that the anchovy resource shall be managed in a manner which insures the continued abundance of the species. To that end, the department shall conduct, or have others conduct, annual anchovy egg–larvae surveys or any other annual surveys, research, and analyses necessary to insure that an accurate biomass estimate is made.

(b) This section shall become operative, and activities shall be carried out pursuant to this section only in the event, and to the extent, that funding is made available for such activities by the federal government.

HISTORY:
Added Stats 1978 ch 897 § 1, effective September 20, 1978.

ARTICLE 4. SALMON

§ 8210.2. Taking salmon by hook and line in specified districts; Season; Minimum size

Except as modified by the director pursuant to Section 7652, salmon may be taken under authority of a commercial fishing license and a commercial fishing salmon stamp only in Districts 6, 7, 10, 11, 16, 17, 18, and 19. All species of salmon, except silver salmon, may be taken only between April 15 and September 30. Silver salmon may be taken only between May 15 and September 30. No king salmon may be possessed that is less than 26 inches in length and no silver salmon may be possessed that is less than 22 inches. The length of salmon is to be measured from the tip of the snout to the extreme tip of the tail without resorting to any force other than swinging or fanning the tail. Salmon may be taken for commercial purposes only by hook and line and there is no bag limit.

HISTORY:
Added Stats 1984 ch 48 § 3. Amended Stats 1988 ch 1009 § 1.5.

§ 8213. Sale of salmon in districts during season closed for commercial purposes

During the period when salmon may not be taken for commercial purposes in any district, salmon may be sold in that district only under the regulations of the commission.

HISTORY:
Enacted 1957.

§ 8214. Prohibited taking of salmon at mouth of Humboldt Bay

It is unlawful to take salmon for commercial purposes at the mouth of Humboldt Bay in those portions of Districts 6 and 7 within three nautical miles north and south of a line drawn due west for three nautical miles from the center of the mouth of that bay.

HISTORY:
Enacted 1957.

§ 8215. Prohibited sale, possession in, or transportation through specified districts

Silver salmon may not be sold or possessed in, or transported through, District 6, 7, 10, 11, 16, 17, or 18, during the time when the taking of silver salmon for commercial purposes is unlawful in those districts.

HISTORY:
Enacted 1957. Amended Stats 1983 ch 1048 § 6, effective September 26, 1983; Stats 1988 ch 1009 § 2.

§ 8217. Sale subject to exceptions and restrictions

Salmon may be sold subject to the exceptions and restrictions contained in this article.

HISTORY:
Enacted 1957.

§ 8218. Injuring king or silver salmon under legal size unlawful

It is unlawful to gaff, club, otherwise injure, or possess any king or silver salmon under the legal size.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 189 § 1.

§ 8219. Prohibited taking at mouths of Smith, Klamath, and Eel Rivers

Salmon may not be taken for commercial purposes in District 6 at the mouths of the Smith and Klamath Rivers within three nautical miles north and south of a line drawn due west for three nautical miles from the center of the mouth of each of those streams, or during the months of August and September in District 7 at the mouth of the Eel River within two nautical miles north and south of a line drawn due west for two nautical miles from the center of the mouth of that stream.

HISTORY:
Enacted 1957.

§ 8226. Recovery of salmon tag

(a) Notwithstanding any measurement requirements under this code, and to implement the department's salmon tagging program, any person in possession of a salmon with a missing adipose fin, the small, fleshy fin on the back of the fish between the back fin and the tail, upon request by an authorized agent or employee of the department, shall immediately relinquish the head of the salmon to the state, at no charge, for recovery of any coded–wire tag. The head may be removed by the fish owner or, if

removed by the official department representative, the head shall be removed in a manner to minimize loss of salmon flesh and the salmon shall immediately be returned to the rightful owner.

(b) It is unlawful to intentionally conceal, cull, or release into the waters, a salmon with a missing adipose fin that it is otherwise legal to possess.

HISTORY:
Added Stats 1989 ch 174 § 1. Amended Stats 1999 ch 502 § 2 (AB 1210), effective September 27, 1999.

ARTICLE 4.5. COMMERCIAL SALMON VESSEL PERMITS

§ 8230. Legislative findings and declarations

(a) The Legislature finds and declares that commercial salmon fishing is in the public interest and that the preservation of commercial salmon fishing directly affects the health and welfare of the public. The Legislature further finds and declares that, due to past declines in salmon stocks, the increase in the quality and value of salmon on the market, the number and types of vessels being used, the commensurate salmon fishing potential of the commercial salmon fishing fleet, and the demand for entry into the commercial salmon fishery, it is necessary and proper to limit the persons who are eligible to take salmon for commercial purposes and to regulate the amount of salmon that may be taken by restricting the number and salmon fishing potential of the vessels in the commercial salmon fishing fleet in order to preserve and rebuild the salmon resource, to protect commercial salmon fishing, and thereby to protect the health and welfare of the public.

(b) The Legislature further finds and declares the following:

(1) The salmon resource declined in 1983 and 1984 as a result of the most severe warm water El Nino current of this century, which caused major disruptions and hardship in the commercial salmon fishery. Habitat destruction in the rivers of California has also depleted the salmon stocks which are bred and reared in those rivers.

(2) The Pacific Fishery Management Council has imposed season closures on the taking of salmon since 1982, including a total prohibition on commercial taking of salmon in 1985 along portions of the northern California coast to protect the king salmon stock from the Klamath River. In 1987, a five–year agreement was signed which allocates the king salmon stock from the Klamath River between ocean commercial and recreational users and in–river Indian and recreational users. This agreement may result in further closures.

(3) Nearly 30 percent of the commercial salmon fishing vessels which were permitted to take salmon for commercial purposes in California did not record landings of salmon in the 1986 and 1987 commercial salmon seasons.

(4) There are more than enough commercial salmon fishing vessels for which commercial salmon fishing permits have been issued to harvest the less than 10 million pounds of salmon that are currently available annually. With the present fleet makeup between large vessels and small vessels and between full–time and part–time fishermen, it is estimated that the present resource capacity may accommodate a fleet of not more than 2,500 permitted vessels. Therefore, no new permits should be issued until the time that the fleet size falls below 2,500 permitted vessels. Adequate provision for entry of new persons or vessels to the commercial salmon fishery is afforded by transfers of vessels for which permits have been issued and renewed and by transfers of those existing permits to vessels of the same or less salmon fishing potential.

HISTORY:
Added Stats 1988 ch 1164 § 2.

§ 8231. Definitions

The following definitions govern the construction of this article:

(a) "Agent" means the person designated in writing by the owner as the owner's representative.

***

(b) "Change of ownership" means the transfer of ownership of a permitted vessel to a new owner.

****(c)*** "Commercial salmon vessel permit" means an annual permit issued by the department to an owner of a commercial fishing vessel for use of that vessel to take salmon for commercial purposes and shall not be considered personal property.

****(d)*** "Fishing potential" means the capability and capacity for harvesting salmon of a particular commercial fishing vessel.***

(e) "Permit" means a commercial salmon vessel permit as defined in subdivision ****(c)***.

****(f)*** "Permitted vessel" means a commercial fishing vessel for which a permit is currently valid.

****(g)*** "Replacement vessel" means a commercial fishing vessel for the use of which a permit is proposed to be transferred pursuant to this article.

***

(h) "Transfer" means the issuance of a permit for use of a replacement vessel.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 1996 ch 870 § 19 (AB 3245); Stats 2019 ch 472 § 2 (SB 262), effective January 1, 2020.

§ 8232. Taking or possessing salmon for commercial purposes

It is unlawful to take or possess salmon for commercial purposes on a vessel unless all of the following conditions are met:

(a) The vessel is registered with the department pursuant to Section 7881, and the owner of the vessel has a valid commercial salmon vessel permit for the use of that vessel.

(b) The permit for the use of the vessel is affixed to the vessel adjacent to the department registration number unless otherwise authorized by the department.

(c) The permit affixed to the vessel is visible at all times.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 1994 ch 849 § 35 (SB 2113).

§ 8232.5. Use of vessel for sport purposes

(a) Except as provided in this section, it is unlawful to take salmon for sport purposes on a permitted vessel.

(b) Subdivision (a) does not prohibit taking salmon for sport purposes under a sportfishing or a sport ocean fishing license, which is issued pursuant to Article 3 (commencing with Section 7145) of Chapter 1, on a vessel licensed as a commercial passenger fishing boat pursuant to Section 7920 and engaged in that business on any day when salmon are not being taken for commercial purposes on that vessel.

(c) Subdivision (a) does not prohibit taking salmon for sport purposes under a sportfishing or a sport ocean fishing license, which is issued pursuant to Article 3 (commencing with Section 7145) of Chapter 1, on a permitted vessel in the Klamath Management Zone, as designated by the federal Pacific Fisheries Management Council, when the commercial salmon season is closed and after 24 hours after the time when salmon taken during the commercial salmon season are required to be landed.

(d) The use of a vessel pursuant to subdivision (c) shall be considered as being engaged or employed exclusively in the taking and possession of fish or other living resource of the sea for commercial purposes for purposes of subdivision (a) of Section 227 of the Revenue and Taxation Code.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 1990 ch 120 § 1 (AB 2914), effective June 1, 1990, ch 1633 § 2 (AB 3703).

§ 8233. Renewal of permit

Except as otherwise provided in this article, a permit shall be renewed prior to expiration. Each permit issued by the department shall display the expiration date on the face of the permit.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 1996 ch 870 § 20 (AB 3245).

§ 8233.3. Issuance of renewed permit

Except as otherwise provided in this article, the department shall issue a permit, upon application and payment of the renewal fees pursuant to Section 8235, that is valid for the subsequent permit year, to the owner of a permitted vessel that is registered with the department pursuant to Section 7881.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 1994 ch 849 § 36 (SB 2113).

§ 8233.4. Issuance of permit for replacement vessel

Except as otherwise provided in this article, the department shall issue a permit, upon payment of the transfer fees pursuant to subdivision (a) of Section 8239 and surrender to the department of the permit for the use of the permitted vessel, to the owner of a replacement vessel that is registered with the department pursuant to Section 7881, if the transfer has been approved pursuant to Section 8241.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 1994 ch 849 § 37 (SB 2113).

§ 8233.5. Change in designation of permitholder

Except as otherwise provided in this article, the department shall change the designation of the holder of a permit, and with it shall go all rights, privileges, and obligations of a permit holder, including rights of renewal, upon receipt of a notice of change of ownership to a new owner of a permitted ***vessel. A permit changed pursuant to this section is valid for the permit year during which it is issued.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 3 (SB 262), effective January 1, 2020.

§ 8233.8. Issuance of permit for new entry vessel

Except as otherwise provided in this article, the department shall issue a permit to the owner of a commercial salmon fishing vessel that is registered with the department pursuant to Section 7881 for the new entry of that vessel into the commercial salmon fishery if that owner is authorized to be issued a permit for the use of that new entry vessel pursuant to subdivision (b) of Section 8245.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 1994 ch 849 § 38 (SB 2113).

§ 8233.9. Applicability of provision on eligibility for participation in limited entry fishery

Section 8101 does not apply to this article.

HISTORY:
Added Stats 1988 ch 1164 § 2.

§ 8234. Commercial fishing stamp

(a) The department shall not issue a permit under this article unless one of the following first occurs:

(1) The applicant presents to the department a commercial fishing salmon stamp issued to the owner or an agent of the owner. No commercial fishing salmon stamp shall be presented or accepted by the department to authorize issuance of a permit under this section for more than one vessel.

(2) The applicant obtains a commercial fishing salmon stamp and pays the fees for the stamp.

(3) On or before April 1 of the current license year, the owner is 70 years of age.

(b) The first commercial fishing salmon stamp issued to an owner, or to that owner's agent, shall be affixed to the commercial fishing license of that owner or agent. Any additional commercial fishing salmon stamps issued to the owner or the owner's agent pursuant to paragraph (1) of subdivision (a) for purposes of obtaining permits for use of additional commercial salmon fishing vessels shall be affixed to each additional vessel's registration issued pursuant to Section 7881.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 1991 ch 485 § 3 (AB 1376), effective October 3, 1991; Stats 1994 ch 849 § 39 (SB 2113).

§ 8235. Application for permit renewal; Fees; Deadlines

(a) The owner of a permitted vessel, or that owner's agent, may apply for renewal of the permit annually on or before April 30, upon payment of the fees established under subdivision (b), without penalty. Upon receipt of the application and fees, the department shall issue the permit for use of the permitted vessel in the subsequent permit year only to the owner of the permitted vessel.

(b) The department shall fix the annual fee for the renewal of the permit in an amount it determines to be necessary to pay the reasonable costs of implementing and administering this article.

(c) If an owner to whom a permit has been issued, or that owner's agent, applies for renewal of the permit, the application for renewal shall be received or, if mailed, postmarked, on or before April 30. An application received or, if mailed, postmarked, after April 30 shall be assessed a late fee subject to Section 7852.2. The department shall issue the permit for use of the permitted vessel in the subsequent permit year.

(d) The department shall suspend a late fee otherwise due under subdivision (c) and shall issue a permit for use of the permitted vessel in the subsequent permit year if the department is unable to accept applications for renewal of permits by March 1.

(e) Except as provided in subdivision (c), the department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 1996 ch 870 § 21 (AB 3245); Stats 2004 ch 431 § 13 (AB 2760); Stats 2007 ch 279 § 5 (AB 1144), effective January 1, 2008; Stats 2008 ch 179 § 77 (SB 1498), effective January 1, 2009.

§ 8236. Notice of renewal to owners

(a) The department shall send a written notice of renewal and a permit renewal application to the owner of each currently permitted vessel at the most recent address of that owner in the records of the department. The notice shall be sent by first–class mail before March 1. The department shall mail a copy of the notice for renewal to all associations and groups known to the department to be representing commercial salmon fishermen. The department shall also provide blank permit renewal applications at appropriate offices of the department.

(b) The notice shall include all of the following:

(1) Instructions on how to apply for renewal of a permit.

(2) Information on the provisions of subdivisions (c) and (e) of Section 8235.

(c) Failure to receive the notice under this section does not exempt or excuse the owner from the requirement of annual renewal of the permit on or before the permit expiration date.

HISTORY:
Added Stats 1988 ch 1164 § 2.

§ 8237. Transfer of permit

(a) The department shall change the designation of the holder of a permit to the new owner of a permitted vessel upon change of ownership of the permitted vessel, whether the change of ownership is by contract, by operation of law, or otherwise.

(b) The permit shall not be transferred to any other vessel, except by the issuance of a permit fur use of the replacement vessel pursuant to subdivision (c) and Sections 8239 to 8241, inclusive.

(c) The owner of the permitted vessel may seek to retire the permitted vessel from the commercial salmon fishery and apply for transfer of the permit, to be issued pursuant to Section 8241, for use of a replacement vessel.

HISTORY:
Added Stats 1988 ch 1164 § 2.

§ 8238. Establishment of vessel classification system

(a) On or before January 1, 1991, the department, in consultation with the ***commercial salmon fishing*** review board, ***created pursuant to former Section 8247,*** shall establish and adopt, in the manner prescribed in ***former*** Section 8238.3, ***as that section read on January 1, 1991,*** a vessel classification system to determine the fishing potential of***prospective vessels for applications for new, original permits.

(b) Commencing January 1, 2020, for applications to transfer a permit to a replacement vessel, the department shall determine the fishing potential of the permitted vessel and the replacement vessel by multiplying the length of the vessel by the breadth of the vessel by the depth of the vessel based on figures provided to the department in a vessel marine survey conducted by a licensed marine surveyor or on a current certificate of documentation issued by the United States Coast Guard.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 4 (SB 262), effective January 1, 2020.

§ 8238.1. Use of vessel classification system

The vessel classification system shall be used by the department ***for issuance of new original vessel permits pursuant to Section 8243***.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 5 (SB 262), effective January 1, 2020.

§ 8239. Transfer of permit to replacement vessel

A transfer may be approved and a permit issued for use of a replacement vessel pursuant to Section 8241 under all of the following conditions:

(a) The vessel owner submits a written request for the transfer to the department on a form provided by the department and pays a nonrefundable transfer fee of two hundred dollars ($200).

(b) The permit for the permitted vessel is current, and the owner of the permitted vessel makes assurances in the application that any renewal of the permit ***that*** becomes due during the application processing period will be made.

(c) ******Proof of ownership is submitted to the department for*** the permitted vessel ******and replacement vessel***.

(d) The vessel owner submits ******a vessel marine survey conducted by a licensed marine surveyor or a current certificate of documentation issued by the United States Coast Guard that contains the necessary information for the department*** to establish that the replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel.

(e) Under penalty of perjury, the vessel owner signs the application for transfer and certifies that the included information is true to the best of ******their*** information and belief.

(f) The same transfer has not been requested within the previous 12 months or the same transfer has not previously been denied and that denial is final, unless the application or supporting information are different than that contained in the previous application, as determined by the department***.

***

(g) Except as provided in Section 8239.1***, ***the permit has not been transferred to a replacement vessel during the same permit year.***

******(h)*** The permittee has written authority from the legal owner, if other than the permittee or mortgager, if any, to transfer the vessel permit from the permitted vessel.

HISTORY:
Added Stats 1990 ch 1703 § 39 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 27, (SB 1565), effective September 14, 1992; Stats 2019 ch 472 § 6 (SB 262), effective January 1, 2020.

§ 8239.1. Transfer of permit where vessel is lost, stolen or destroyed

*** Unless otherwise prohibited, the department shall accept a transfer application within ******two years*** after the date that a permitted vessel was lost, stolen, or destroyed, notwithstanding any inability to physically examine the permitted vessel to determine its salmon fishing potential. Only the permittee at the time of the loss, theft, or destruction of the vessel may apply for the transfer of the vessel permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire department investigating the loss. ***The department shall only transfer a permit pursuant to this section if the permit remains valid during the entire period following the loss, theft, or destruction, and while the transfer application is pending. If the permittee does not submit a transfer application within two years after the permitted vessel was lost, stolen, or destroyed, or if the department denies the transfer application later than two years after a permitted vessel was lost, stolen, or destroyed, the permit is null and void.***

***

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 7 (SB 262), effective January 1, 2020.

§ 8239.2. Establishment of administrative procedures [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 8 (SB 262), effective January 1, 2020.

§ 8239.6. Period of validity of permit for replacement vessel

A permit issued for the use of a replacement vessel under Section 8241 is valid for the balance of the permit year for which the permit for the use of the permitted vessel was originally issued or last renewed, and the permit issued under this section authorizes the use of the replacement vessel only for that period.

HISTORY:
Added Stats 1988 ch 1164 § 2.

§ 8239.9. Determination of fishing potential of vessel prior to transfer application [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 9 (SB 262), effective January 1, 2020.

§ 8240. Grounds for refusal to issue permit for replacement vessel

(a) The department shall not issue a permit for use of a replacement vessel if the permitted vessel was reported as lost, stolen, or destroyed by fraudulent means or for fraudulent purposes.

(b) The department shall not issue a permit for use of a replacement vessel if the application contains or is accompanied with fraudulent or willfully misleading information.

(c) The department shall not issue a permit for use of a replacement vessel or to a new owner of a permitted vessel if the permit for the permitted vessel expires and is not renewed. Except as provided in Section 8235, an owner of a permitted vessel shall renew the permit before the expiration date even if that owner has a transfer application pending.

(d) The department may refuse to issue a permit for use of a replacement vessel or to issue a permit to a new owner of a permitted vessel on any grounds for which a permit may be suspended or revoked.

HISTORY:
Added Stats 1988 ch 1164 § 2.

§ 8241. Criteria for issuance of permit for replacement vessel

The department shall issue the permit for use of a replacement vessel if it determines*** ***that the conditions specified in Section 8239 have been satisfied and the replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel.***

***

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 10 (SB 262), effective January 1, 2020.

§ 8242. Permit to gain entry into fishery

A person seeking to gain entry into the commercial salmon fishery may obtain a permit under either of the following conditions:

(a) By legally obtaining the ownership of a permitted vessel and notifying the department of the change of ownership of the permitted vessel.

(b) By applying to obtain a new, original permit issued by the department pursuant to Sections 8244 and 8245.

HISTORY:
Added Stats 1988 ch 1164 § 2.

§ 8243. Issuance of new, original permits

(a) If the department determines that the number of permitted vessels is less than 2,500, the department shall determine***the number and vessel classification for which any new, original permits may be issued to bring the total number of permitted vessels to no more than 2,500.

(b) New, original permits to be issued shall be authorized by vessel classifications established under Section 8238.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 11 (SB 262), effective January 1, 2020.

§ 8244. Application for new, original permit

(a) An applicant may apply for a new, original permit as an individual, a joint venture, or a corporation. The applicant may submit only one application annually. The application shall be made on a form provided by the department.

(b) An applicant for a new, original permit under this section shall submit a completed application as directed by the department. The completed application, and the application fees prescribed in subdivision (c), shall be delivered or postmarked on or before February 1 in order to be considered for permits for the subsequent permit year.

(c) The applicant shall submit with the application a nonrefundable application fee determined by the department in an amount sufficient to pay the costs of administering the issuance of new, original permits by the department, which shall be not less than thirty-five dollars ($35).

(d) The department***shall determine the fishing potential of the vessel for use of which the new, original permit is to be issued and otherwise determine if the applicant is eligible to be issued a permit under this article.

HISTORY:

Added Stats 1990 ch 1703 § 41 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 28 (SB 1565), effective September 14, 1992, operative April 1, 1993; Stats 2019 ch 472 § 12 (SB 262), effective January 1, 2020.

§ 8245. Drawing for new, original permits; Fees; Requirements

(a) The department shall conduct a drawing from the applicants determined to be eligible for new, original permits pursuant to Section 8244 on the first Friday in March of each year that new, original permits are authorized to be issued pursuant to Section 8243.

(b)(1) The department shall issue a permit to each of those applicants who are drawn upon payment of the fees prescribed in paragraph (2) for the permit and, except as provided in subdivision (d), submittal of sufficient information to establish that the applicant is the owner of a vessel within the vessel classification designated in the application.

(2) The amount of the fees for a permit issued under this section are the same as the amount of the fees for renewal of a permit for the subsequent license year beginning on April 1 ***_that_ are established pursuant to subdivision (b) of Section 8235. A successful applicant shall pay the fees for the permit on or before March 31. The department shall deposit the fees to the fund pursuant to Section 13001.

(c) Except as provided in subdivision (d), a successful applicant shall submit proof of ownership of the vessel to be used under the permit within 90 days of the drawing.

(d)(1) A successful applicant may request one extension of no more than 90 days to obtain a vessel as designated in the application. The department***may grant that extension.

(2) If any successful applicant does not establish that ***_the applicant_ is the owner of a vessel as designated in the application and affix the new permit on that vessel or on another vessel with the same or less fishing potential, as determined by the department***, within 90 days or by the end of a 90 day extension granted by the department, the new permit is null and void.

(3) The department ***is not liable for any risk of failure by the applicant to obtain a vessel ***_that_ is designated in an application or to complete the process for determination of the fishing potential of another vessel, or for failure by the applicant to obtain that other vessel, in the time prescribed in this section.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 13 (SB 262), effective January 1, 2020.

§ 8245.5. Review of new entry provisions [Repealed]

HISTORY:

Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 14 (SB 262), effective January 1, 2020.

§ 8246. Suspension or revocation of fishing privilege; Civil damages

(a) At any time after notice of an order suspending or revoking of a person's commercial salmon fishing privilege is issued by the commission, and before the order of suspension or revocation is final, the commission may, with the agreement of the person subject to the action, compromise or dismiss the action to suspend or revoke the commercial salmon fishing privilege in the best interests of the state, or the commission may compromise or dismiss the action with the agreement of the person subject to the action on terms and conditions, which may include, but are not limited to, the payment of civil damages, the reduction of a revocation to a suspension for a specified period of time, or any other terms and conditions.

(b) The commission, after notice and opportunity for hearing***, may suspend or revoke the commercial fishing privilege, authorized under a license issued for the purposes of Section 7850***, for any violation of a term or condition of an agreement to compromise or dismiss a separate suspension or revocation action ****that* was made pursuant to subdivision (a).

(c) If the commission orders a suspension or revocation of a person's commercial salmon fishing privilege, any permit issued pursuant to this article shall be renewed when the next renewal is due or the permit shall expire as provided in Section 8233.

(d) Subdivision (b) does not apply if an action is brought to recover civil damages under Section 2014 from the person subject to action under this section.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 1996 ch 870 § 22 (AB 3245); Stats 2019 ch 472 § 15 (SB 262), effective January 1, 2020.

§ 8246.2. Amount of civil damages

(a) The commission, in consultation with the department***, shall adopt regulations for the determination of civil damages provided for in subdivision (b) of Section 8246*** ***that*** give due consideration to the appropriateness of the civil damages with respect to all of the following factors:

(1) The gravity of the violation.
(2) The good faith of the convicted licensee.
(3) The history of previous violations.
(4) The damage to the fishery.
(5) The cost of restoration of the fishery.

(b) Civil damages imposed under subdivision (b) of Section 8246 shall be due and payable on or before a date ****that* is 30 days after the compromise is entered into.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 16 (SB 262), effective January 1, 2020.

§ 8246.4. Revocation of permit obtained by fraud

The commission, after notice and opportunity for hearing***, shall revoke a commercial salmon vessel permit issued pursuant to this article if the vessel permit was obtained by fraudulent means.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 17 (SB 262), effective January 1, 2020.

§ 8246.6. Appeals of adverse orders regarding permits

A person whose commercial salmon fishing vessel permit is revoked by the commission or who has been denied a permit transfer may appeal the revocation or denial to the commission by submitting the appeal in writing to the commission within 60 days of the decision.

HISTORY:

Added Stats 1988 ch 1164 § 2. Amended Stats 1998 ch 525 § 6 (SB 2028).

§ 8246.7. Reversal of adverse order regarding permit

(a) The commission shall reverse an order of revocation, order the permit renewed, or order the approval of a permit transfer only if it finds one of the following grounds:

(1) The permittee failed to submit an application and pay the fees for renewal on or before April 30 pursuant to Section 8235 and the failure to renew a permit until after the expiration date was due to death, physical illness, mental incapacity, or being called to active military duty, and the person was not reasonably able to have an agent renew the permit.

(2) A lienholder of a permitted vessel, if the vessel is the property of the lienholder as a result of foreclosure, surrender, or litigation, can show loss due to the nonrenewal of a permit by the permittee, and the nonrenewal occurred without the knowledge of the lienholder.

(3) If, in the case of permit revocation because of fraud, evidence is provided to the commission disputing the charges of fraud. If the commission finds there was no fraud after consideration of all of the evidence, the commission may order the revocation annulled, and, if the permit expiration date has passed during the pendency of the hearing on the appeal, the commission may order the department to renew the permit upon payment of the fees.

(4) The denial of the permit transfer was arbitrary or capricious.

***

(b) Each appeal shall be heard and considered separately on its own merits.

HISTORY:
Added Stats 1988 ch 1164 § 2. Amended Stats 2019 ch 472 § 18 (SB 262), effective January 1, 2020.

§ 8246.8. Authority to make and enforce regulations

The commission and the department may make and enforce regulations that may be necessary or convenient for carrying out any power, authority, or jurisdiction delegated to it under this article.

HISTORY:
Added Stats 1988 ch 1164 § 2.

§ 8247. Establishment of review board [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 19 (SB 262), effective January 1, 2020.

§ 8247.1. Membership of board [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 20 (SB 262), effective January 1, 2020.

§ 8247.2. Terms of appointment of board members [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 21 (SB 262), effective January 1, 2020.

§ 8247.3. Terms of board members appointed under former article [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 22 (SB 262), effective January 1, 2020.

§ 8247.4. Function of board; Quorum [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 23 (SB 262), effective January 1, 2020.

§ 8247.5. Members of board exempt from Government Code prohibition [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 24 (SB 262), effective January 1, 2020.

§ 8247.6. Impartiality of board members [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 25 (SB 262), effective January 1, 2020.

§ 8247.7. Standards and criteria for activities of review board [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 26 (SB 262), effective January 1, 2020.

§ 8247.8. Actions by board [Repealed]

HISTORY:
Added Stats 1988 ch 1164 § 2. Repealed Stats 2019 ch 472 § 27 (SB 262), effective January 1, 2020.

§ 8248. Severability of invalid provisions in article

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

HISTORY:
Added Stats 1988 ch 1164 § 2.

ARTICLE 5. LOBSTER

§ 8250. "Spiny lobster"

As used in this code, "spiny lobster" refers to the species Panulirus interruptus.

HISTORY:
Enacted 1957.

§ 8250.5. Taking for commercial purposes; Incidental takings

(a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, a lobster trap, as described in Section 9010, may be used to take lobster for commercial purposes under a lobster permit issued pursuant to Section 8254.

(b) The following species may be taken incidentally in lobster traps being fished under the authority of a lobster permit issued pursuant to Section 8254, and any other species taken incidentally shall be immediately released back to the water:

(1) Crab, other than Dungeness crab.

(2) Kellet's whelk.

(3) Octopus.

(c) Spiny lobsters taken in the manner commonly known as skindiving or by a person using self-contained underwater breathing apparatus shall not be sold.

HISTORY:
Added Stats 1984 ch 1271 § 1. Amended Stats 1995 ch 619 § 9 (AB 76); Stats 2007 ch 285 § 119 (AB 1729), effective January 1, 2008.

§ 8251. Season; Authorized setting of traps in advance

Spiny lobsters may be taken only between the first Wednesday in October and the first Wednesday after the 15th of March. Lobster traps may be set and baited 24 hours in

advance of the opening date of the lobster season if no other attempt is made to take or possess the lobsters.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1315 § 2.

§ 8252. Prohibited taking of spiny lobster of specified size

No spiny lobster less than three and one–quarter inches in length measured in a straight line from the rear edge of the eye socket to the rear edge of the body shell, both points to be on the midline of the back, may be taken, possessed, purchased, or sold.

Every person taking spiny lobster shall carry a measuring device and shall measure any lobster immediately on removal from his trap and if it is found to be undersize the lobster shall be returned to the water immediately.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 1315 § 3.

§ 8253. Preservation; Freezing and cooking

It is unlawful to pickle, can, or otherwise preserve any spiny lobster, but spiny lobsters may be preserved by freezing and may be cooked for consumption in the fresh state.

HISTORY:
Enacted 1957.

§ 8254. Lobster permits

(a) Lobsters shall not be taken for commercial purposes except under a valid lobster permit issued to that person that has not been suspended or revoked, subject to regulations adopted by the commission.

(b) Every person who takes, assists in taking, possesses, or transports lobsters for commercial purposes while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters for commercial purposes, shall have a valid lobster permit.

(c) The permit fee for a lobster permit is two hundred sixty-five dollars ($265).

(d) The fee for a lobster crewmember permit is one hundred twenty-five dollars ($125).

(e) For the purposes of this section, it is prima facie evidence that lobster is taken for commercial purposes if the possession of lobster is more than three times the sport bag limit.

HISTORY:
Added Stats 1990 ch 1703 § 43 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 29 (SB 1565), effective September 14, 1992, operative April 1, 1993; Stats 1996 ch 870 § 23 (AB 3245); Stats 2007 ch 328 § 3 (AB 1187), effective January 1, 2008.

§ 8254.7. Complaint charging violation by commercial permitholder; Suspension

When a complaint has been filed in a court of competent jurisdiction charging a holder of a commercial lobster permit with a violation of Section 8251 or 8252, and no disposition of the complaint has occurred within 90 days after it has been filed in the court, the department may suspend the commercial lobster permit of the person. The permitholder whose permit was suspended under this section may, within 10 days after the receipt of the suspension notice from the department, request a hearing, and, within 20 days after the request has been made, a hearing shall be held by the commission. A decision shall be made within a reasonable time on whether the suspension of the permit shall be terminated or continued until the disposition of the complaint by the court. In determining whether to terminate or continue the suspension of the permit, the commission shall consider whether or not the violation could have a detrimental effect on

the resources and whether or not a continued suspension of the permit is in the best public interest, and shall find whether there is sufficient evidence that a violation has occurred. A failure to make a finding that there is sufficient evidence that a violation has occurred or a finding that there is insufficient evidence shall terminate the suspension of the permit under this section. If the permitholder is acquitted of the charges or the charges against him or her have been dismissed, any suspension of the permit is thereby terminated. No complaint shall be filed in a court charging a commercial lobster permitholder with a violation of Section 8251 or 8252 unless evidence supporting the charge has been reviewed by the appropriate county or city prosecuting agency and a criminal complaint has been issued by that agency.

HISTORY:
Added Stats 1972 ch 1295 § 1. Amended Stats 1986 ch 1244 § 9.

§ 8257. Display of permit number on boat

The permit number of the person owning or in command of any boat used to take lobster shall be visibly displayed on both sides of the boat in 10–inch black numbers, one inch wide, on a white background.

HISTORY:
Added Stats 1961 ch 1315 § 7. Amended Stats 1965 ch 195 § 2.

§ 8258. Districts where lobster traps may be used to take spiny lobster

Lobster traps may be used to take spiny lobster in Districts 18, 19, 20A, and those portions of District 20 lying on the southerly side of Santa Catalina Island between Southeast Rock and China Point.

HISTORY:
Added Stats 1984 ch 1271 § 3.

§ 8259. Limitation on number of permits

Whenever it is necessary to prevent overutilization or to ensure efficient and economic operation of the fishery, the commission may limit the number of permits that may be issued pursuant to this article. As it determines appropriate to protect the resource, the commission may limit the number of permits on a statewide basis or within selected geographical areas.

HISTORY:
Added Stats 1986 ch 934 § 2.

ARTICLE 6. CRAB

§ 8275. Definitions

Unless the provision or context otherwise requires, the definitions in this section govern the construction of this article.

(a) "Dungeness crab" or "market crab" means crab of the species Cancer magister.

(b) "Reconstruction" means major work on the hull of a vessel to make that vessel operable in the California crab fishery if that work may reasonably be expected to be of a duration that will preclude operation of that vessel in the crab fishery for the length of the crab season or longer.

(c) "Rock crab" means any crab of the genus Cancer other than Dungeness crab and includes rock crab (Cancer antennarius), red crab (Cancer productus), and yellow crab (Cancer anthonyi).

(d) "Under construction" means having plans and materials and proceeding with work toward the completion of an operational Dungeness crab fishing vessel.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1271 § 4; Stats 1991 ch 1067 § 2 (AB 354); Stats 1995 ch 947 § 2 (AB 666), effective October 16, 1995; Stats 1996 ch 870 § 25 (AB 3245).

§ 8276. Season; Restrictions on taking for commercial purposes

Except as provided in Section 8276.2 or 8277:

(a) Dungeness crab may be taken for commercial purposes in Districts 6, 7, 8, and 9 only between December 1 and July 15.

(b) Dungeness crab may be taken for commercial purposes in all other districts only between November 15 and June 30.

(c) Dungeness crab may not be taken for commercial purposes in any district, or part of a district, lying within the portions of Crescent City Harbor between the south sand barrier and the breakwater.

(d) All Dungeness crab traps shall be removed from state waters by 11:59 p.m. on the last day of the applicable Dungeness crab season.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 201 § 3; Stats 1959 ch 174 § 1, ch 448 § 1; Stats 1961 ch 111 § 1; Stats 1963 ch 58 § 1; Stats 1965 ch 197 § 1, ch 262 § 1; Stats 1967 ch 1051 § 1, ch 1075 § 1; Stats 1969 ch 47 § 1; Stats 1973 ch 621 § 1; Stats 1974 ch 664 § 1, effective September 5, 1974; Stats 1976 ch 364 § 1, effective July 9, 1976, operative January 1, 1978; Stats 1984 ch 1271 § 5; Stats 1994 ch 973 § 1 (AB 3337); Stats 2018 ch 663 § 2 (SB 1310), effective September 21, 2018.

§ 8276.1. Dungeness crab; Risk of marine life entanglement; Management options [Repealed effective January 1, 2024]

(a) For purposes of this section, the following definitions ***apply:

(1) "California Dungeness Crab Fishing Gear Working Group" means the California Dungeness Crab Fishing Gear Working Group established by the department, in partnership with the Ocean Protection Council and the National Marine Fisheries Service, on September 21, 2015, and as defined by its most recent charter as it may be amended from time to time.

(2) "Risk assessment and mitigation program" means the program developed by the California Dungeness Crab Fishing Gear Working Group, as that program may be amended from time to time until the regulations are adopted pursuant to subdivision (b), to identify and assess elevated levels of entanglement risk and determine the need for management options to reduce the risk of entanglement.

(b) On or before November 1, 2020, the department, in consultation with the California Dungeness Crab Fishing Gear Working Group and other stakeholders, shall adopt regulations establishing criteria and protocols to evaluate and respond to the potential risk of marine life entanglement. The regulations shall include, but are not limited to, the risk assessment and mitigation program. Upon the effective date of the regulations, the director may restrict the take of Dungeness crab pursuant to the protocols and criteria.

(c)(1) Until the regulations adopted pursuant to subdivision (b) become effective or until November 1, 2020, whichever ****occurs first***, if the director, in consultation with the California Dungeness Crab Fishing Gear Working Group, determines that the California Dungeness crab fishery is being conducted in a manner that poses a significant risk of marine life entanglement, the director may restrict the take of Dungeness crab in those areas where that risk has been determined to exist, including through time or area closures, or both.

(2) The authority of the director provided pursuant to paragraph (1) shall be temporary and shall expire upon the effective date of the regulations described in subdivision (b) or upon the expiration of that authority pursuant to subdivision (e), whichever ****occurs first***.

(3) The director shall evaluate the following factors to determine if there is a significant risk of marine life entanglement and the appropriate management response:

(A) The conditions inherent to the fishery, such as safety of life at sea, weather, vessel operations, and other related issues.

(B) The duration of any delays in the normal start of the fishery.

(C) Indications of anomalous ocean or forage conditions, or both, in the current season.

(D) The known location of marine life of concern.

(E) The known location and intensity of fishing effort.

(F) The number of confirmed marine life entanglements documented in advance of or during the current fishing season.

(G) The existence and prevalence of factors that may result in significant risk of marine life entanglement.

(H) The likelihood of exceeding the potential biological removal level of a marine life species.

(I) The socioeconomic impacts of any management response to fishery stakeholders.

(4)(A) After making a preliminary determination pursuant to paragraph (1) that a significant risk of ***marine life*** entanglement exists, the director shall provide 48 hours' notice to the California Dungeness Crab Fishing Gear Working Group and other stakeholders before taking any action to close the fishery or otherwise restrict the take of Dungeness crab.

(B) The notice shall provide the information supporting the director's determination of a significant risk of ***marine life*** entanglement as well as the anticipated management response.

(C) The director shall consider any recommendations or new information provided by the California Dungeness Crab Fishing Gear Working Group or any member of the public within the 48-hour notice period in advance of enacting any management measures pursuant to this subdivision.

(5) Any time or area closures, or both, implemented pursuant to this subdivision shall, while providing for adequate reduction of risk to marine life, be minimized in duration and extent.

(6) The director shall expeditiously lift any restriction in waters pursuant to this subdivision if the director determines, in consultation with the California Dungeness Crab Fishing Gear Working Group, that the significant risk of ***marine life*** entanglement in those waters has abated.

(7) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to actions taken pursuant to this subdivision.

(d) It ******is*** unlawful to take or possess Dungeness crab from any waters closed, or otherwise violate any restriction on take imposed, pursuant to this section.

(e) If the department has not developed the regulations pursuant to subdivision (b) by November 1, 2020, the power of the director to exercise the authority described in subdivision (c) shall become inoperative on November 1, 2020.

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

HISTORY:

Added Stats 2018 ch 985 § 6 (SB 1309), effective January 1, 2019, repealed January 1, 2024. Amended Stats 2019 ch 497 § 116 (AB 991), effective January 1, 2020, repealed January 1, 2024.

§ 8276.2. Authority of director to order delay in opening of crab fishery; Quality testing [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) The director may order a delay in the opening of the Dungeness crab fishery after December 1 in Districts 6, 7, 8, and 9 in any year. The delay in the opening shall not be later than January 15 of any year.

(b)(1) On or about November 1 of each year, the director may authorize one or more operators of commercial fishing vessels to take and land a limited number of

Dungeness crab for the purpose of quality testing according to a testing program conducted by, or on behalf of, the Pacific States Marine Fisheries Commission or an entity approved by the department.

(2)(A) The meat extracted from Dungeness crab tested pursuant to paragraph (1) may be sold by the entity approved by the department and revenues from that sale may be used for purposes of managing the testing program. Revenues shall be deposited in an account managed and overseen by the Pacific States Marine Fisheries Commission.

(B) For purposes of the testing program, the department shall develop guidelines after consulting with representatives of the California Dungeness crab industry, which shall include California delegates to the Tri-State Dungeness Crab Commission or members of the California Dungeness Crab Task Force, or both. The guidelines shall include the following:

(i) Suggested guidelines for the management of the funds received from, but not limited to, the sale of the crab meat pursuant to subparagraph (A), including the suggested guideline that funds in excess of the program costs may be donated for charitable purposes.

(ii) Guidelines for the testing program.

(iii) Guidelines that establish measures to track crab caught for purposes of the testing program, including, but not limited to, the guideline that all crab caught and sold for the testing program shall be canned.

(c) The director shall order the opening of the Dungeness crab season in Districts 6, 7, 8, and 9 on December 1 if the quality tests authorized in subdivision (b) indicate the Dungeness crabs are not soft-shelled or low quality. The entity authorized to conduct the approved testing program may test, or cause to be tested, crabs taken for quality and soft shells pursuant to the approved testing program. If the tests are conducted on or about November 1 and result in a finding that Dungeness crabs are soft-shelled or low quality, the director shall authorize a second test to be conducted on or about November 15 pursuant to the approved testing program. If the second test results in a finding that Dungeness crabs are soft-shelled or low quality, the director may order the season opening delayed for a period of 15 days and may authorize a third test to be conducted on or about December 1. If the third test results in a finding that Dungeness crabs remain soft-shelled or of low quality, the director may order the season opening delayed for a period of an additional 15 days and authorize a fourth test to be conducted. This procedure may continue to be followed, except that tests shall not be conducted after January 15 for that season, and the season opening shall not be delayed by the director later than January 15.

(d) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 1994 ch 973 § 3 (AB 3337). Amended Stats 1995 ch 753 § 2 (AB 25), effective October 10, 1995; Stats 2000 ch 410 § 2 (AB 2482); Stats 2006 ch 16 § 2 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 17 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 1 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020; Stats 2012 ch 546 § 1 (AB 2363), effective September 25, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2018 ch 663 § 3 (SB 1310), inoperative April 1, 2029, repealed January 1, 2030.

§ 8276.3. Taking or landing crab prohibited during closure; Gear setting period prior to opening after delay [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) If there is any delay ordered by the director pursuant to Section 8276.2 in the opening of the Dungeness crab fishery in Districts 6, 7, 8, and 9, a vessel shall not take or land crab within Districts 6, 7, 8, and 9 during any closure.

(b) If there is any delay in the opening of the Dungeness crab season pursuant to Section 8276.2, the opening date in Districts 6, 7, 8, and 9 shall be preceded by a 64-hour gear setting period, as ordered by the director.

(c) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 1994 ch 973 § 4 (AB 3337), operative until April 1, 1998. Amended Stats 1995 ch 753 § 3 (AB 25), effective October 10, 1995; Stats 2000 ch 410 § 3 (AB 2482), operative until April 1, 2006; Stats 2001 ch 159 § 98 (SB 662); Stats 2006 ch 16 § 3 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 18 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 2 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020; Stats 2013 ch 233 § 6 (AB 497), effective January 1, 2014, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2018 ch 663 § 4 (SB 1310), inoperative April 1, 2029, repealed January 1, 2030.

§ 8276.4. Grant for development and administration of Dungeness crab task force; Membership; Responsibilities; Operation; Eligibility to take crab for commercial purposes subject to restrictions [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) The Ocean Protection Council shall make a grant, upon appropriation of funding by the Legislature, for the development and administration of a Dungeness crab task force. The membership of the Dungeness crab task force shall be comprised of all of the following:

(1) Two nonvoting members representing the department, appointed by the department.

(2) One nonvoting representative of ***the*** University of California Sea Grant, appointed by ***the*** University of California Sea Grant.

(3) Seven members appointed by the Chair of the Ocean Protection Council following a public solicitation for nominations, as follows:

(A) One voting and one nonvoting member representing sport fishing interests.

(B) Two voting members representing crab processing interests.

(C) One voting member representing commercial passenger fishing vessel interests.

(D) Two nonvoting members representing nongovernmental organization interests.

(4) Seventeen voting members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:

(A) Three members from Crescent City.

(B) One member from Trinidad.

(C) Two members from Eureka.

(D) Two members from Fort Bragg.

(E) Two members from Bodega Bay.

(F) Two members from San Francisco.

(G) Two members from Half Moon Bay.

(H) Two members from ports south of Half Moon Bay.

(I) One member who has a valid California nonresident crab permit.

(b)(1) Elected members in each port shall represent the following production levels:

(A) For ports with one elected member, the member shall represent both the upper and lower production levels.

(B) For ports with two elected members, one member shall represent the upper production level and one member shall represent the lower production level.

(C) For ports with three elected members, one member shall represent the upper production level, one member shall represent the lower production level, and one member shall represent both the upper and lower production levels.

(2) Upper and lower production levels shall be determined in relation to the average landing, during the five-year period before the beginning of an election cycle, of valid crab permitholders who landed a minimum of 25,000 pounds of crab during that period.

(c) Elections shall be held every three years in each port, on a staggered basis across ports, in coordination with the department or the Ocean Protection Council and with support from an administrative team of the Dungeness crab task force. In an election year, all elected members in a port shall be subject to reelection. There ****is* no limit on the number of terms that may be served by any person.

(d)(1) Each member appointed pursuant to paragraph (1), (2), or (3) of subdivision (a) shall select an alternate to serve and, if applicable, vote in the member's place in case of the member's absence from, or disqualification from participating in, a meeting of the task force. If the position of a member appointed pursuant to one of those paragraphs becomes vacant, the alternate member shall serve until the position is filled as required pursuant to that paragraph.

(2) Each elected member shall select an alternate in the same port and production level to serve and vote in the member's place in case of the member's absence from, or disqualification from participating in, a meeting of the task force. If the position of the member becomes vacant, the alternate shall serve and vote in the member's place until the next election is held in the port pursuant to subdivision (c).

(e) The Dungeness crab task force shall do all of the following:

(1) Review and evaluate the commercial Dungeness crab management measures described in Section 8276.5, and make recommendations to the Joint Committee on Fisheries and Aquaculture, the department, and the commission, no later than January 15, 2022, and by January 15 of every third year thereafter through 2028.

(2) Make recommendations by the dates specified in paragraph (1) on all of the following: the need for a permanent Dungeness crab advisory committee, the economic impact of the program described in Section 8276.5 on permitholders of different tiers and the economies of different ports, the cost of the program to the department, including enforcement costs, the viability of a buyout program for the permitholders described in subparagraph (G) of paragraph (1) of subdivision (a) of Section 8276.5, refining commercial Dungeness crab management, and the need for statutory changes to accomplish task force objectives.

(3) In considering commercial Dungeness crab management options, prioritize the review of pot limit restriction options, current and future commercial fishery effort, season modifications, essential fishery information needs, and short- and long-term objectives for improved management.

(f) The task force may establish subcommittees of specific user groups from the task force membership to focus on issues specific to commercial harvest or crab processing. The subcommittees shall report their recommendations, if any, to the task force.

(g) The Ocean Protection Council may include in a grant funding to cover department staffing costs, as well as travel costs for task force participants as specified in paragraph (1) of subdivision (a).

(h) Except as otherwise provided in Section 8276.5, a recommendation shall be forwarded to the Joint Committee on Fisheries and Aquaculture, the department, and the commission upon an affirmative vote of at least two-thirds of the task force members.

(i) Eligibility to take crab in state waters and offshore for commercial purposes may be subject to restrictions, including, but not limited to, restrictions on the number of traps utilized by that person, if either of the following occurs:

(1) A person holds a California Dungeness crab permit with California landings of less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive, as reported in California landings receipts.

(2) A person has purchased a Dungeness crab permit on or after July 15, 2008, from a permitholder whose California landings were less than 5,000 pounds between

November 15, 2003, and July 15, 2008, inclusive, as reported in California landings receipts.

(j) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 2011 ch 335 § 3 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2018 ch 663 § 5 (SB 1310), inoperative April 1, 2029, repealed January 1, 2030; Stats 2019 ch 497 § 117 (AB 991), effective January 1, 2020, inoperative April 1, 2029, repealed January 1, 2030.

§ 8276.5. Dungeness crab trap limits program to be adopted; Program requirements; Permitholder exceptions; Participant requirements; Appeal of trap tag allocation; Civil penalties; Recommendations [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) In consultation with the Dungeness crab task force, or its appointed representatives, the director shall adopt a program, by March 31, 2013, for Dungeness crab trap limits for all California permits. Unless the director finds that there is consensus in the Dungeness crab industry that modifications to the following requirements are more desirable, with evidence of consensus, including, but not limited to, the record of the Dungeness crab task force, the program shall include all of the following requirements:

(1) The program shall contain seven tiers of Dungeness crab trap limits based on California landings receipts under California permits between November 15, 2003, and July 15, 2008, as follows:

(A) The 55 California permits with the highest California landings shall receive a maximum allocation of 500 trap tags.

(B) The 55 California permits with the next highest California landings to those in subparagraph (A) shall receive a maximum allocation of 450 trap tags.

(C) The 55 California permits with the next highest California landings to those in subparagraph (B) shall receive a maximum allocation of 400 trap tags.

(D) The 55 California permits with the next highest California landings to those in subparagraph (C) shall receive a maximum allocation of 350 trap tags.

(E) The 55 California permits with the next highest California landings to those in subparagraph (D) shall receive a maximum allocation of 300 trap tags.

(F) The remaining California permits with the next highest California landings to those in subparagraph (E), which are not described in paragraph (1) or (2) of subdivision ((i) of Section 8276.4, shall receive a maximum allocation of 250 trap tags.

(G) The California permits described in paragraphs (1) and (2) of subdivision (i) of Section 8276.4 shall receive a maximum allocation of 175 tags. The tags in this tier shall not be transferable for the first two years of the program.

(2) Notwithstanding paragraph (1), the director shall not remove a permitholder from a tier described in paragraph (1), if, after an allocation is made pursuant to paragraph (1), an appeal pursuant to paragraph (8) places a permitholder in a tier different than the original allocation.

(3) Participants in the program shall meet all of the following requirements:

(A) Unless a participant receives a waiver pursuant to paragraph (4), pay a biennial fee for each trap tag issued pursuant to this section to pay the pro rata share of costs of the program, including, but not limited to, informing permitholders of the program, collecting fees, acquiring and sending trap tags to permitholders, paying for a portion of enforcement costs, and monitoring the results of the program. The fee shall not exceed five dollars ($5) per trap, per two-year period. All of the trap tags allocated to each permit pursuant to subdivision (a) shall be purchased by the permitholder or the permit shall be void.

(B) Purchase a biennial crab trap limit permit of not more than one thousand dollars ($1,000) per two-year period to pay for the department's reasonable regulatory costs.

(C) Not lease a crab trap tag, and transfer a tag only as part of a transaction to purchase a California permitted crab vessel.

(D) A Dungeness crab trap that is fished shall contain a trap tag that is fastened to the main buoy, and an additional tag provided by the permitholder attached to the trap. The department shall mandate the information that is required to appear on both buoy and trap tags.

(4) The department shall issue a participant a waiver from the biennial fee for each trap tag described in subparagraph (A) of paragraph (3) if the participant is unable to fish due to mandatory military service and the participant submits a request for a waiver to the department at the same time that the participant renews the permit issued pursuant to subparagraph (B) of paragraph (3). A participant who receives a waiver pursuant to this paragraph shall not apply to the department to fish for Dungeness crab during the first year of the waiver, but may apply to fish for Dungeness crab during the second year of the waiver if the participant pays the full cost of the biennial fee for each trap tag. The department shall not limit the number of times a participant may request a waiver.

(5) Notwithstanding subparagraph (D) of paragraph (3), a vessel may transit state waters with Dungeness crab traps that are not tagged pursuant to subparagraph (D) of paragraph (3) if the traps contain either a valid Oregon or Washington trap tag, no crab species are onboard the vessel, and the traps are not deployed in state waters.

(6) The department shall annually provide an accounting of all costs associated with the crab trap limit program. The department shall use excess funds collected to reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the program.

(7) Permitholders may replace lost tags by application to the department and payment of a fee not to exceed the reasonable costs incurred by the department. The department may waive or reduce a fee in the case of catastrophic loss of tags.

(8) Any Dungeness crab permitholder may submit to the director an appeal of a trap tag allocation received pursuant to this section, by March 31, 2014, on a permit-by-permit basis for the purpose of revising upward or downward any trap tag allocation. Any appeal to revise upward a trap tag allocation shall be based on evidence that a permit's California landings during the period between November 15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual circumstances and that these circumstances constitute an unfair hardship, taking into account the overall California landings history as indicated by landing receipts associated with the permit. The director shall initiate the appeal process within 12 months of receiving an appeal request. The appeal shall be heard and decided by an administrative law judge of the Office of Administrative Hearings, whose decision shall constitute the final administrative decision. Except as provided in subparagraph (B), any Dungeness crab permitholder requesting an appeal to revise upward the permitholder's trap tag allocation shall pay all expenses, including a nonrefundable filing fee, as determined by the department, to pay for the department's reasonable costs associated with the appeal process described in this paragraph.

(b)(1) In addition to criminal penalties authorized by law, a violation of the requirements of the program created pursuant to this section shall be subject to the following civil penalties:

(A) Conviction of a first offense shall result in a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000) per illegal trap or fraudulent tag.

(B) Conviction of a second offense shall result in a fine of not less than five hundred dollars ($500) and not more than two thousand five hundred dollars ($2,500) per illegal trap or fraudulent tag, and the permit may be suspended for one year.

(C) Conviction of a third offense shall result in a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) per illegal trap or fraudulent tag, and the permit may be permanently revoked.

(2) The severity of a penalty within the ranges described in this subdivision shall be based on a determination whether the violation was willful or negligent and other factors.

(3) The portion of monetary judgments for noncompliance that are paid to the department shall be deposited in the Dungeness Crab Account created pursuant to subdivision (e).

(c) For the purposes of this section, a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab task force may be transmitted to the director or the Legislature as a recommendation, shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry. Any proposed recommendation that does not receive a vote sufficient to authorize transmittal to the director or Legislature as a recommendation shall be evidence of a lack of consensus by the Dungeness crab task force, and shall be considered to be evidence of a lack of consensus in the crab industry.

(d) The director may modify the program adopted pursuant to subdivision (a), if consistent with the requirements of this section, after consultation with the Dungeness crab task force or its representatives and after the task force has had 60 days or more to review the proposed modifications and recommend any proposed changes. The director may implement the modifications earlier than 60 days after it is sent to the Dungeness crab task force for review, if recommended by the task force.

(e) The Dungeness Crab Account is hereby established in the Fish and Game Preservation Fund and the fees collected pursuant to this section shall be deposited in that account. The money in the account shall be used as follows:

(1) By the department, upon appropriation by the Legislature, for administering and enforcing the program.

(2) In each fiscal year through the 2029 fiscal year, upon appropriation by the Legislature, of the amount remaining in the account after an allocation pursuant to paragraph (1), the sum of one hundred fifty thousand dollars ($150,000), if available, shall be allocated to the council to support the administration and facilitation of the Dungeness crab task force.

(f) For purposes of meeting the necessary expenses of initial organization and operation of the program until fees may be collected, or other funding sources may be received, the department may borrow money as needed for these expenses from the council. The borrowed money shall be repaid within one year from the fees collected or other funding sources received. The council shall give high priority to providing funds or services to the department, in addition to loans, to assist in the development of the program, including, but not limited to, the costs of convening the Dungeness crab task force, environmental review, and the department's costs of attending meetings with task force members.

(g)(1) It is the intent of the Legislature that the department, the council, and the Dungeness crab task force work with the Pacific States Marine Fisheries Commission and the Tri-State Dungeness Crab Commission to resolve any issues pertaining to moving the fair start line south to the border of California and Mexico.

(2) For purposes of this subdivision, the resolution of issues pertaining to the fair start line shall be limited to assessing the positive and negative implications of including District 10 in the tri-state agreement, including working with the Tri-State Dungeness Crab Commission to amend Oregon and Washington laws to include District 10 in the regular season fair start clause, and discussion of providing different rules for District 10 with regard to preseason quality testing.

(h) For purposes of this section, "council" means the Ocean Protection Council established pursuant to Section 35600 of the Public Resources Code.

(i) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:
Added Stats 2011 ch 335 § 4 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2012, ch 162, § 50 (SB 1171), effective January 1, 2013, 2012 ch 546 § 2 (AB 2363), effective September 25, 2012, inoperative April 1, 2019, repealed January 1, 2020 (ch 546 prevails); Stats 2016 ch 542 § 4 (SB 1287), effective January 1, 2017, repealed January 1, 2020; Stats 2018 ch 663 § 6 (SB 1310), effective September 21, 2018, inoperative April 1, 2029, repealed January 1, 2030.

§ 8277. Extension of season; Territorial limitation

(a) The director may extend the Dungeness crab season in any district or part thereof.

(b) Before extending the Dungeness crab season, the director shall consider written findings of the department regarding the state of the Dungeness crab resource in the district, or part thereof, which consider, but are not limited to, population and maturity. The director may extend the season only if the written findings do not conclude that the extension will damage the Dungeness crab resource.

(c) The director shall not extend the Dungeness crab season past August 31 in a district, or part thereof, north of the southern boundary of Mendocino County or past July 31 in a district, or part thereof, south of Mendocino County. The director shall order closure of the season at any time during the extension period if the director determines that further fishing will damage the Dungeness crab resource.

HISTORY:
Added Stats 1978 ch 311 § 1, effective June 30, 1978. Amended Stats 1979 ch 329 § 3, effective July 27, 1979; Stats 1984 ch 1271 § 7; Stats 2006 ch 538 § 186 (SB 1852), effective January 1, 2007.

§ 8278. Prohibited taking of crabs of minimum size

(a) Except as otherwise provided, no Dungeness crab less than six and one-quarter (6¼) inches in breadth, and no female Dungeness crab, may be taken, possessed, bought, or sold, except that not more than 1 percent in number of any load or lot of Dungeness crabs may be less than six and one-quarter (6¼) inches in breadth but not less than five and three-quarters (5¾) inches in breadth.

(b) Dungeness crab shall be measured by the shortest distance through the body from edge of shell to edge of shell directly from front of points (lateral spines).

HISTORY:
Enacted 1957. Amended Stats 1959 ch 1292 § 1; Stats 1965 ch 77 § 1, ch 91 § 1, Stats 1973 ch 621 § 4; Stats 1974 ch 664 § 4, effective September 5, 1974; Stats 1984 ch 1271 § 8; Stats 2006 ch 538 § 187 (SB 1852), effective January 1, 2007.

§ 8279. Sale of crabs from certain waters unlawful

It is unlawful to sell any Dungeness crab taken in any of the following waters:

(a) The Eel River and its tributaries between the Pacific Ocean and the west line of Sec. 35, T. 3 N., R. 1 W., H. B. & M.

(b) The Pacific Ocean within a radius of one mile from the mouth of the Eel River.

(c) Humboldt Bay, including the entrance of that bay, and the Pacific Ocean within a radius of one mile from the extreme western point of the north jetty at the entrance of the bay and for a radius of one mile from the extreme western point of the south jetty at the entrance of the bay.

(d) Trinidad Bay, that bay being the body of water within the area inclosed by a line running southeasterly from the westernmost point of Trinidad Head to the mouth of Luftenholtz Creek.

(e) Bodega Lagoon.

HISTORY:
Enacted 1957. Amended Stats 1992 ch 874 § 2 (AB 3189), effective September 22, 1992.

§ 8279.1. Restrictions on taking of Dungeness crabs; Restrictions relating to ocean waters off Washington, Oregon, or California; Penalty for violation [Inoperative April 1, 2019; Repealed effective January 1, 2030]

(a) A person shall not take, possess onboard, or land Dungeness crab for commercial

purposes from a vessel in ocean waters for 30 days after the opening of those waters for the commercial Dungeness crab fishing season, if both of the following events have occurred:

(1) The opening of the season has been delayed in those waters.

(2) The same vessel was used to take, possess onboard, or land Dungeness crab for commercial purposes, from ocean waters outside of the delayed waters, before the opening of the delayed waters for the season.

(b) For purposes of this section, a delay in the opening of ocean waters for the commercial Dungeness crab fishing season has occurred in either of the following circumstances:

(1) The opening of those waters for the season has been delayed pursuant to Section 5523 or 8276.2.

(2) The opening of those waters for the season has been delayed in Oregon or Washington due to the tri-state quality testing program or by a closure to prevent a risk to human health.

(c) A violation of this section does not constitute a misdemeanor. Pursuant to Section 7857, the commission shall revoke the Dungeness crab vessel permit that was issued for use on the vessel that was used in violation of this section.

(d) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 1997 ch 186 § 4 (SB 144). Amended Stats 2000 ch 410 § 4 (AB 2482). Stats 2006 ch 16 § 4 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 19 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 5 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020. Stats 2016 ch 542 § 5 (SB 1287), effective January 1, 2017, repealed January 1, 2020; Stats 2018 ch 663 § 7 (SB 1310), effective September 21, 2018, inoperative April 1, 2029, repealed January 1, 2030.

§ 8280. Legislative findings and declarations

(a) The Legislature finds and declares that the Dungeness crab fishery is important to the state because it provides a valuable food product, employment for those persons engaged in the fishery, and economic benefits to the coastal communities of the state.

(b) The Legislature further finds that, in order to protect the Dungeness crab fishery, it is necessary to limit the number of vessels participating in that fishery to take Dungeness crab and it may be necessary to limit the quantity and capacity of the fishing gear used on each vessel to take Dungeness crab.

(c) The Legislature further finds and declares that to limit the number of vessels in the Dungeness crab fishery, it is necessary to require that the owner of each vessel participating in the fishery obtain and possess a permit for that vessel and that the initial issuance of permits shall be limited to those persons owning vessels qualifying under Section 8280.1, as that section read on August 1, 2018, or any prior version of that section.

HISTORY:

Added Stats 1994 ch 973 § 5 (AB 3337). Amended Stats 2018 ch 663 § 8 (SB 1310), effective September 21, 2018.

§ 8280.1. Issuance of Dungeness crab vessel permits [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) A person shall not use a vessel to take, possess, or land Dungeness crab for commercial purposes using Dungeness crab traps authorized pursuant to Section 9011, unless the owner of that vessel has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked.

(b) A person shall not be issued a new, original Dungeness crab vessel permit. A Dungeness crab vessel permit may be issued only pursuant to a renewal or transfer of an existing permit as provided in Section 8280.2 or 8280.3.

(c) A permit issued pursuant to paragraph (3) of subdivision (b) of this section, as this section read on August 1, 2018, or any prior version of that paragraph, shall become immediately null and void upon the death of the permittee.

(d) In addition to criminal penalties authorized by law, a person who fishes without a Dungeness crab vessel permit, or who uses a Dungeness crab vessel permit to fish illegally on another vessel other than the permitted one, shall be subject to a fine not more than twenty thousand dollars ($20,000) and, at the discretion of the department, revocation of the person's fishing license for a period not to exceed five years and revocation of the commercial boat registration license for a period not to exceed five years.

(e) This section shall become inoperative on April 1, 2029, and, as of January 1,2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 1994 ch 973 § 6 (AB 3337). Amended Stats 1995 ch 947 § 4 (AB 666), effective October 16, 1995; Stats 1996 ch 870 § 26 (AB 3245); Stats 1997 ch 186 § 5 (SB 144); Stats 2000 ch 410 § 5 (AB 2482); Stats 2006 ch 16 § 5 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 20 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 6 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2018 ch 663 § 9 (SB 1310), effective September 21, 2018, inoperative April 1, 2029, repealed January 1, 2030.

§ 8280.2. Owner of vessel; Trawl or other net vessels; Permit renewal [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) The owner of a Dungeness crab vessel, for purposes of this section, may include a person with a bona fide contract for the purchase of a vessel who otherwise meets all other qualifications for a Dungeness crab vessel permit. If a contract is found to be fraudulent or written or entered into for the purposes of circumventing qualification criteria for the issuance of a permit, the applicant shall be permanently ineligible for a Dungeness crab vessel permit.

(b) A Dungeness crab vessel permit shall be issued only to the person owning the vessel at the time of application for that permit. A person shall not be issued more than one permit for each vessel owned by that person and qualifying for a permit pursuant to this article.

(c) A Dungeness crab vessel permit shall be issued only to the owner of a vessel taking crab by traps. A permit shall not be issued to the owner of a vessel using trawl or other nets unless the owner of that vessel qualifies for a permit pursuant to paragraph (1) of subdivision (b) of Section 8280.1, as that section read on August 1, 2018, or any prior version of that paragraph. A trawl or other net vessel authorized under this code to take Dungeness crab incidental to the taking of fish in trawl or other nets shall not be required to possess a Dungeness crab vessel permit.

(d) Dungeness crab vessel permits shall not be combined or otherwise aggregated for the purpose of replacing smaller vessels in the fishery with a larger vessel, and a permit shall not be divided or otherwise separated for the purpose of replacing a vessel in the fishery with two or more smaller vessels.

(e) Applications for renewal of all Dungeness crab vessel permits shall be received by the department, or, if mailed, postmarked, by April 30 of each year. In order for a vessel to retain eligibility, a permit shall be obtained each year subsequent to the initial permit year and the vessel shall be registered pursuant to Section 7881. The vessel owner shall have a valid commercial fishing license issued to that person pursuant to Section 7852 that has not been suspended or revoked. Minimum landings of Dungeness crab shall not be required annually to be eligible for a Dungeness crab vessel permit.

(f) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 1994 ch 973 § 7 (AB 3337). Amended Stats 1995 ch 947 § 5 (AB 666), effective October 16, 1995; Stats 1996 ch 870 § 27 (AB 3245); Stats 2000 ch 410 § 6 (AB 2482); Stats 2006 ch 16 § 6 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 21 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 7 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2018 ch 663 § 10 (SB 1310), effective September 21, 2018, inoperative April 1, 2029, repealed January 1, 2030.

§ 8280.3. Transference of crab vessel permit; Exceptions [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) For purposes of this section, the term "length overall" means the horizontal distance between the forward-most and after-most points on the hull of a vessel. The length overall of a vessel does not include attachments fixed to the stern and bow.

(b) Notwithstanding Article 9 (commencing with Section 8100) of Chapter 1 and except as provided in this section, a Dungeness crab vessel permit shall not be transferred.

(c)***(1)*** The owner of a vessel to whom a Dungeness crab vessel permit has been issued shall transfer the permit for the use of that vessel upon the sale of the vessel by the permitholder to the person purchasing the vessel, except that the permit shall not be transferred if the vessel is more than five feet longer in length overall, as determined by a licensed marine surveyor, than the baseline length on the permit. Thereafter, upon notice to the department, the person purchasing the vessel may use the vessel for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year, and that person is eligible for a permit pursuant to this article for the use of that vessel in subsequent years. The person purchasing the vessel shall not transfer the permit for use of that vessel in the Dungeness crab fishery to another replacement vessel during the same permit year.

(2) A permit described in subdivision (c) of Section 8280.1 shall not be transferred pursuant to this subdivision.

(d) The owner of a vessel to whom the Dungeness crab vessel permit has been issued may transfer the permit to a replacement vessel of equivalent capacity, except as specified in this section. Thereafter, upon notice to the department and payment of the transfer fee specified in Section 8280.6, the replacement vessel may be used for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year and that person is eligible for a permit pursuant to this article for the use of that replacement vessel in subsequent years.

(e)***(1) The owner of a permitted vessel may transfer the permit to a vessel of greater capacity as follows:***

(A) If the person the permit is to be transferred to purchased the vessel of greater capacity on or before November 15, 1995, the vessel of greater capacity may not be more than 10 feet longer in length overall than the baseline length on the permit.

(B) ******If the person the permit is to be transferred to purchased the*** vessel of greater capacity ******after*** November 15, 1995, ******the*** vessel of greater capacity ******may not be more than*** five feet longer in length overall than the baseline length on the permit.

(2) A permit described in subdivision (c) of Section 8280.1 shall not be transferred pursuant to this subdivision.

(f)***(1)*** The department may authorize the owner of a permitted vessel to transfer the permit to a replacement vessel that was owned by ******the person the permit is to be transferred to*** on or before April 1, 1996, that does not fish with trawl nets that is greater than five feet longer in length overall than the baseline length on the permit, if all of the following conditions are satisfied:

******(A)*** A vessel of a larger size is essential to the ******proposed permitholder*** for participation in another fishery other than a trawl net fishery.

(B)** The owner ***of the permitted vessel held a permit on or before January 1, 1995, for the fishery for which a larger vessel is needed and has participated in that fishery.

***(C)** The permit for the vessel from which the permit is to be transferred qualified pursuant to paragraph (1) of subdivision (b) of Section 8280.1, as that section read on August 1, 2018, or any prior version of that paragraph.

***(D)** The vessel to which the permit is to be transferred does not exceed 20 feet longer in length overall than the baseline length on the permit and the vessel to which the permit is to be transferred does not exceed 60 feet in length overall.

(E) A permit was not previously transferred to the same replacement vessel.

(2) A permit described in subdivision (c) of Section 8280.1 shall not be transferred pursuant to this subdivision.

(g) A transfer of a permit to a larger vessel shall not be allowed more than one time. If a permit is transferred to a larger vessel, any Dungeness crab vessel permit for that permit year or any subsequent permit years for that larger vessel shall not be transferred to another larger vessel. The department shall not thereafter issue a Dungeness crab vessel permit for the use of the original vessel from which the permit was transferred, except that the original vessel may be used to take or land Dungeness crab after that transfer if its use is authorized pursuant to another Dungeness crab vessel permit subsequently transferred to that vessel pursuant to subdivision (d), (e), or (f).

(h)(1) Upon the written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued, which has California Dungeness crab landings made with trap gear documented on department landing receipts and which has had California Dungeness crab landings amounting to not less than 5,000 pounds cumulative for the past two Dungeness crab seasons, may temporarily transfer the permit to a replacement vessel for which use in the Dungeness crab fishery is not permitted pursuant to this article that is of equivalent size and capacity of the originally permitted vessel, no greater than 10 feet longer in length overall than the vessel from which the permit is transferred, for a period of not more than six months during the current permit year if the vessel for which the permit was issued is seriously damaged, suffers major mechanical breakdown, or is lost or destroyed, as determined by the department, upon approval of the director. The owner of the vessel shall submit proof that the department may reasonably require to establish the existence of the conditions of this paragraph. Only the permittee at the time of the loss, theft, damage, breakdown, or destruction of the vessel may apply for the transfer of the vessel permit. Proof of loss or destruction shall be documented by submission of a copy of the report filed with the United States Coast Guard or any other law enforcement or fire agency that investigated the loss. In the case of mechanical breakdown, the request shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard. The department shall not issue a permit for a replacement vessel pursuant to this subdivision if the permitted vessel was reported lost, stolen, mechanically broken down, destroyed, or damaged for fraudulent purposes. Upon approval by the director, the owner of a vessel granted a six-month temporary transfer under this section may be granted an additional six-month extension of the temporary transfer.

(2) Notwithstanding subdivision (e) of Section 8280.2, in the event of loss or destruction of a vessel for which a Dungeness crab vessel permit was issued, or serious damage that renders the vessel inoperable, and upon written approval of the department, the owner of the vessel to whom the permit was issued may retain the permit and may transfer the permit to another vessel of equivalent size and capacity of the vessel that was lost or damaged during the period of two years after the loss or damage of the vessel for which the permit was originally issued. The owner of the lost or damaged vessel shall submit proof that the department may reasonably require to

establish the loss or damage of the vessel. Only the permittee at the time of the loss, theft, damage, or destruction of the vessel may apply for the transfer of the vessel permit. Proof of loss or destruction shall be documented by submission of a copy of the report filed with the United States Coast Guard or any other law enforcement or fire agency that investigated the loss. In the case of mechanical breakdown, the request shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard. The department shall not issue a permit for a replacement vessel pursuant to this paragraph if the lost or damaged vessel was reported lost, stolen, destroyed, mechanically broken down, or damaged for fraudulent purposes. The department shall only transfer a permit pursuant to this paragraph if the lost or damaged vessel has a current permit and the owner of the lost or damaged vessel makes assurances in the application that any renewal of the permit that becomes due during the application processing period will be made. If the permit is not permanently transferred to another vessel owned by the person to whom the vessel permit was originally issued within two years of the loss or damage, the permit shall become void by operation of law.

(i) Upon written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued may retain that permit upon the sale of that permitted vessel for the purpose of transferring the permit to another vessel to be purchased by that individual within one year of the time of sale of the vessel for which the permit was originally issued if the requirements of this section are satisfied, including the payment of transfer fees. If the permit is not transferred to a new vessel owned by the person to whom the vessel permit was originally issued within one year of the sale of the vessel for which it was originally issued, or if the person does not retain ownership of the new vessel to which the permit is transferred for a period of not less than one year, the permit shall become void by operation of law.

(j) ***Except as provided in subdivision (c) of Section 8280.1,*** in the event of the death or incapacity of a permitholder, the permit shall be transferred, upon application, to the heirs or assigns, or to the working partner, of the permitholder, together with the transfer of the vessel for which the permit was issued, and the new owner may continue to operate the vessel under the permit, renew the permit, or transfer the permit upon sale of the vessel pursuant to subdivision (b). The estate of the holder of a transferable Dungeness crab vessel permit may renew that permit as provided for in statute if needed to keep it valid. The estate of the decedent may transfer that permit pursuant to these regulations no later than two years from the date of death of the permitholder as listed on the death certificate.

(k)(1) For purposes of this section, the baseline length on a Dungeness crab vessel permit shall be equal to the length overall of the vessel for which the permit was originally issued, as originally documented on the permit, unless updated pursuant to paragraph (2).

(2)(A) If, on or before March 31, 2020, the owner of a vessel to whom a Dungeness crab vessel permit has been issued submits to the department a survey reflecting a current length overall of the vessel that is greater than the length overall described in paragraph (1), the baseline length on the permit shall be equal to that current length overall.

(B) A survey submitted pursuant to subparagraph (A) shall be conducted by a licensed marine surveyor.

(*l*) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 1994 ch 973 § 8 (AB 3337). Amended Stats 1995 ch 947 § 6 (AB 666), effective October 16, 1995; Stats 1998 ch 186 § 1 (SB 2213), effective July 20, 1998; Stats 2000 ch 410 § 7 (AB 2482); Stats 2006 ch 16 § 7 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 22 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 8 (SB 369), effective

January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020; Stats 2012 ch 546 § 3 (AB 2363), effective September 25, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2018 ch 663 § 11 (SB 1310), effective September 21, 2018, inoperative April 1, 2029, repealed January 1, 2030; Stats 2019 ch 472 § 28 (SB 262), effective January 1, 2020, inoperative April 1, 2029, repealed January 1, 2030.

§ 8280.4. Revocation of commercial license of owner of vessel lacking Dungeness crab vessel permit [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) The commission may revoke the commercial fishing license issued pursuant to Section 7852 of any person owning a fishing vessel engaging in the taking or landing of Dungeness crab by traps for which that person has not obtained a Dungeness crab vessel permit, and the commission may revoke the registration, issued pursuant to Section 7881, for that vessel.

(b) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 1994 ch 973 § 9 (AB 3337). Amended Stats 1995 ch 947 § 7 (AB 666), effective October 16, 1995; Stats 1996 ch 870 § 28 (AB 3245); Stats 2000 ch 410 § 8 (AB 2482); Stats 2006 ch 16 § 8 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 23 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 9 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2018 ch 663 § 12 (SB 1310), effective September 21, 2018, inoperative April 1, 2029, repealed January 1, 2030.

§ 8280.5. Dungeness crab review panel; Members; Duties of panel; Appeals of denials of Dungeness crab vessel permits [Repealed]

HISTORY:

Added Stats 1994 ch 973 § 11 (AB 3337). Amended Stats 1995 ch 947 § 8 (AB 666), effective October 16, 1995; Stats 1996 ch 124 § 26 (AB 3470); Stats 2000 ch 410 § 9 (AB 2482); Stats 2006 ch 16 § 9 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 24 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 10 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020; Stats 2018 ch 663 § 13 (SB 1310), repealed September 21, 2018.

§ 8280.6. Permit fee; Signature on application for transfer; Certification [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) The department shall charge a fee for each Dungeness crab vessel permit of two hundred dollars ($200) for a resident of California and four hundred dollars ($400) for a nonresident of California, for the reasonable regulatory costs of the department.

(b) The department shall charge a nonrefundable fee of two hundred dollars ($200) for each transfer of a permit authorized pursuant to Section 8280.3, for the reasonable regulatory costs of the department.

(c) A vessel owner shall sign an application for transfer and certify that the information included in the application is true to the best of his or her information and belief.

(d) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:

Added Stats 1994 ch 973 § 12 (AB 3337). Amended Stats 1995 ch 947 § 9 (AB 666), effective October 16, 1995; Stats 2000 ch 410 § 10 (AB 2482); Stats 2006 ch 16 § 10 (AB 601), effective March 31, 2006, inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 25 (AB 1442), effective January 1, 2010, inoperative April 1, 2012, repealed January 1, 2013; Stats 2011 ch 335 § 11 (SB 369), effective January 1, 2012, inoperative April 1, 2019, repealed January 1, 2020; Stats 2012 ch 546 § 4 (AB 2363), effective September 25, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2018 ch 663 § 14 (SB 1310), effective September 21, 2018, inoperative April 1, 2029, repealed January 1, 2030.

§ 8280.7. Assistance in deployment of Dungeness crab traps by vessel lacking permit

Notwithstanding Section 8280.1, the owner of a vessel, who has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked, may contract for the use of a vessel that is registered pursuant to Section 7881 and for which a Dungeness crab vessel permit has not been issued for the purpose of assisting the crew of the permitted vessel in the deployment of Dungeness crab traps. An unpermitted vessel used for the purpose of assisting in the deployment of Dungeness crab traps pursuant to this section shall not have on board any equipment for the retrieval of Dungeness crab traps and shall not have on board at any time any Dungeness crab.

HISTORY:
Added Stats 1997 ch 186 § 6 (SB 144).

§ 8280.9. Validity of dungeness crab vessel permits

Dungeness crab vessel permits are valid only in state waters and in the Pacific Ocean in federal waters south of the border with Oregon.

HISTORY:
Added Stats 2006 ch 297 § 4 (AB 2773), effective January 1, 2007.

§ 8281. Possession, transportation and sale authorized; Cost of inspection and marking

Crab meat and frozen crab taken during the open season may be possessed, transported, and sold at any time, subject to the regulations of the commission. The cost of inspection and marking, under the regulations of the commission, shall be paid by the owner or seller of the crab or crab meat.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 851 § 1; Stats 2015 ch 154 § 91 (AB 1527), effective January 1, 2016.

§ 8282. Taking of rock crab; Authority to regulate

(a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, and subject to the regulation of the commission authorized under subdivision (c), rock crab may be taken in traps in any waters of the state at any time, except in Districts 9, 19A, 19B, and 21 and those portions of District 20 lying on the north and east sides of Santa Catalina Island north of Southeast Rock. Rock crab (Cancer antennarius), red crab (Cancer productus), or yellow crab (Cancer anthonyi), which is less than 4¼ inches, measured in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, or sold.

(b) Any person taking rock crab shall carry a measuring device and shall measure any rock crab immediately upon removal from the trap. If the person determines that the rock crab is undersize, the person shall return it to the water immediately.

(c) Upon the recommendation of the director regarding rock crab fishery management measures, and following a public hearing on the matter, the commission may adopt regulations to manage the rock crab resource consistent with Part 1.7 (commencing with Section 7050).

HISTORY:
Added Stats 1984 ch 1271 § 10. Amended Stats 1988 ch 1009 § 3; Stats 1990 ch 1218 § 1 (AB 2850); Stats 1991 ch 1067 § 3 (AB 354); Stats 1992 ch 874 § 4 (AB 3189), effective September 22, 1992; Stats 2002 ch 573 § 4 (SB 2090); Stats 2003 ch 610 § 13 (AB 1770).

§ 8283. Permission to set traps in advance of season

(a) Crab traps may be set and baited 64 hours prior to the opening date of the Dungeness crab season in Fish and Game Districts 6, 7, 8, and 9. Crab traps may be set

and baited in advance of that opening date in those districts if no other attempt is made to take or possess Dungeness crab in those districts.

(b) Except in Fish and Game Districts 6, 7, 8, and 9, crab traps may be set and baited 18 hours in advance of the opening date of the Dungeness crab season, if no other attempt is made to take or possess Dungeness crab.

HISTORY:
Added Stats 1959 ch 409 § 1. Amended Stats 1984 ch 1271 § 11; Stats 1986 ch 763 § 3, effective September 15, 1986; Stats 1996 ch 412 § 1 (SB 1980); Stats 2013 ch 233 § 7 (AB 497), effective January 1, 2014.

§ 8284. Taking for commercial purposes; Incidental takings

(a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, crab traps, as described in Section 9011, may be used to take Dungeness crab for commercial purposes. Any fish may be taken incidentally in crab traps being used to take Dungeness crab.

(b) Except as provided in Section 9011 or subdivision (c), any other species taken incidentally in a crab trap being used to take rock crab, shall be immediately released back to the water.

(c) The following species may be taken incidentally in crab traps being used to take rock crab under a permit issued pursuant to Section 9001 in Districts 19 and 118.5:

(1) Kellet's whelk.

(2) Octopus.

(3) Crabs other than of the genus Cancer, except as provided in Section 9011.

HISTORY:
Added Stats 1984 ch 1271 § 12. Amended Stats 1991 ch 1067 § 4 (AB 354); Stats 1995 ch 619 § 10 (AB 76); Stats 2007 ch 285 § 120 (AB 1729), effective January 1, 2008; Stats 2009 ch 478 § 1 (AB 825), effective January 1, 2010.

ARTICLE 8. CLAMS AND OTHER MOLLUSKS

§ 8340. Seasons; Exceptions

Except as otherwise provided in this article, in Districts 8, 9, and 17, clams may be taken between September 1st and April 30th, and in other districts clams may be taken at any time.

HISTORY:
Enacted 1957.

§ 8341. Taking of designated species of clams; Minimum size; Bag and possession limits; Possession, transportation and sale when taken outside state

All of the species of clams commonly known as littlenecks, chiones and hard–shell cockles, including thin–shelled littleneck, common littleneck, Japanese littleneck, rough–sided littleneck, smooth chione, wavy chione, and banded chione, may be taken at any time, except in the waters of Marin County, where they may be taken only between September 1st and March 31st.

No such clams measuring less than one and one–half inches in greatest diameter may be taken, possessed, transported, or sold.

The bag limit on such clams is 50 per day, in the aggregate. Not more than one daily bag limit of such clams may be possessed by any person during one day.

Clams of the species herein designated, when legally taken outside the State and brought within the State pursuant to this code, may be possessed, transported, and sold without restrictions, except that all shipments of such clams into this State shall be accompanied by a bill of lading, or invoice, showing the species, total number or weight, and the origin of the clams.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 55 § 1.

§ 8342. Washington clams and gapers, or bigneck clams; Bag and possession limit

In Districts 1½, 8, and 9 the bag limit on Washington clams and gapers, sometimes known as bigneck clams, is 25 in the aggregate. In all other districts the bag limit is 10 Washington clams and 10 gapers.

Not more than the prescribed daily bag limit may be possessed by any person during one day, except that a market or restaurant, where clams are sold to the public, may possess any number of Washington clams and gapers legally taken.

In Districts 8 and 9 the holder of a commercial fishing license who has in his possession a current daily written order for clams issued by a fish dealer or restaurant may possess any number of Washington clams and gapers legally taken up to but not exceeding the number specified in the order.

HISTORY:
Enacted 1957.

§ 8343. Northern razor clams; Sale prohibited; Exception

No northern razor clams (Siliqua patula) may be sold; but if taken outside the State and brought within the State, they may be possessed, transported, and sold without restriction.

HISTORY:
Enacted 1957.

§ 8344. Mussels; Seasons

Mussels (Mytilus californianus) may be taken only in accordance with such regulations as the commission may prescribe.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 795 § 1.

§ 8345. Rock scallops or scallops; Sale or purchase prohibited

It is unlawful for any person to sell or purchase any rock scallops (Hinnites multirugosus) or scallops (Pecten circularis), except that scallops cultivated pursuant to Division 12 (commencing with Section 15000) which may be sold or purchased subject to regulations of the commission.

HISTORY:
Enacted 1957. Amended Stats 1979 ch 187 § 1, effective June 29, 1979; Stats 1983 ch 1300 § 9.

§ 8346. Pismo Clams; Sale or purchase

It is unlawful for any person to sell or purchase any pismo clams taken in this State.

HISTORY:
Enacted 1957.

ARTICLE 9. SALT–WATER AND ANADROMOUS FISH GENERALLY

§ 8370. Striped bass, salmon, or sturgeon to be freed

(a) Any striped bass, salmon, or sturgeon, if alive, that is taken in any type of net in any district shall be immediately liberated from the net by the fishermen and immediately returned to the water without further harm.

(b) Any striped bass, salmon, or sturgeon that is taken in any type of nets in any district shall be removed from the net by the fisherman and immediately returned to the water, regardless of the condition of the fish.

(c) The holder of a commercial fishing license shall not have in his or her possession, except when releasing fish from the net, any striped bass, salmon, or sturgeon, whether dead or alive, at any time when conducting netting operations or when going to or from those operations.

(d) Fish returned to the water in accordance with this section is not deterioration, waste, or spoilage of fish for purposes of Section 7704.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1686 § 10, effective September 30, 1984; Stats 1995 ch 677 § 3 (SB 1176).

§ 8371. Sale of striped bass or salmon

Striped bass and salmon may be sold or offered for sale only under the following conditions:

(a) If the striped bass is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, that striped bass may be sold or purchased subject to regulations of the commission.

(b) If the striped bass is taken legally in another state that permits the sale of that fish and if the fish is lawfully imported under Section 2363, the striped bass may be possessed, sold, or purchased.

(c) If the salmon is taken legally in another state that permits the sale of salmon, and is lawfully imported consistent with Section 2361, the salmon may be possessed, sold, or purchased.

(d) If the salmon is taken in accordance with Article 4 (commencing with Section 8210.2), the salmon may be possessed, sold, or purchased.

HISTORY:
Enacted 1957. Amended Stats 1972 ch 620 § 2; Stats 1977 ch 882 § 1; Stats 1981 ch 153 § 2; Stats 1983 ch 101 § 37, ch 1300 § 10; Stats 1985 ch 1403 § 7; Stats 2007 ch 328 § 4 (AB 1187), effective January 1, 2008; Stats 2015 ch 154 § 92 (AB 1527), effective January 1, 2016.

§ 8372. Kelp bass, sand bass, or spotted bass; Sale or purchase prohibited; Exception when imported; Minimum length

Kelp bass, sand bass, or spotted bass, all of the genus Paralabrax, shall not be sold or purchased, or possessed in any place where fish are purchased, possessed for sale, or sold, or where food is offered or processed for sale, or in any truck, vessel, or other conveyance operated by or for a place so selling or possessing fish; except that those fish may be imported into this state pursuant to Article 1 (commencing with Section 2345) of Chapter 4 of Division 3, and may be sold under regulations as the commission may adopt. It is unlawful to take, possess, or sell any fish less than 10 ½ inches in length of the species specified in this section.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 1403 § 8; Stats 2007 ch 285 § 121 (AB 1729), effective January 1, 2008.

§ 8373. Prohibited sale or purchase, or possession of specified fish

No yellowfin croaker, spotfin croaker, or California corbina may be sold or purchased, or possessed in any place where fish are purchased, possessed for sale, or sold, or where food is offered for sale, or in any truck or other conveyance operated by or for a place so selling or possessing fish.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 967 § 1, ch 1633 § 6; Stats 1981 ch 153 § 3; Stats 1985 ch 1403 § 9.

§ 8374. Yellowfin tuna and bluefin tuna; Season

Yellowfin tuna and bluefin tuna may be taken at any time.

HISTORY:
Enacted 1957.

§ 8375. Bluefin tuna; Minimum weight for sale, purchase, or processing

No bluefin tuna weighing less than 7½ pounds may be sold, purchased, or processed.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 902 § 4; Stats 1976 ch 850 § 1, effective September 9, 1976.

§ 8376. Albacore; Season

Albacore may be taken at any time.

HISTORY:
Enacted 1957.

§ 8377. Prohibition against taking certain Pacific bonito for commercial purposes; Exceptions

(a) Pacific bonito less than 24 inches fork length or five pounds in weight shall not be taken or possessed on any vessel at any time for any commercial purpose, except as follows:

(1) A load of bonito taken on a vessel by the use of round haul nets may contain 18 percent or less by number of bonito smaller than the minimum size.

(2) A load of fish taken on a vessel by the use of gill nets or trammel nets may contain 1,000 pounds or less of bonito smaller than the minimum size per trip.

(b) Pacific bonito smaller than the minimum size, incidentally taken, may be used for any purpose.

HISTORY:
Added Stats 1981 ch 691 § 1. Amended Stats 1984 ch 723 § 1; Stats 1987 ch 269 § 4, effective July 27, 1987.

§ 8377.5. Measurement of Pacific bonito

Pacific bonito shall be measured from the tip of the lower jaw to the center of the fork of the tail fin.

HISTORY:
Added Stats 1981 ch 691 § 2. Amended Stats 1984 ch 723 § 2; Stats 1987 ch 269 § 5, effective July 27, 1987.

§ 8378. Skipjack; Season

Skipjack may be taken at any time.

HISTORY:
Enacted 1957.

§ 8380. Incidental taking in commercial fishing operations

(a) Giant seabass (Stereolepis gigas) may not be taken for any purpose, except that not more than one fish per vessel may be possessed or sold if taken incidentally in commercial fishing operations by gill or trammel net. Any fish so taken shall not be transferred to any other vessel.

(b) The restrictions specified in this section shall not apply to 1,000 pounds of giant seabass per trip taken in waters lying south of the International Boundary Line between the United States and Mexico extended westerly into the Pacific Ocean. Fish taken under this provision, however, shall be limited to a maximum aggregate of 3,000 pounds per vessel in any calendar year. A current fishing permit issued by the Mexican

government constitutes valid evidence that the giant seabass were taken south of the international boundary.

HISTORY:
Added Stats 1981 ch 654 § 2. Amended Stats 1988 ch 308 § 1.

§ 8381. Grunion; Season

It is unlawful to take grunion (Leuresthes tenuis) except between June 1st and March 31st.

HISTORY:
Enacted 1957.

§ 8382. Taking of specified fish with hook and line

Barracuda and yellowtail not less than 28 inches in length may be taken with hook and line at any time.

HISTORY:
Enacted 1957. Amended Stats 1979 ch 728 § 1; Stats 1982 ch 890 § 1; Stats 1987 ch 269 § 7, effective July 27, 1987; Stats 1992 ch 1370 § 22 (AB 3193), effective October 27, 1992.

§ 8383. [Section repealed 2008.]

HISTORY:
Added Stats 1979 ch 728 § 3. Amended Stats 1982 ch 890 § 3; Stats 1987 ch 269 § 9, effective July 27, 1987; Stats 1992 ch 1370 § 23 (AB 3193), effective October 27, 1992; Repealed Stats 2007 ch 285 § 122 (AB 1729), effective January 1, 2008. The repealed section related to prohibition against taking of white seabass for commercial purposes, and exceptions.

§ 8383.5. Prohibited sale or purchase of white seabass

It is unlawful to take, possess, sell, or purchase any white sea bass less than 28 inches in length, measured from the tip of the lower jaw to the end of the longer lobe of the tail.

HISTORY:
Added Stats 1979 ch 728 § 4. Amended Stats 1982 ch 890 § 4; Stats 1987 ch 269 § 10, effective July 27, 1987; Stats 1992 ch 1370 § 24 (AB 3193), effective October 27, 1992.

§ 8384. Prohibited sale or purchase of specified fish; Exception

No barracuda or yellowtail less than 28 inches in length may be sold or purchased, except that not more than five barracuda and five yellowtail per day may be possessed by the holder of a commercial fishing license for noncommercial use if taken incidentally in commercial fishing.

HISTORY:
Enacted 1957. Amended Stats 1979 ch 728 § 5; Stats 1982 ch 890 § 6; Stats 1987 ch 269 § 11, effective July 27, 1987; Stats 1992 ch 1370 § 25 (AB 3193), effective October 27, 1992.

§ 8385. Aggregate bag and possession limits allowed commercial fishing licensee while on boat carrying sport fishermen

No person holding a commercial fishing license while on any barge or boat which for hire carries any sport fishermen may take or have in his possession in any one day more than the aggregate number of the following kinds of fish permitted in the case of sport fishing: bluefin tuna, yellowfin tuna, skipjack, yellowtail, marlin, broadbill swordfish, black seabass, albacore, barracuda, white seabass, bonito, rock bass, kelp bass, California halibut, California corbina, yellowfin croaker, and spotfin croaker.

HISTORY:
Enacted 1957.

§ 8386. Measurement of barracuda and yellowtail

Barracuda and yellowtail shall be measured from the tip of the lower jaw to the end of the longer lobe of the tail.

HISTORY:

Enacted 1957. Amended Stats 1979 ch 728 § 7; Stats 1982 ch 890 § 8; Stats 1987 ch 269 § 13, effective July 27, 1987; Stats 1992 ch 1370 § 26 (AB 3193), effective October 27, 1992.

§ 8387. Yellowtail weight possession limits

From May 1st to August 31st, inclusive, all of the following are unlawful:

(a) For any one person to have in his or her possession on any boat, barge, or other vessel more than 500 pounds of yellowtail.

(b) For any two or more persons to have in their possession on any boat, barge, or other vessel a combined weight of more than 500 pounds of yellowtail per person.

(c) For any five or more persons to have in their possession on any boat, barge, or other vessel a combined weight of more than 2,500 pounds of yellowtail.

HISTORY:

Enacted 1957. Amended Stats 1979 ch 728 § 9; Stats 1982 ch 890 § 10; Stats 1987 ch 269 § 15, effective July 27, 1987; Stats 1992 ch 1370 § 27 (AB 3193), effective October 27, 1992; Stats 2002 ch 573 § 5 (SB 2090).

§ 8388. Angel sharks

(a) No female angel shark measuring less than 42 inches in total length or 15¼ inches in alternate length and no male angel shark measuring less than 40 inches in teal length or 14½ inches in alternate length may be possessed, sold, or purchased, except that 10 percent of the angel sharks in any load may measure not more than ½ inch less than the minimum sizes specified herein.

(b) Angel shark total length shall be measured from the anterior end of the head to the tip of the tail while the fish is lying in a position of natural repose. When measuring total length or alternate length, the tip of the tail may be laid flat against the surface of the measuring device. Angel shark alternate length shall be measured from the point where the leading edge of the first dorsal fin meets the back to the tip of the tail. Angel sharks may be constrained from lateral movement during measurement by restraining devices approved by the department.

(c) Angel sharks taken in gill or trammel nets shall be landed (brought ashore) with at least one intact pelvic fin and the tail fin attached.

(d) Angel sharks taken in gill or trammel nets shall not be transferred to or from another vessel, except that angel sharks may be transferred to or from vessels with a department observer on board. An observer shall observe and make a written record of that transfer.

HISTORY:

Added Stats 1988 ch 308 § 2. Amended Stats 1989 ch 587 § 4; Stats 1991 ch 873 § 6 (AB 642), effective October 12, 1991.

§ 8388.5. Leopard sharks

(a) A person shall not take, possess, sell, or purchase for commercial purposes any leopard shark less than 36 inches in total length.

(b) Notwithstanding subdivision (a), leopard sharks less than 36 inches in total length possessed by a person for aquarium display on or before January 1, 1994, may be retained by that person if a letter declaring that the shark was legally obtained prior to January 1, 1994, is provided to the Sacramento office of the department on or before January 1, 1995.

HISTORY:

Added Stats 1993 ch 1100 § 8 (AB 1406).

§ 8389. Herring eggs; Taking for commercial purposes; Permit and fees; Royalty payments; Incidental taking of aquatic plants

(a) Herring eggs may only be taken for commercial purposes under a revocable, nontransferable permit subject to such regulations as the commission shall prescribe. In addition to the license fees provided for in this code, every person taking herring eggs under this section shall pay a royalty, as the commission may prescribe, of not less than fifty dollars ($50) per ton of herring eggs taken.

(b) Whenever necessary to prevent overutilization, to ensure efficient and economic operation of the fishery, or to otherwise carry out this article, the commission may limit the number of permits which are issued and the amount of herring eggs taken under those permits.

(c) In limiting the number of permits, the commission shall take into consideration any restriction of the fishing area and the safety of others who, for purposes other than fishing, use the waters from which herring eggs are taken.

(d) Every person operating under a permit issued pursuant to this section is excepted from the provisions of Chapter 6 (commencing with Section 6650) of Part 1 of Division 6 for aquatic plants taken incidental to the harvest of herring eggs.

HISTORY:
Added Stats 1973 ch 2 § 1.5, effective January 23, 1973, operative March 25, 1973. Amended Stats 1988 ch 1009 § 5.

§ 8391. California halibut; Season

California halibut (Paralichthys californicus) may be taken at any time.

HISTORY:
Enacted 1957.

§ 8392. California halibut; Minimum length

No California halibut may be taken, possessed, or sold that measures less than 22 inches in total length. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.

HISTORY:
Enacted 1957. Amended Stats 1979 ch 154 § 1; Stats 1981 ch 448 § 1; Stats 1985 ch 1002 § 1; Stats 1986 ch 817 § 10; Stats 1995 ch 619 § 11 (AB 76); Stats 2004 ch 431 § 14 (AB 2760).

§ 8393. Marlin meat; Purchase, sale, possession or transportation for sale purposes

(a) Except where subdivision (b) has been complied with, marlin meat, whether fresh, smoked, canned, or preserved by any means, shall not be bought or sold, or possessed or transported for the purpose of sale.

(b) Notwithstanding the provisions of subdivision (a) of this section, black marlin (Makaira Indica) may be imported into this state for the purpose of processing (manufacturing) a product commonly known as fish cakes for human consumption. All black marlin (Makaira Indica) imported into this state must be in an identifiable condition and accompanied by a bill of lading, showing the name of the consignor, the consignee, and the weight or number of fish shipped. A copy of the bill of lading must be delivered to the nearest office of the department either prior to or no later than two days after receipt of the fish. No black marlin (Makaira Indica) imported into California may leave the premises of the original consignee unless written permission is received from the department, or unless processed into the form of the product commonly known as fish cakes.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 700 § 1; Stats 2015 ch 154 § 93 (AB 1527), effective January 1, 2016.

§ 8394. Swordfish permit

Swordfish shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid swordfish permit. At least one person aboard the boat shall have a swordfish permit issued to that person that has not been revoked or suspended, subject to regulations adopted by the commission.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 349 § 1, effective June 20, 1974; Stats 1996 ch 870 § 35 (AB 3245).

§ 8394.5. Swordfish permit fee

The fee for the permit issued pursuant to Section 8394 is three hundred thirty dollars ($330). This permit fee does not apply to the holder of a valid drift gill net shark and swordfish permit required under Article 16 (commencing with Section 8561) or to any person who participates in the permit transition program established by the department pursuant to Section 8583.

HISTORY:
Added Stats 1990 ch 1703 § 47 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 32 (SB 1565), effective September 14, operative April 1, 1993; Stats 2000 ch 388 § 10.5 (AB 2941); Stats 2018 ch 844 § 2 (SB 1017), effective January 1, 2019.

§ 8395. Authority to regulate surfperch fisheries; Restriction

(a) Upon the recommendation of the director regarding management measures for surfperch of the family Embiotocidae, the commission may adopt regulations to manage the commercial surfperch resource and fisheries consistent with Part 1.7 (commencing with Section 7050), including, but not limited to, adoption of changes to the prohibitions imposed under subdivision (b).

(b) Except as may be authorized under subdivision (a), surfperch of the family Embiotocidae may be taken only between July 16th and April 30th, except shiner surfperch (Cymatogaster aggregata), which may be taken, sold, or purchased at any time. Surfperch may be sold or purchased only between July 16th and May 10th, except as may be authorized under subdivision (a). South of a line drawn east and west through Point Arguello, barred surfperch, redtail surfperch, and calico surfperch may not be taken for commercial purposes, except as may be authorized under subdivision (a). Surfperch of these three species that have been taken north of the line during the open season and shipped south of the line may be sold or purchased under those regulations that the commission may prescribe.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 818 § 1; Stats 1963 ch 528 § 1, effective May 21, 1963; Stats 1975 ch 535 § 1; Stats 2002 ch 573 § 6 (SB 2090).

§ 8398. Prohibition against taking fish for commercial purposes in portion of Tomales Bay; Inapplicability as to taking of oysters by specified licensees

It is unlawful to take fish for commercial purposes in that portion of Tomales Bay in District 10 between a line drawn from the most northern tip of Tomales Point northeast, 47° magnetic, to the opposite shore in the vicinity of Dillon Beach, and a line drawn west from the western tip of Tom's Point, 252° magnetic, to the opposite eastern shore of Tomales Point.

This section does not apply to the taking of oysters by persons licensed under Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6, from their allotted areas.

HISTORY:
Added Stats 1963 ch 1487 § 1.

§ 8399. Squid; Geographical and date restrictions

North of Point Conception, squid may be taken the year around; however, the commission may adopt regulations specifying the days of the week and the times of the day when squid may be taken.

HISTORY:
Added Stats 1983 ch 131 § 16.5, effective June 27, 1983.

§ 8399.1. Illegal activities relating to the taking of squid in District 10

(a) In District 10, it is unlawful to engage in the following activities:

(1) Attract squid by a light displayed from any vessel, except a vessel deploying nets for the take, possession, and landing of squid or from the seine skiff of the vessel deploying nets for the take, possession, and landing of squid.

(2) Attract squid by a light displayed from any vessel whose primary purpose is not the deployment, or assisting in the deployment, of nets for the take, possession, and landing of squid.

(3) To encircle any vessel, other than by the seine skiff of a vessel deploying nets for the take, possession, and landing of squid, while that vessel is engaged in the taking of squid.

(b) For purposes of this section, "seine skiff" means a vessel that is not licensed by the federal government or registered by the Department of Motor Vehicles, that is used to assist a larger federally–licensed or state–registered fishing vessel by assisting in the deployment and retrieval of nets and the landing of fish, and that travels with that larger fishing vessel at all times, that is used solely at the direction of the operator of the larger fishing vessel, and that is owned by the owner of the larger fishing vessel.

HISTORY:
Added Stats 1993 ch 617 § 17 (AB 14), effective September 30, 1993.

§ 8400. Taking fish for commercial purposes with bait–fish traps

(a) California killifish (Fundulus parvipinnis), mudsuckers (Gillichthys mirabilis), and yellowfin gobies (Acanthogobius flavimanus) may only be taken for commercial purposes with baitfish traps in the tidewaters of Districts 3½, 4, 4⅛, 4¾, 16, 17, and 21, in the tidewaters of District 10 south of the City and County of San Francisco, in the Salton Sea, and in Imperial and Riverside Counties.

(b) Shiner perch (Cymatogaster aggregata), staghorn sculpin (Leptocottus armatus), mudsuckers (Gillichthys mirabilis), and yellowfin gobies (Acanthogobius flavimanus) may only be taken for commercial purposes with baitfish traps in Districts 11, 12, and 13 and in the tidewaters of Districts 2 and 2½

(c) Any unauthorized species taken incidentally in baitfish traps in the districts specified in subdivisions (a) and (b) shall be immediately released.

(d) Baitfish traps, as described in Section 9020, may be used subject to Article 1 (commencing with Section 9000) of Chapter 4.

HISTORY:
Added Stats 1985 ch 1442 § 3. Amended Stats 1988 ch 1009 § 7.

§ 8403. Taking of marine species of fin fish

(a) To the extent not in conflict with Section 8607, marine species of fin fish which are classified as groundfish may be taken under the regulations of the commission.

(b) Marine species of fin fish, including, but not limited to, fin fish which are classified as groundfish, may be taken with fin fish traps, subject to Article 1 (commencing with Section 9000) of Chapter 4, under regulations of the commission. The regulations may

limit the number of fin fish traps which any vessel may use, designate the areas in which the traps may be used, and prescribe other limitations on the use of fin fish traps.

(c) Any other species not otherwise prohibited may be taken in a fin fish trap.

HISTORY:
Added Stats 1984 ch 1271 § 16.

ARTICLE 9.1. SEA CUCUMBERS [INOPERATIVE APRIL 1, 2030; REPEALED EFFECTIVE JANUARY 1, 2031]

§ 8405. Permit requirements [Inoperative April 1, 2030; Repealed effective January 1, 2031]

(a) Sea cucumbers shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued to that person, which has not been suspended or revoked.

(b) When taking sea cucumbers by diving, every diver shall have a sea cucumber diving permit issued to that person, which has not been suspended or revoked. When taken by means other than diving, at least one person aboard the boat shall have a valid sea cucumber trawl permit issued to that person, which has not been suspended or revoked.

HISTORY:
Added Stats 1996 ch 585 § 2 (AB 2628), operative April 1, 1997. Amended Stats 2014 ch 444 § 2 (AB 504), effective January 1, 2015, inoperative April 1, 2020, repealed January 1, 2021; Stats 2019 ch 472 § 29 (SB 262), effective January 1, 2020, inoperative April 1, 2030, repealed January 1, 2031 (repealer amended).

§ 8405.1. Application for sea cucumber permit; Gear type; Fee; Renewal [Inoperative April 1, 2030; Repealed effective January 1, 2031]

(a) Applicants for a sea cucumber permit shall specify by gear type, either trawl or dive, the method in which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.

(b) The fee for a sea cucumber permit shall be two hundred fifty dollars ($250).

(c) Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

(d) In order to renew a sea cucumber permit for any permit year, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit year. Applications for renewal of a sea cucumber permit shall be received by the department or, if mailed, postmarked, by April 30 of the permit year.

HISTORY:
Added Stats 1996 ch 585 § 2 (AB 2628), operative April 1, 1997. Amended Stats 1998 ch 525 § 7 (SB 2028); Stats 2004 ch 431 § 15 (AB 2760); Stats 2014 ch 444 § 2 (AB 504), effective January 1, 2015, inoperative April 1, 2020, repealed January 1, 2021. Amended Stats 2019 ch 472 § 29 (SB 262), effective January 1, 2020, inoperative April 1, 2030, repealed January 1, 2031 (repealer amended).

§ 8405.2. Transfer of permit [Inoperative April 1, 2030; Repealed effective January 1, 2031]

(a) A valid sea cucumber permit may be transferred by the permittee if the permittee has previously held a valid sea cucumber permit for any four permit years and landed at least 100 pounds of sea cucumbers in each of those permit years, as documented by landing receipts with the name of the permittee shown on the receipts.

(b) A valid sea cucumber permit that has not been suspended or revoked may be transferred only to a person who has a valid commercial fishing license issued pursuant to Section 7852, that has not been suspended or revoked. A sea cucumber permit shall not be transferred to a person who has had a sea cucumber permit suspended or revoked while the suspension or revocation is in effect.

(c) An application for transfer of a permit shall be in the form of a notarized letter and shall be submitted to the department, with reasonable proof as the department may require to establish the qualifications of the permitholder and the person the permit is to be transferred to, accompanied by payment to the department of a nonrefundable transfer fee of two hundred dollars ($200). The transfer shall take effect on the date notice of approval of the application is given to the transferee by the department. The sea cucumber permit shall be valid for the remainder of the permit year and may be renewed in subsequent years.

(d) A sea cucumber trawl permit may be transferred to a qualified person as provided in subdivisions (b) and (c) to take sea cucumbers by diving or by use of trawl nets. A sea cucumber dive permit may be transferred to a qualified person as provided in subdivisions (b) and (c) only to take sea cucumbers by diving. The transferee shall specify the gear type, either trawl or dive, that the transferee intends to use to take sea cucumbers. The gear type of the sea cucumber permit, either trawl or dive, shall not be transferable.

(e)(1) Upon the death of a sea cucumber permitholder, the deceased person's sea cucumber dive or trawl permit may be transferred by his or her heirs, assignees, or estate to a qualified person as provided in subdivision (b), upon payment of the fee described in subdivision (c), and in accordance with subdivisions (a) and (d). The estate of the decedent may transfer the permit pursuant to this chapter no later than two years from the date of death of the permitholder, as listed on the death certificate.

(2) For purposes of a transfer under this subdivision, the heirs, assignees, or estate shall renew the permit as specified in Section 8405.1 to keep the permit valid until transferred.

HISTORY:

Added Stats 1996 ch 585 § 2 (AB 2628), operative April 1, 1998. Amended Stats 2013 ch 472 § 1 (SB 814), effective January 1, 2014. Stats 2014 ch 444 § 2 (AB 504), effective January 1, 2015, inoperative April 1, 2020, repealed January 1, 2021. Amended Stats 2019 ch 472 § 29 (SB 262), effective January 1, 2020, inoperative April 1, 2030, repealed January 1, 2031 (repealer amended).

§ 8405.3. Protection of sea cucumbers; Number of permits; Revocation of permit; Costs of enforcement [Inoperative April 1, 2030; Repealed effective January 1, 2031]

(a) The commission, upon recommendation of the department or upon its own motion and in consultation with the sea cucumber fishing industry, may adopt regulations, including provisions governing seasons, gear restrictions, hours of operation, and any other measures that it determines may reasonably be necessary to protect the sea cucumber resource and to assure a sustainable sea cucumber fishery or to enhance enforcement activities.

(b) The number of sea cucumber permits issued for the April 1, 1997, to March 31, 1998, inclusive, permit year shall constitute the maximum number of permits available for all subsequent permit years for the sea cucumber fishery. The department may establish by regulation a method, if necessary, to reissue any sea cucumber permit not renewed or transferred. The permit type of a sea cucumber permit, either trawl or dive, that is reissued shall not be transferable.

(c) The commission may permanently revoke the sea cucumber permit of any person convicted of the unlawful taking of any California halibut while operating pursuant to a sea cucumber permit. The commission may revoke the sea cucumber permit of any person convicted of any other violation of this code or regulation adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any revocation of a permit pursuant to this subdivision shall be in addition to any action the department may take pursuant to Section 12000.

(d) Subsequent to the 1997–98 permit year, the department, using existing funds, may determine the actual costs to the department of enforcing this article. The commission, upon recommendation of the department, may adjust the fee for the issuance or transfer

of a permit to an amount not to exceed three hundred fifty dollars ($350), to reflect the actual cost of enforcing this article.

HISTORY:
Added Stats 1996 ch 585 § 2 (AB 2628), operative April 1, 1997. Amended Stats 2014 ch 444 § 2 (AB 504), effective January 1, 2015, inoperative April 1, 2020, repealed January 1, 2021; Stats 2019 ch 472 § 29 (SB 262), effective January 1, 2020, inoperative April 1, 2030, repealed January 1, 2031 (repealer amended).

§ 8405.4. Repeal of article [Repealed effective January 1, 2031; Inoperative April 1, 2030]

This article shall become inoperative on April 1, ******2030***, and as of January 1, ******2031***, is repealed***.

HISTORY:
Added Stats 1996 ch 585 § 2 (AB 2628), operative April 1, 1997. Amended Stats 2001 ch 753 § 19 (AB 1673). Stats 2004 ch 431 § 16 (AB 2760), inoperative April 1, 2010, repealed January 1, 2011; Stats 2009 ch 294 § 26 (AB 1442), effective January 1, 2010, inoperative April 1, 2015, repealed January 1, 2016; Stats 2014 ch 444 § 2 (AB 504), effective January 1, 2015, inoperative April 1, 2020, repealed January 1, 2021. Amended Stats 2019 ch 472 § 29 (SB 262), effective January 1, 2020, inoperative April 1, 2030, repealed January 1, 2031.

ARTICLE 9.5. PACIFIC MACKEREL

§ 8411. Management of Pacific mackerel resource

The department shall manage the Pacific mackerel resource in conformance with the federal fishery regulations as recommended by the Pacific Fishery Management Council and as adopted by the Secretary of Commerce.

HISTORY:
Added Stats 1980 ch 121 § 7, effective May 23, 1980, operative July 1, 1980. Amended Stats 1985 ch 696 § 1, effective September 18, 1985; Stats 2000 ch 388 § 12 (AB 2941).

§ 8412. Taking under a revocable nontransferable permit

Pacific mackerel may be taken under a revocable nontransferable permit issued by the department to boat owners or operators under conditions prescribed by the department.

HISTORY:
Added Stats 1980 ch 121 § 7, effective May 23, 1980, operative July 1, 1980. Amended Stats 1985 ch 696 § 2, effective September 18, 1985; Stats 2000 ch 388 § 13 (AB 2941).

ARTICLE 9.7. MARKET SQUID

§ 8420. Legislative findings and declarations

(a) The Legislature finds and declares that the fishery for market squid (Loligo opalescens) is the state's largest fishery by volume, generating millions of dollars of income to the state annually from domestic and foreign sales. In addition to supporting an important commercial fishery, the market squid resource is important to the recreational fishery and is forage for other fish taken for commercial and recreational purposes, as well as for marine mammals, birds, and other marine life. The growing international market for squid and declining squid production from other parts of the world has resulted in an increased demand for California market squid, which, in turn, has led to newer, larger, and more efficient vessels entering the fishery and increased processing capacity.

(b) The Legislature finds that the lack of research on market squid and the lack of annual at–sea surveys to determine the status of the resource, combined with the increased demand for, and fishing effort on, market squid could result in overfishing of the resource, damaging the resource, and financially harming those persons engaged in the taking, landing, processing, and sale of market squid.

(c) The Legislature further finds that some individuals, vessels, and processing plants engaged in the market squid fishery have no other viable alternative fisheries available to them and that a decline or a loss of the market squid resource would cause economic devastation to the individuals or corporations engaged in the market squid fishery.

(d) The Legislature declares that to prevent excessive fishing effort in the market squid fishery and to develop a plan for the sustainable harvest of market squid, it is necessary to adopt and implement a fishery management plan for the California market squid fishery that sustains both the squid population and the marine life that depends on squid.

(e) The Legislature finds that a sustainable California market squid fishery can best be ensured through ongoing oversight and management of the fishery by the commission. With regard to the market squid fishery, the Legislature urges that any limited entry component of a fishery management plan, if necessary, should be adopted for the primary purpose of protecting the resource and not simply for the purpose of diminishing or advancing the economic interests of any particular individual or group.

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364), operative until April 1, 2001. Amended Stats 2001 ch 318 § 1 (SB 209).

§ 8420.5. [Section repealed 2005.]

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to the taking of squid north of Point Conception. Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to the taking of squid north of Point Conception.

§ 8421. [Section repealed 2005.]

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to the requirement for commercial market squid vessel permit. Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to the requirement for commercial market squid vessel permit.

§ 8421.5. [Section repealed 2005.]

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to designation of operator on permit for vessel owned by partnership or corporation and notice of successor permitholder. Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to designation of operator on permit for vessel owned by partnership or corporation and notice of successor permitholder.

§ 8422. [Section repealed 2005.]

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364). Amended Stats 2000 ch 717 § 1 (SB 1544). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to application and fee for commercial market squid vessel permit. Added Stats 1997 ch 785 § 1 (SB 364). Amended Stats 2000 ch 717 § 1 (SB 1544). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to application and fee for commercial market squid vessel permit.

§ 8423. [Section repealed 2005.]

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364). Amended Stats 2000 ch 717 § 2 (SB 1544); Stats 2001 ch 318 § 2 (SB 209); Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to requirements, application, and fee for commercial squid light boat owner's permit, issuance of permit, and restrictions on transfer. Added Stats 1997 ch 785 § 1 (SB 364). Amended Stats 2000 ch 717 § 2 (SB 1544); Stats 2001 ch 318 § 2 (SB 209);

Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to requirements, application, and fee for commercial squid light boat owner's permit, issuance of permit, and restrictions on transfer.

§ 8423.5. [Section repealed 2005.]

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to deadline and late penalty for receipt of application for commercial squid light boat owner's permit. Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to deadline and late penalty for receipt of application for commercial squid light boat owner's permit.

§ 8424. Purchase of squid; Live bait

(a) No person shall purchase squid from a vessel or vessels unless that person holds a license issued pursuant to Section 8032 or 8033, employs a certified weighmaster, and the facilities operated by the person are located on a permanent, fixed location.

(b) Notwithstanding any other provision of law, this section shall not apply to the transfer at sea of squid for live bait in an amount less than 200 pounds in a calendar day.

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364), operative until April 1, 2001.

§ 8425. Adoption of management plan and regulations

(a) On or before December 31, 2002, the commission, after consideration of the report and recommendations prepared by the department pursuant to subdivision (c) of Section 8426, and, after public hearings, shall adopt a market squid fishery management plan and regulations to protect the squid resource and manage the squid fishery at a level that sustains healthy squid populations, taking into account the level of fishing effort and ecological factors, including, but not limited to, the species' role in the marine ecosystem and oceanic conditions. The management plan shall be consistent with the requirements of Part 1.7 (commencing with Section 7050). Development of the plan shall be coordinated with the federal Coastal Pelagic Species Fishery Management Plan.

(b) On and after January 1, 2002, the commission shall manage the squid fishery in accordance with the requirements of Part 1.7 (commencing with Section 7050).

HISTORY:
Added Stats 2001 ch 318 § 4 (SB 209).

§ 8426. [Section repealed 2005.]

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to powers and duties of the director. Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to powers and duties of the director.

§ 8427. [Section repealed 2005.]

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to transfer of permit to replacement vessel. Added Stats 1997 ch 785 § 1 (SB 364). Repealed September 28, 2005, by the terms of F & G C § 8429.7. The repealed section related to transfer of permit to replacement vessel.

§ 8428. Establishment of permit fees; Maximum fee total revenue; Restriction of fee use

Commencing April 1, 2003, and annually thereafter, the fees for a commercial market squid vessel permit and for a commercial squid light boat owner's permit shall be established by the commission. The total amount of fees collected pursuant to this section, including any revenue derived from any other appropriate source, as determined and allocated by the commission, shall not exceed the department's and the commission's

costs for managing the market squid fishery pursuant to Section 8425. The fees collected pursuant to this article shall be used only for the management of the market squid fishery pursuant to Section 8425.

HISTORY:
Added Stats 2001 ch 318 § 6 (SB 209).

§ 8429. Penalty of perjury; Revocation of license or registration

Any statement made to the department, orally or in writing, relating to a permit issued under this article, shall be made under penalty of perjury. The commission shall revoke the commercial fishing license, the commercial boat registration of any vessel, and, if applicable, any licenses issued pursuant to Section 8032, 8033, or 8034 that are held by any person submitting material false statements, as determined by the commission, for the purpose of obtaining a commercial market squid vessel permit or a commercial light boat owner's permit.

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364), operative until April 1, 2001. Amended Stats 2001 ch 318 § 7 (SB 209).

§ 8429.5. Limitation of authority of director or commission under other law

Notwithstanding any other provision of law, nothing in this article shall prohibit or otherwise limit the authority of the director or the commission under any other law.

HISTORY:
Added Stats 1997 ch 785 § 1 (SB 364), operative until April 1, 2001.

§ 8429.7. Operation contingencies of specified sections

Sections 8420.5 to 8423.5, inclusive, and Sections 8426 and 8427 shall become inoperative upon the adoption by the commission of a market squid fishery management plan and the adoption of implementing regulations pursuant to Section 8425, and are repealed six months thereafter.

HISTORY:
Added Stats 2001 ch 318 § 9 (SB 209).

ARTICLE 10. FRESH–WATER FISH GENERALLY

§ 8430. Trout; Sale or purchase unlawful; Exceptions

Except as otherwise provided in this article, it is unlawful to sell or purchase any species of trout.

HISTORY:
Enacted 1957.

§ 8431. Dolly Varden or steelhead trout from without State; Possession or sale when inspected and tagged; Payment of cost of inspection and tagging

Dolly Varden or steelhead trout from without the State may be possessed and sold within the State when they are inspected and tagged in accordance with regulations prescribed by the commission. The cost of such inspection and tagging shall be paid by the person submitting the trout for such inspection and tagging.

HISTORY:
Enacted 1957.

§ 8432. Prohibited sale or possession in District 1½ of imported steelhead trout

Steelhead trout from without the State may not be sold or possessed in District 1½ in excess of the daily bag limit on steelhead trout for that district.

HISTORY:
Enacted 1957.

§ 8433. Exception from article of domesticated trout

Nothing in this article applies to trout grown pursuant to Division 12 (commencing with Section 15000).

HISTORY:
Enacted 1957. Amended Stats 1982 ch 1486 § 21.

§ 8434. Sale or purchase of fish taken in Klamath River District or in Smith River unlawful

It is unlawful to sell or purchase any fresh, canned, or cured fish taken in the Klamath River District or in the waters of the Smith River.

HISTORY:
Enacted 1957.

§ 8435. Sale of catfish prohibited; Exceptions

No catfish may be sold, except catfish imported from without the state or catfish grown pursuant to Division 12 (commencing with Section 15000).

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1380 § 2. Stats 1982 ch 1486 § 22.

§ 8436. Sacramento perch, crappie, black bass and sunfish; Sale, purchase, taking and possession for commercial purposes prohibited

Except as provided in Section 8436.5, fish of the family Centrarchidae (Sacramento perch, crappie, black bass, and sunfish) shall not be taken or possessed for commercial purposes, sold, or purchased, other than fish that are cultured pursuant to Division 12 (commencing with Section 15000).

HISTORY:
Enacted 1957. Amended Stats 1963 ch 297 § 1; Stats 1982 ch 1486 § 23; Stats 1986 ch 763 § 4, effective September 15, 1986; Stats 2007 ch 328 § 5 (AB 1187), effective January 1, 2008.

§ 8436.5. Importation and sale of fish taken outside California

Notwithstanding Section 8436, the commission shall adopt regulations which authorize the importation and sale of dead fish of the family Centrarchidae if the fish have been lawfully taken outside of California, they have been taken in another state or foreign country that permits their sale, and they are brought into California with a bill of lading or similar accountable documentation specifying the origin of the fish.

HISTORY:
Added Stats 1986 ch 763 § 5, effective September 15, 1986.

§ 8437. Lawful catch; Species

The following freshwater fish may be taken for commercial purposes pursuant to regulations adopted by the commission:

(a) Threadfin shad (Dorosoma petenense).

(b) Species of the following families:

(1) Lamprey (Petromyzontidae).

(2) Smelt (Osmeridae).

(3) Sucker (Catostomidae).

(4) Carp or minnow (Cyprinidae).

(5) Killifish (Cyprinodontidae).

(6) Livebearer (Peociliidae).

(7) Silverside (Antherinidae).
(8) Cichlid (Cichlidae).
(9) Mullet (Mudilidae).
(10) Sculpin (Cottidae).
(11) Stickleback (Casterosteidae).
(12) Goby (Gobiidae).

HISTORY:
Added Stats 1980 ch 271 § 1.

§ 8437.1. Authorization for use of commercial fishing gear and fishing methods

The commission may authorize the use of commercial fishing gear and fishing methods to take any fish listed in Section 8437 in those areas of the state otherwise closed to that use pursuant to this code.

HISTORY:
Added Stats 1988 ch 360 § 1.

ARTICLE 11. FRESH–WATER FISH FOR BAIT

§ 8460. Licensing requirements; Term and revocation of license; Exceptions

Any person engaged for profit in the taking, transporting, or selling of live fresh–water fish for bait shall first obtain from the department a live fresh–water bait fish license to possess the fish for those purposes. The commission may prescribe regulations governing these licenses.

A license shall be issued for a calendar year, or, if issued after the beginning of such term, for the remainder thereof, and may be revoked for a violation of the terms thereof.

Such a license is not required for the raising, possession, or sale of live fresh–water fish for bait under authority of Division 12 (commencing with Section 15000).

The provisions of this code on commercial fishing, packing, or processing licenses, on reports by persons engaged in the commercial fish industry, and on statements required by owners or operators of fishing boats, do not apply to the taking, transporting, or selling of live fresh–water fish for bait.

HISTORY:
Enacted 1957. Amended Stats 1983 ch 1300 § 11.

§ 8461. License fee

The annual license fee for a live freshwater bait fish license is fifty–five dollars ($55) for each person.

HISTORY:
Added Stats 1990 ch 1703 § 49 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 33 (SB 1565), effective September 14, 1992, operative January 1, 1993.

§ 8462. Species authorized to be taken under fresh water bait license; Restrictions by commission

A license issued under Section 8460 shall authorize the taking of only golden shiners, fathead minnows and such other species at the department may designate, under such regulations at the commission may prescribe. The commission may prohibit in any part or all parts of the State the possession alive of any species of fish which it considers a potential threat to the fisheries of the State by reason of possible escape and establishment.

HISTORY:
Enacted 1957.

§ 8463. Traps and seines; Restrictions on size and place of use; Sale for bait of fish taken; Release of unauthorized fish

Traps not over 24 inches in greatest length nor more than 12 inches in greatest depth or width, or seines of not over ½ –inch mesh stretched measure and not more than 4× 30 feet in size, may be used for the taking of fish of the carp and minnow family (family Cyprinidae), suckers (family Catostomidae), sculpins (family Cottidae) or mosquito fish (genus Gambusia). Such traps may be used only in lakes and impounded waters. Such seines may be used only in lakes, impounded waters, and conduits.

Fish taken as provided in this section may be sold only as bait. Fish other than those named in this section that may be taken in such traps or seines shall be released and returned unharmed to the water wherein taken.

HISTORY:
Enacted 1957.

§ 8475. Regulation of taking of freshwater clams for commercial purposes

Notwithstanding Section 200, the commission shall regulate the taking of freshwater clams for commercial purposes.

HISTORY:
Added Stats 1985 ch 1442 § 5.

ARTICLE 12. CRAYFISH

§ 8490. Regulations for taking of crayfish

The taking of crayfish shall be subject to regulations as prescribed by the commission.

HISTORY:
Added Stats 1974 ch 1066 § 1 as F & G C § 8491. Amended and renumbered by Stats 2013 ch 226 § 2 (AB 165), effective January 1, 2014.

§ 8491. Limited allowance for taking of crayfish in Lake Tahoe

(a) Any allowance for the commercial taking of crayfish in Lake Tahoe or in the Lake Tahoe Basin shall be for the primary purpose of population reduction and control of the signal crayfish, an invasive species. The commercial taking of crayfish may be allowed only to the extent that it is consistent with state goals for management of invasive species and other environmental standards, including an environmental analysis conducted by the Tahoe Regional Planning Agency or another appropriate lead agency for each proposed individual harvest operation.

(b) The commission shall ensure that, with respect to the taking of crayfish for commercial purposes in Lake Tahoe or in the Lake Tahoe Basin, the commission's regulations are consistent with the Lake Tahoe Region Aquatic Invasive Species Management Plan, as amended.

HISTORY:
Added Stats 2013 ch 226 § 3 (AB 165), effective January 1, 2014.

§ 8492. Authorization for Department to take steps necessary to prevent overfishing of crayfish in Sacramento–San Joaquin Delta

The department shall take the steps it determines are necessary to prevent overfishing of crayfish in the Sacramento–San Joaquin Delta. Those steps may include, but are not limited to, submitting to the Legislature proposed legislation to place limitations on the commercial crayfishing in that area.

HISTORY:
Added Stats 1990 ch 528 § 2 (SB 2561).

ARTICLE 13. HALIBUT TRAWL GROUNDS

§ 8494. Permits; Issue; Minimum landing requirement; Transfer; Fees; Federal permits; Operation of section

(a) Any vessel using bottom trawl gear in state-managed halibut fisheries, as described in subdivision (a) of Section 8841, shall possess a valid California halibut bottom trawl vessel permit that has not been suspended or revoked and that is issued by the department authorizing the use of trawl gear by that vessel for the take of California halibut.

(b) A California halibut bottom trawl vessel permit shall be issued annually, commencing with the 2006 permit year and an applicant shall have been issued a California halibut bottom trawl vessel permit in the immediately preceding permit year.

(c) Permits issued pursuant to this section may be transferred only if at least one of the following occur:

(1) The commission adopts a restricted access program for the fishery that is consistent with the commission's policies regarding restricted access to commercial fisheries.

(2)(A) *********Before*** the implementation of a halibut trawl restricted access program, the department may consider requests from a vessel permitholder or **********the permitholder's*** conservator or estate representative, as applicable, to transfer a vessel permit to a vessel consistent with the requirements of subparagraph (B) or (C). The department may request information that it determines is reasonably necessary from the permitholder or **********the permitholder's*** conservator or heirs or estate for the purpose of verifying statements in the request **********before*** authorizing the transfer of the permit.

(B) The department may approve the transfer of a California halibut bottom trawl vessel permit to a replacement vessel if all of the following requirements are met:

(i) In the form of a notarized application, the permitholder submits to the department a request for the transfer of a California halibut bottom trawl vessel permit to another vessel owned by the permitholder.

(ii) The permitholder provides a current United States Coast Guard certificate of documentation or vessel marine survey to the department for the permitted vessel and replacement vessel.

(iii) Based on the information provided pursuant to clause (ii), the department determines that the replacement vessel is equal to or less than the capacity of the permitted vessel.

(iv) The department determines the California halibut bottom trawl vessel permit for the permitted vessel is valid and has not been suspended or revoked.

(v) If applicable, the department receives written confirmation from the replacement vessel's owner or authorized agent, or mortgager, of the vessel's participation in the transfer of the California halibut bottom trawl vessel permit.

(vi) The replacement vessel is registered with the department pursuant to Section 7881 at the time the application is submitted pursuant to clause (i).

(C) The department may approve the transfer of a California halibut bottom trawl vessel permit to another person if all of the following requirements are met:

(i) In the form of a notarized application, the permitholder or **********the permitholder's*** conservator or estate submits to the department a request to transfer a California halibut bottom trawl vessel permit to another person.

(ii) If the permitholder's estate submits a request pursuant to clause (i), the estate submits the notarized application to the department within one year of the death of the permitholder as listed on the death certificate.

(iii) A current United States Coast Guard certificate of documentation or vessel marine survey is provided to the department for the permitted vessel and vessel to be used by the proposed transferee.

(iv) Based on the information provided pursuant to clause (iii), the department determines that the vessel to be used by the proposed transferee is equal to or less than the capacity of the permitted vessel.

(v) The proposed transferee meets both of the following requirements:

(I) The person has a valid commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked.

(II) The person is the owner of a commercial fishing vessel that is registered with the department pursuant to Section 7881 ***and*** that registration has not been suspended or revoked.

(vi) The permit for the permitted vessel is current, and the permitholder or ******the permitholder's*** conservator or estate submitting the application is responsible for any renewal of the permit that becomes due during the application processing period.

(vii) Under penalty of perjury, the permitholder or ******the permitholder's*** conservator or estate signs the application for transfer and certifies that the information included is true to the best of ******the permitholder's*** information and belief.

(D) Any applicant who is denied transfer pursuant to this paragraph may appeal the denial in writing describing the basis for the appeal to the commission within 60 days from the date of the department's decision.

(d) The commission shall establish California halibut bottom trawl vessel permit fees based on the recommendations of the department and utilizing the guidelines outlined in subdivision (b) of Section 711 to cover the costs of administering this section. ******Before*** the adoption of a restricted access program pursuant to subdivision (c), fees may not exceed one thousand dollars ($1,000) per permit.

(e) Individuals holding a federal groundfish trawl permit may retain and land up to 150 pounds of California halibut per trip without a California halibut trawl permit in accordance with federal and state regulations, including, but not limited to, regulations developed under a halibut fishery management plan.

(f) This section shall become inoperative upon the adoption by the commission of a halibut fishery management plan in accordance with the requirements of Part 1.7 (commencing with Section 7050).

(g) The commission may adopt regulations to implement this section.

HISTORY:

Added Stats 2004 ch 721 § 2 (SB 1459). Amended Stats 2005 ch 22 § 67 (SB 1108), effective January 1, 2006, ch 22 § 67 (SB 1108), effective January 1, 2006; Stats 2006 ch 538 § 188 (SB 1852), effective January 1, 2007; Stats 2018 ch 985 § 7 (SB 1309), effective January 1, 2019; Stats 2019 ch 497 § 118 (AB 991), effective January 1, 2020.

§ 8495. Areas designated halibut trawl grounds; Trawl gear

(a) The following areas are designated as the California halibut trawl grounds:

(1) The ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello and north and west of a line running due south (180° true) from Point Mugu.

(2) The ocean waters of Monterey Bay delineated by straight lines connecting the following points in the following order and excluding federal waters as defined by the order entered by the United States Supreme Court in the case of United States of America v. State of California, 135 S.Ct. 563 (2014):

Latitude	Longitude
36° 54.146' N	122° 4.244' W
36° 52.910' N	122° 4.225' W

36° 52.024' N	122° 2.117' W
36° 51.680' N	121° 59.321' W
36° 52.230' N	121° 57.810' W
36° 48.974' N	121° 52.474' W
36° 49.835' N	121° 51.840' W
36° 54.250' N	121° 54.883' W
36° 54.287' N	121° 58.062' W
36° 53.956' N	122° 2.117' W

(3) The ocean waters offshore of Port San Luis lying between one and three nautical miles from the mainland shore, as described by an area circumscribed by a line connecting the following points in clockwise order, with the line connecting the last two points approximately parallel to the lines connecting the preceding points:

Latitude	Longitude
35° 08' N	120° 46' W
35° 08' N	120° 40.1' W
35° 06.6' N	120° 39.2' W
35° 02.2' N	120° 39.3' W
34° 57' N	120° 40.7' W
34° 57' N	120° 43.5' W
35° 06.4' N	120° 46' W

(b) Notwithstanding subdivision (a), the use of trawl gear for the take of fish is prohibited in the following areas of the California halibut trawl grounds:

(1) Around Point Arguello. The area from a line extending from Point Arguello true west (270°) and out three miles, to a line extending from Rocky Point true south (180°) and out three miles.

(2) Around Point Conception. From a point on land approximately one-half mile north of Point Conception at latitude 34° 27.5' extending seaward true west (270°) from one to three miles, to a point on land approximately one-half mile east of Point Conception at longitude 120° 27.5' extending seaward true south (180°) from one to three miles.

(3) In the Hueneme Canyon in that portion demarked by the IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 and from one mile to the three mile limit of state waters.

(4) In Mugu Canyon, from Laguna Point, a line extending true south (180°) and out three miles, to Point Mugu, a line extending true south (180°) and from one to three miles.

(c)(1) Notwithstanding subdivision (a), commencing April 1, 2008, the following areas in the California halibut trawl grounds shall be closed to trawling, unless the commission finds that a bottom trawl fishery for halibut minimizes bycatch, is likely not damaging sea floor habitat, is not adversely affecting ecosystem health, and is not impeding reasonable restoration of kelp, coral, or other biogenic habitats:

(A) The ocean waters lying between one and three nautical miles from the mainland shore from a point east of a line extending seaward true south (180°) from a point on land approximately one-half mile east of Point Conception at longitude 120° 27.5' to a line extending due south from Gaviota.

(B) The ocean waters lying between one and two nautical miles from the mainland shore lying east of a line extending due south from Santa Barbara Point (180°) and west of a line extending due south from Pitas Point (180°).

(C) Except as provided in subdivision (b), the ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello to a line extending seaward true south (180°) from a point on land approximately 1/2 mile east of Point Conception at longitude 120° 27.5' , and from the western border of the IMO Vessel Traffic safety

zone on NOAA/NOS Chart 18725 in Hueneme Canyon running south and east to a line running due south (180° true) from Point Mugu.

(2) In making the finding described in paragraph (1), the commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts.

(d) Notwithstanding subdivision (a), the areas of the halibut trawl grounds identified in paragraphs (2) and (3) of subdivision (a) shall remain closed to trawling until the commission determines that trawling in those areas is consistent with the provisions of this section. At the commission's discretion, a determination pursuant to this subdivision may be made through the review required pursuant to subdivision (e).

(e) Commencing January 1, 2008, the commission shall review information every three years from the federal groundfish observer program and other available research and monitoring information it determines relevant, and shall close any areas in the California halibut trawl grounds where it finds that the use of trawl gear does not minimize bycatch, is likely damaging sea floor habitat, is adversely affecting ecosystem health, or impedes reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.

(f) Notwithstanding any other law, the commission shall determine the size, weight, and configuration of all parts of the trawl gear, including, but not limited to, net, mesh, doors, appurtenances, and towing equipment as it determines is necessary to ensure trawl gear is used in a sustainable manner within the California halibut trawl grounds.

HISTORY:

Added Stats 1971 ch 1341 § 1. Amended Stats 1988 ch 353 § 2; Stats 1992 ch 1370 § 28 (AB 3193), effective October 27, 1992; Stats 2004 ch 721 § 3 (SB 1459); Stats 2005 ch 334 § 2 (AB 1431); Stats 2006 ch 538 § 189 (SB 1852), effective January 1, 2007; Stats 2018 ch 985 § 8 (SB 1309), effective January 1, 2019.

§ 8496. Requirements in using trawl nets

(a) Unless otherwise specified by the commission pursuant subdivision (b), within the California halibut trawl grounds the following requirements shall apply to the use of trawl nets:

(1) Open season and hours of operation shall be as follows:

(A) Open season shall be June 16 to March 14, inclusive.

(B) In the designated halibut trawl grounds within Monterey Bay and offshore of Port San Luis, trawl fishing gear may only be deployed to capture fish between sunrise and sunset.

(2) California halibut shall only be taken pursuant to Section 8392.

(3) Not more than 500 pounds of fish other than California halibut may be possessed, except that any amount of sea cucumbers may be possessed by a person who holds a valid sea cucumber permit and who meets any conditions adopted by the commission pursuant to Section 8405.3, and any amount of sharks, skates, or rays for which the take or possession of that species is not otherwise prohibited by this code may be taken or possessed.

(4) It is unlawful to operate a trawl net in a way that damages or destroys other types of fishing gear that is buoyed or otherwise visibly marked.

(5) Sections 8833 and 8836 do not apply to trawl nets when used or possessed on California halibut trawl grounds.

(6) Trawl nets described in Section 8843 shall only be used within the halibut trawl grounds.

(7) Single bags and cod-ends or double bags and cod-ends may be used within the halibut trawl grounds and may be possessed while a vessel is in transit directly to the

halibut trawl grounds or returning directly to port. Double bags shall be hung and tied to each rib line so that the knots of each layer coincide, knot for knot, for the full length of the double layers. The double mesh section shall not measure over 25 meshes or 12 feet in length, whichever is greater. The individual meshes in the double section shall measure not less than seven and one-half inches in length.

(8) No net, whose cod-end meshes are less than prescribed in this section, may be possessed on any vessel that is operating under the authority of this section.

(b) The commission may reduce the length of the open season or hours of operation, or either of those, specified in paragraph (1) of subdivision (a). The commission may also modify any of the requirements of paragraphs (2) to (8), inclusive, of subdivision (a) to make those requirements more restrictive.

HISTORY:
Added Stats 1971 ch 1341 § 1. Amended Stats 1972 ch 985 § 1; Stats 1979 ch 154 § 2; Stats 1988 ch 353 § 3; Stats 1998 ch 378 § 1 (SB 1475); Stats 2018 ch 985 § 9 (SB 1309), effective January 1, 2019.

§ 8497. Director's closure of area or restriction of nets

If the director determines that the California halibut resource, or existing fishing operations, within the designated California halibut trawl grounds are in danger of irreparable injury, he or she may order the closure of the area, or portions thereof, to trawl net fishing or further restrict the nets that may be used in the area, or portions thereof. Any such closure or restriction order shall be adopted by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

The department shall bring to the attention of the Legislature within 30 calendar days after commencement of the next succeeding regular session of the Legislature any regulation adopted pursuant to this section.

HISTORY:
Added Stats 1971 ch 1341 § 1. Amended Stats 1983 ch 101 § 38.

ARTICLE 14. TIDAL INVERTEBRATES

§ 8500. Requirement of tidal invertebrate permit

Except as otherwise expressly permitted in this chapter, no mollusks, crustaceans, or other invertebrates may be taken, possessed aboard a boat, or landed for commercial purposes by any person in any tide pool or tidal area, including tide flats or other areas between the high tidemark and 1,000 feet beyond the low tidemark, unless a valid tidal invertebrate permit has been issued to that person that has not been suspended or revoked. The taking, possessing, or landing of mollusks, crustaceans, or other invertebrates pursuant to this section shall be subject to regulations adopted by the commission.

HISTORY:
Added Stats 1972 ch 1248 § 2, effective December 13, 1972. Amended Stats 1984 ch 1271 § 17; Stats 1996 ch 870 § 37 (AB 3245).

ARTICLE 14.5. KRILL

§ 8510. Taking of krill

It is unlawful to take or land krill of any species of euphausiid for any purpose except scientific research pursuant to regulations adopted by the commission. This section applies to krill in the waters of this state and up to 200 miles offshore, as long as federal law does not regulate the taking of krill.

HISTORY:
Added Stats 2000 ch 410 § 10.5 (AB 2482). Amended Stats 2002 ch 559 § 9 (AB 892); Stats 2003 ch 218 § 1 (AB 1296).

ARTICLE 15. HERRING

§ 8550. Permit required for taking for commercial purposes

Herring may be taken for commercial purposes only under a permit, subject to regulations adopted by the commission. The commission may, whenever necessary to prevent overutilization, to ensure efficient and economic operation of the fishery, or to otherwise carry out this article, limit the total number of permits that are issued and the amount of herring that may be taken under the permits.

The commission, in limiting the total number of permits, shall take into consideration any restriction of the fishing area and the safety of others who, for purposes other than fishing, use the waters from which herring are taken.

HISTORY:
Added Stats 1973 ch 733 § 2. Amended Stats 1976 ch 78 § 5, effective March 30, 1976; Stats 1996 ch 870 § 38 (AB 3245).

§ 8550.5. Herring net permit

(a) A herring net permit granting the privilege to take herring with nets for commercial purposes shall be issued to licensed commercial fishermen, subject to regulations adopted under Section 8550, as follows:

(1) To any resident of this state to use gill nets, upon payment of a fee of two hundred sixty–five dollars ($265).

(2) To any nonresident to use gill nets, upon payment of a fee of one thousand dollars ($1,000).

(b) The commission shall not require a permit for a person to be a crewmember on a vessel taking herring pursuant to this article.

HISTORY:
Added Stats 1990 ch 1703 § 51 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 34 (SB 1565), effective September 14, 1992, operative April 1, 1993; Stats 2000 ch 388 § 17 (AB 2941).

§ 8552. Permit for vessel taking herring for roe; Transfer

(a) It is unlawful to take herring for roe on a vessel unless the operator holds a herring permit issued by the department pursuant to commission regulations. The permit may be transferred pursuant to Sections 8552.2 and 8552.6.

(b) No person may be issued more than one herring permit, and the department shall not issue a herring permit to more than one person except as provided in Section 8552.6.

(c) Herring permits shall only be issued to and shall be held only by a natural person.

(d) Herring permits shall not be used as any form of security for any purpose, including, but not limited to, financial or performance obligations.

(e) The permittee shall be on board the vessel at all times during herring fishing operations, subject only to exceptions provided for in this code and regulations adopted under this code.

HISTORY:
Added Stats 1986 ch 725 § 2. Amended Stats 1988 ch 1505 § 3.

§ 8552.1. Adjustment of fees

The commission, in consultation with the department and representatives of the commercial roe herring fishery, and after holding at least one public hearing, may adjust the fees charged for permits; including fees for the issuance or transfer of permits, to a level that will not discourage the transfer of permits or limit entry into the fishery, and

that will ensure sufficient funds to cover reasonable department costs associated with the management of the fishery, including research and enforcement costs.

HISTORY:
Added Stats 2004 ch 713 § 3 (AB 2519).

§ 8552.2. Transfer requirements

Notwithstanding Section 1052, a herring permit may be transferred from a herring permitholder to a nonpermitholder having a minimum of 20 or more herring fishery points, as follows: The permitholder shall mail, by certified or registered mail, to the department and every individual listed on the department's list of maximum 20 or more point herring fishery participants, his or her notice of intention to transfer his or her herring permit, which notice shall specify the gear type to be used under the herring permit; the name, address, and telephone number of the transferor and proposed transferee; and the amount of consideration, if any, sought by the transferor. Sixty days after mailing the notice, the transferor may transfer the permit to any person having 20 or more experience points without the necessity for giving further notice if the transfer occurs within six months of the date the original notice was given. Transfers after that six–month period shall require another 60–day notice of intention to be given. No person may hold more than one herring permit. A true copy of the notice of intention to transfer a permit shall be filed with the department by the transferor under penalty of perjury and shall be available for public review.

HISTORY:
Added Stats 1988 ch 1505 § 4. Amended Stats 1989 ch 207 § 4, effective July 25, 1989.

§ 8552.3. Adoption of regulations intended to facilitate transfer of herring permits

The commission may, in consultation with representatives of the commercial herring roe fishery, and after holding at least one public hearing, adopt regulations intended to facilitate the transfer of herring permits, including, but not limited to, regulations that would do the following:

(a) Allow an individual to own a single permit for each of the different herring gillnet platoons in San Francisco Bay.

(b) Eliminate the point system for qualifying for a herring permit.

(c) Allow a herring permit to be passed from a parent to child, or between spouses.

HISTORY:
Added Stats 2004 ch 713 § 4 (AB 2519). Amended Stats 2016 ch 50 § 42 (SB 1005), effective January 1, 2017.

§ 8552.4. Reissuance of revoked and unrenewed permits

Herring permits that are revoked or not renewed may be offered by the department for a drawing to persons having 20 or more experience points in the fishery on the first Friday of August of each year.

HISTORY:
Added Stats 1988 ch 1505 § 5. Amended Stats 1989 ch 207 § 5, effective July 25, 1989.

§ 8552.5. Revocation

The commission shall revoke any herring permit if the holder of the herring permit was convicted of failing to report herring landings or underreported herring landings or failed to correctly file with the department the offer or the acceptance for a permit transferred pursuant to Section 8552.2.

HISTORY:
Added Stats 1988 ch 1505 § 6.

§ 8552.6. Issuance of permit to two individuals

(a) Notwithstanding Section 8552, a herring permit may be issued to two individuals if one of the following criteria is met:

(1) The individuals are married to each other and file with the department a certified copy of their certificate of marriage and a declaration under penalty of perjury, or a court order, stating that the permit is community property.

(2) The individuals meet both of the following requirements:

(A) They are both engaged in the herring roe fishery either by fishing aboard the vessel or by personally participating in the management, administration, and operation of the partnership's herring fishing business.

(B) There is a partnership constituting equal, 50 percent, ownership in a herring fishery operation, including a vessel or equipment, and that partnership is demonstrated by any two of the following:

(i) A copy of a federal partnership tax return.

(ii) A written partnership agreement.

(iii) Joint ownership of a fishing vessel used in the herring fishery as demonstrated on federal vessel license documents.

(b) For purposes of this section, a herring permit does not constitute a herring fishing operation. A herring permit may be transferred to one of the partners to be held thereafter in that partner's name only if that partner has not less than 10 points computed pursuant to paragraph (2) of subdivision (a) of Section 8552.8 and there has been a death or retirement of the other partner, a dissolution of partnership, or the partnership is dissolved by a dissolution of marriage or decree of legal separation. A transfer under this section shall be authorized only if proof that the partnership has existed for three or more consecutive years is furnished to the department or a certified copy of a certificate of marriage is on file with the department and the permit is community property as provided in subdivision (a). The transferor of a permit shall not, by reason of the transfer, become ineligible to participate further in the herring fishery or to purchase another permit.

(c) Notwithstanding subdivision (b), in the event of the death of one of the partners holding a herring permit pursuant to this section, where the partnership existed for longer than six months but less than three years and the surviving partner does not have the minimum points pursuant to subdivision (b) to qualify for a permit transfer, the permit may be transferred on an interim basis for a period of not more than 10 years to the surviving partner if an application is submitted to the department within one year of the deceased partner's death and the surviving partner participates in the fishery for the purpose of achieving the minimum number of points to be eligible for a permit transfer pursuant to Section 8552.2. The interim permit shall enable the surviving partner to participate in the herring fishery. At the end of the interim permit period, the surviving partner, upon application to the department, may be issued the permit if he or she has participated in the fishery and gained the minimum number of experience points for a permit.

HISTORY:

Added Stats 1988 ch 1505 § 7. Amended Stats 1989 ch 207 § 6, effective July 25, 1989; Stats 1999 ch 502 § 3 (AB 1210), effective September 27, 1999; Stats 2001 ch 753 § 20 (AB 1673).

§ 8552.7. Transfer upon payment of fee

The department shall reissue a herring permit which has been transferred pursuant to Section 8552.2 or 8552.6 upon payment of a transfer fee by the transferee of the permit. Before April 1, 1997, the transfer fee is two thousand five hundred dollars ($2,500), and, on and after April 1, 1997, the transfer fee is five thousand dollars ($5,000). The fees shall be deposited in the Fish and Game Preservation Fund and shall be expended for research and management activities to maintain and enhance herring resources pursuant to subdivision (a) of Section 8052.

HISTORY:
Added Stats 1990 ch 1703 § 53 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 35 (SB 1565), effective September 14, 1992; Stats 1994 ch 360 § 1 (AB 2630).

§ 8552.8. Experience points

(a) For purposes of this article, the experience points for a person engaged in the herring roe fishery shall be based on the number of years holding a commercial fishing license and the number of years having served as a crewmember in the herring roe fishery, and determined by the sum of both of the following:

(1) One point for each year in the previous 12 years (prior to the current license year) that the person has held a commercial fishing license issued pursuant to Section 7852, not to exceed a maximum of 10 points.

(2) Five points for one year of service as a paid crewmember in the herring roe fishery, as determined pursuant to Section 8559, three points for a second year of service as a paid crewmember, and two points for a third year as a paid crewmember, beginning with the 1978–79 herring fishing season, not to exceed a maximum of 10 points.

(b) The department shall maintain a list of all individuals possessing the maximum of 20 experience points and of all those persons holding two points or more, grouped in a list by number of points. The list shall be maintained annually and shall be available from the department to all pointholders and to all herring permittees. All pointholders are responsible for providing the department with their current address and for verifying points credited to them by the department.

(c) A herring permittee may use the department's list and rely upon that list in making offers for transfer of his or her permit until the date of the annual distribution of the new list. On and after the date of the annual revision of the list, the permittee shall use the new list.

(d) The point provisions in this section are for purposes of sale of a permit or transfer to a partner of a coowned permit.

HISTORY:
Added Stats 1988 ch 1505 § 9. Amended Stats 1989 ch 207 § 7, effective July 25, 1989; Stats 2000 ch 388 § 18 (AB 2941).

§ 8552.9. [Section repealed 1997.]

HISTORY:
Added Stats 1992 ch 701 § 36 (SB 1565), effective September 14, 1992. Amended Stats 1994 ch 360 § 2 (AB 2630). Repealed, operative April 1, 1997, by its own terms. The repealed section related to transfer of permits for Tomales Bay.

§ 8553. Authority to make and enforce regulations

The commission may make and enforce such regulations as may be necessary or convenient for carrying out any power, authority, or jurisdiction conferred under this article.

HISTORY:
Added Stats 1973 ch 733 § 2.

§ 8554. Temporary substitution of permittee

The commission, in adopting regulations for the commercial herring fishery, shall provide for the temporary substitution of a permittee to take herring, if the permittee is ill or injured, by a crewmember aboard the vessel operated by the permittee. The commission may require that proof of the illness or injury be substantiated to the satisfaction of the department.

HISTORY:
Added Stats 1986 ch 725 § 3.

§ 8555. Review of herring roe regulations and policies

The director shall periodically meet and confer with representatives of the commercial herring roe fishery to review regulations and policies of the commission and the department concerning that fishery and to receive recommendations on the regulation and management of that fishery. In particular, those representatives and their legal counsel may recommend to the department, for recommendation to the commission for adoption by the commission as regulations, requirements for the payment of civil damages that may be imposed in lieu of revoking or suspending a permit issued pursuant to this article or for violations of regulations adopted by the commission pertaining to the herring roe fishery.

HISTORY:
Added Stats 1986 ch 725 § 4.

§ 8556. Determination by regulation; Drift or set gill nets for taking herring for commercial purposes; Size of meshes

Notwithstanding any other provision of law, the commission shall determine, by regulation, if drift or set gill nets may be used to take herring for commercial purposes. The commission may also determine, by regulation, the size of the meshes of the material used to make such gill nets.

HISTORY:
Added Stats 1976 ch 882 § 1.

§ 8557. Use of round haul nets; Conditions for use

Notwithstanding any other provision of law, the commission shall determine if round haul nets may be used to take herring in Districts 12 and 13 and the conditions under which those nets may be used.

HISTORY:
Added Stats 1979 ch 329 § 4, effective July 27, 1979. Amended Stats 1987 ch 269 § 17, effective July 27, 1987.

§ 8558. Herring research and management account

(a) There is established a herring research and management account within the Fish and Game Preservation Fund. The funds in the account shall be expended for the purpose of supporting, in consultation with the herring industry pursuant to Section 8555, department evaluations of, and research on, herring populations in San Francisco Bay and those evaluations and research that may be required for Tomales Bay, Humboldt Bay, and Crescent City and assisting in enforcement of herring regulations. The evaluations and research shall be for the purpose of (1) determining the annual herring spawning biomass, (2) determining the condition of the herring resource, which may include its habitat, and (3) assisting the commission and the department in the adoption of regulations to ensure a sustainable herring roe fishery. An amount, not to exceed 15 percent of the total funds in the account, may be used for educational purposes regarding herring, herring habitat, and the herring roe fishery.

(b) The funds in the account shall consist of the funds deposited pursuant to Sections 8558.1, 8558.2, and 8558.3, and the funds derived from herring landing fees allocated pursuant to subdivision (a) of Section 8052.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of the funds in the account are met.

HISTORY:
Added Stats 1996 ch 584 § 1 (AB 2601). Amended Stats 2017 ch 26 § 32 (SB 92), effective June 27, 2017.

§ 8558.1. Herring stamp

(a) No person shall purchase or renew any permit to take herring for commercial purposes in San Francisco Bay without first obtaining from the department an annual herring stamp. The fee for the stamp shall be one hundred dollars ($100). The revenue from the fee for the herring stamps shall be deposited into the herring research and management account established pursuant to Section 8558.

(b) This section shall become operative on April 1, 1997.

HISTORY:
Added Stats 1996 ch 584 § 2 (AB 2601), operative April 1, 1997.

§ 8558.2. Herring fees

The amount of the difference between fees for nonresidents and resident fees, collected pursuant to Section 8550.5, shall be deposited into the herring research and management account established pursuant to Section 8558, and all fees for San Francisco Bay herring permit transfers, collected pursuant to Section 8552.7, shall also be deposited into the herring research and management account.

HISTORY:
Added Stats 1996 ch 584 § 3 (AB 2601).

§ 8558.3. Royalties deposited into herring account

One–half of all royalties collected by the department from the roe–on–kelp fishery collected pursuant to paragraph (2) of subdivision (f) of Section 164 of Title 14 of the California Code of Regulations shall be deposited into the herring research and management account established pursuant to Section 8558.

HISTORY:
Added Stats 1996 ch 584 § 4 (AB 2601).

§ 8559. Proof of crew experience in herring fishery

The commission, in determining experience requirements for new entrants into the herring fishery after January 1, 1987, shall require that any person seeking a permit to operate a vessel to take herring and claiming crew experience shall demonstrate, to the satisfaction of the department, proof of payment as a crewmember in the herring fishery based on tax records or copies of canceled checks offered and accepted as payment for service on a crew in the California herring roe fishery.

HISTORY:
Added Stats 1986 ch 725 § 5.

ARTICLE 16. DRIFT GILL NET SHARK AND SWORDFISH FISHERY

§ 8561. Necessity of permit

(a) Notwithstanding Section 8394, shark and swordfish shall not be taken for commercial purposes with drift gill nets except under a valid drift gill net shark and swordfish permit issued to that person that has not been suspended or revoked and is issued to at least one person aboard the boat.

(b) A drift gill net shark and swordfish permit shall not be required for the taking of sharks with drift gill nets with a mesh size smaller than eight inches in stretched mesh and twine size no. 18 or the equivalent of this twine size or smaller.

(c) Notwithstanding Section 8102 or any other law, a permit issued pursuant to this section shall be surrendered or revoked as of January 31 of the fourth year following the

department's notification to the Legislature pursuant to paragraph (2) of subdivision (b) of Section 8583.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 1989 ch 1308 § 2; Stats 1994 ch 439 § 2 (SB 1478); Stats 1996 ch 870 § 39 (AB 3245); Stats 2018 ch 844 § 3 (SB 1017), effective January 1, 2019.

§ 8561.5. Transfer of permit prohibited

(a) Notwithstanding Section 8102 or any other law, a permit issued pursuant to Section 8561 may not be transferred.

(b) This section shall become operative on March 31, 2019.

HISTORY:
Added Stats 2018 ch 844 § 5 (SB 1017), effective January 1, 2019, operative March 31, 2019.

§ 8562. Late permit applications

Applications delivered to a department office after April 30, or if mailed, postmarked after April 30, shall not be accepted unless approved by the commission pursuant to Section 8569.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 1998 ch 525 § 10 (SB 2028).

§ 8563. Necessity of permittee's presence on vessel

(a) Except as provided in subdivision (b), the permittee shall be aboard the vessel and shall be in possession of a valid drift gill net shark and swordfish permit when engaged in operations authorized by the permit.

(b) A permittee may have a person serve in the permittee's place on the permittee's vessel and engage in fishing under the permittee's drift gill net shark and swordfish permit for not more than 15 days in a calendar year, except that a longer period may be allowed in the event of serious illness. A permittee shall notify the department's Long Beach office of a substitution of 15 days or less per calendar year, by certified letter or telegram at least 24 hours before the commencement of the trip. Written authorization for a substitution of greater than 15 days shall be obtained from the director and shall be given only on the director's finding that the permittee will not be available to engage in the activity due to serious illness, supported by medical evidence. An application for a substitution of greater than 15 days shall be made to the department's headquarters office in Sacramento, and shall contain any information the director requires. A denial of the substitution may be appealed to the commission.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 2015 ch 154 § 94 (AB 1527), effective January 1, 2016.

§ 8564. Specification of vessel

When the permittee applies for a drift gill net shark and swordfish permit, the permittee shall specify the vessel he or she will use in operations authorized by the permit. Transfer to another vessel shall be authorized by the department upon receipt of a written request from the permittee, accompanied by a transfer fee of one hundred thirty dollars ($130), as follows:

(a) One transfer requested between February 1 and April 30 shall be made by the department upon request and payment of the fee.

(b) Any transfer, except as provided in subdivision (a), shall be authorized by the department only after receipt of proof of a compelling reason, which shall be submitted with the request for transfer, such as the sinking of the vessel specified for use in operations authorized by the permit.

HISTORY:
Added Stats 1990 ch 1703 § 47 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 38 (SB 1565), effective September 14, 1992, operative April 1, 1993.

§ 8567. Fee for permit

The fee for a drift gill net shark and swordfish permit shall be three hundred thirty dollars ($330).

HISTORY:
Added Stats 1990 ch 1703 § 59 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 39 (SB 1565), effective September 14, 1992, operative April 1, 1993; Stats 1996 ch 870 § 40 (AB 3245).

§ 8568. Qualifications for permit

Drift gill net shark and swordfish permits shall be issued to any prior permittee who possesses a valid drift gill net shark and swordfish permit issued pursuant to this section, but only if the permittee meets both of the following requirements:

(a) Possesses a valid permit for the use of gill nets authorized pursuant to Section 8681.

(b) Possessed a valid drift gill net shark and swordfish permit during the preceding season and that permit was not subsequently revoked.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982, operative April 1, 1984. Amended Stats 1989 ch 1242 § 1, ch 1308 § 4; Stats 1994 ch 439 § 3 (SB 1478); Stats 1998 ch 525 § 11 (SB 2028); Stats 2002 ch 962 § 5 (AB 2888), effective September 27, 2002.

§ 8568.5. Qualifications for permit for persons failing to meet minimum landings

Any person holding a valid drift gill net shark and swordfish permit on or after January 1, 2000, who did not make, on or after January 1, 2000, the minimum landings required under subdivision (c) of Section 8568, as amended by Section 11 of Chapter 525 of the Statutes of 1998, is eligible for that permit when that person meets all other qualifications for the permit.

HISTORY:
Added Stats 2002 ch 962 § 6 (AB 2888), effective September 27, 2002.

§ 8569. Qualification of prior permittees

The commission may establish conditions for the issuance of a permit if the person's drift gill net shark and swordfish permit was revoked during a preceding season or if the person possessed a valid permit during the preceding season but did not apply for renewal of his or her permit on or before April 30. The applicant for a permit under this section may appeal to the director for the issuance of the permit under those conditions.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982, operative April 1, 1984. Amended Stats 1986 ch 671 § 3; Stats 1994 ch 439 § 5 (SB 1478); Stats 1998 ch 525 § 12 (SB 2028); Stats 2002 ch 962 § 7 (AB 2888), effective September 27, 2002.

§ 8573. Size and use of gill nets

Drift gill nets may be used to take shark and swordfish under the permit provided in this article, subject to Section 8610.3 and all of the following restrictions:

(a) From June 1 to November 15, inclusive, shark or swordfish gill nets shall not be in the water from two hours after sunrise to two hours before sunset east of a line described as follows:

From a point beginning at Las Pitas Point to San Pedro Point on Santa Cruz Island, thence to Gull Island Light, thence to the northeast extremity of San Nicolas Island,

thence along the high water mark on the west side of San Nicolas Island to the southeast extremity of San Nicolas Island, thence to the northwest extremity of San Clemente Island, thence along the high water mark on the west side of San Clemente Island to the southeast extremity of San Clemente Island, thence along a line running 150° true from the southeast extremity of San Clemente Island to the westerly extension of the boundary line between the Republic of Mexico and San Diego County.

(b)(1) The total maximum length of a shark or swordfish gill net on the net reel on a vessel, on the deck of the vessel, and in the water at any time shall not exceed 6,000 feet in float line length. The float line length shall be determined by measuring the float line, as tied, of all the net panels, combined with any other netted lines. The existence of holes, tears, or gaps in the net shall have no bearing on the measurement of the float line. The float line of any net panels with holes, tears, or gaps shall be included in the total float line measurement.

(2) Any shark or swordfish gill net on the reel shall have the float lines of the adjacent panels tied together, the lead lines of the adjacent panels tied together, and the web of the adjacent panels laced together. No quick disconnect device may be used unless the total maximum length of all shark and swordfish gill nets, including all spare gill nets or net panels on the vessel and all gill nets or net panels on the net reels on the vessel, on the deck of the vessel, stored aboard the vessel, and in the water, does not exceed 6,000 feet in float line length as determined under paragraph (1).

(3) Spare shark or swordfish gill net aboard the vessel shall not exceed 250 fathoms (1,500 feet) in total length, and the spare net shall be in separated panels not to exceed 100 fathoms (600 feet) in float line length for each panel, with the float lines and leadlines attached to each panel separately gathered and tied, and the spare net panels stowed in lockers, wells, or other storage space.

(4) If a torn panel is replaced in a working shark or swordfish gill net, the torn panel shall be removed from the working net before the replacement panel is attached to the working net.

(c) Any end of a shark or swordfish gill net not attached to the permittee's vessel shall be marked by a pole with a radar reflector. The reflector shall be at least six feet above the surface of the ocean and not less than 10 inches in any dimension except thickness. The permittee's permit number shall be permanently affixed to at least one buoy or float that is attached to the radar reflector staff. The permit number shall be at least one and one-half inches in height and all markings shall be at least one-quarter inch in width.

(d) For the purposes of this article, "shark or swordfish gill net" means a drift gill net of 14-inch or greater mesh size.

HISTORY:

Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 1985 ch 1558 § 2, effective October 2, 1985; Stats 1987 ch 979 § 1, effective September 23, 1987; Stats 1994 ch 439 § 7 (SB 1478); Stats 2007 ch 285 § 123 (AB 1729), effective January 1, 2008.

§ 8574. Mesh size of gill nets

(a) Drift gill nets with mesh size less than 14 inches in stretched mesh shall not be used to take shark and swordfish by permittees operating under a drift gill net shark and swordfish permit, and the permittee shall not have aboard the vessel or in the water a drift gill net with mesh size less than 14 inches and more than 8 inches in stretched mesh.

(b) No permittee shall deploy a drift gill net of less than 14–inch mesh size at the time that the permittee has a shark or swordfish gill net deployed.

HISTORY:

Added Stats 1982 ch 1078 § 3, effective September 15, 1982, operative May 1, 1985. Amended Stats 1985 ch 1558 § 3, effective October 2, 1985.

§ 8575. Restricted areas

Drift gill nets used to take shark and swordfish under the permit provided in this article shall not be used under the following circumstances:

(a) From May 1 through July 31, within six nautical miles westerly, northerly, and easterly of the shoreline of San Miguel Island between a line extending six nautical miles west magnetically from Point Bennett and a line extending six nautical miles east magnetically from Cardwell Point and within six nautical miles westerly, northerly, and easterly of the shoreline of Santa Rosa Island between a line extending six nautical miles west magnetically from Sandy Point and a line extending six nautical miles east magnetically from Skunk Point.

(b) From May 1 through July 31, within 10 nautical miles westerly, southerly, and easterly of the shoreline of San Miguel Island between a line extending 10 nautical miles west magnetically from Point Bennett and a line extending 10 nautical miles east magnetically from Cardwell Point and within 10 nautical miles westerly, southerly, and easterly of the shoreline of Santa Rosa Island between a line extending 10 nautical miles west magnetically from Sandy Point and a line extending 10 nautical miles east magnetically from Skunk Point.

(c) From May 1 through July 31, within a radius of 10 nautical miles of the west end of San Nicolas Island.

(d) From August 15 through September 30, in ocean waters bounded as follows: beginning at Dana Point, Orange County, in a direct line to Church Rock, Catalina Island; thence in a direct line to Point La Jolla, San Diego County; and thence northwesterly along the mainland shore to Dana Point.

(e) From August 15 through September 30, in ocean waters within six nautical miles of the coastline on the northerly and easterly side of San Clemente Island, lying between a line extending six nautical miles west magnetically from the extreme northerly end of San Clemente Island to a line extending six nautical miles east magnetically from Pyramid Head.

(f) From December 15 through January 31, in ocean waters within 25 nautical miles of the mainland coastline.

HISTORY:

Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 1985 ch 1558 § 4, effective October 2, 1985; Stats 1994 ch 439 § 8 (SB 1478).

§ 8575.5. Other restricted areas

Drift gill nets used to take shark and swordfish under the permit provided in this article shall not be used in the following areas:

(a) Within 12 nautical miles from the nearest point on the mainland shore north of a line extending due west from Point Arguello.

(b) East of a line running from Point Reyes to Noonday Rock to the westernmost point of Southeast Farallon Island to Pillar Point.

HISTORY:

Added Stats 1986 ch 671 § 3.5.

§ 8576. Restricted seasons; Permitted takings of swordfish or thresher shark

(a) Drift gill nets shall not be used to take shark or swordfish from February 1 to April 30, inclusive.

(b) Drift gill nets shall not be used to take shark or swordfish in ocean waters within 75 nautical miles from the mainland coastline between the westerly extension of the California-Oregon boundary line and the westerly extension of the United States-Republic of Mexico boundary line from May 1 to August 14, inclusive.

(c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit issued under Section 8561 or 8681, except that drift gill nets with a mesh size smaller than

eight inches in stretched mesh and twine size number 18, or the equivalent of this twine size, or smaller, used pursuant to a permit issued under Section 8681, may be used to take species of sharks other than thresher shark, shortfin mako shark, and white shark during the periods specified in subdivisions (a) and (b). However, during the periods of time specified in subdivisions (a) and (b), not more than two thresher sharks and two shortfin mako sharks may be possessed and sold if taken incidentally in drift gill nets while fishing for barracuda or white seabass and if at least 10 barracuda or five white seabass are possessed and landed at the same time as the incidentally taken thresher or shortfin mako shark. No thresher shark or shortfin mako shark taken pursuant to this subdivision shall be transferred to another vessel before landing the fish. Any vessel possessing thresher or shortfin mako sharks pursuant to this section shall not have any gill or trammel net aboard that is constructed with a mesh size greater than eight inches in stretched mesh and twine size greater than number 18, or the equivalent of a twine size greater than number 18.

(d) Notwithstanding the closure from May 1 to August 14, inclusive, provided by subdivision (b), a permittee may land swordfish or thresher shark taken in ocean waters more than 75 nautical miles from the mainland coastline in that period if, for each landing during that closed period, the permittee signs a written declaration under penalty of perjury that the fish landed were taken more than 75 nautical miles from the mainland coastline. The declaration shall be completed and signed before arrival at any port in this state. Within 72 hours of the time of arrival, the permittee shall deliver the declaration to the department.

(e) If any person is convicted of falsely swearing a declaration under subdivision (d), in addition to any other penalty prescribed by law, the following penalties shall be imposed:

(1) The fish landed shall be forfeited, or, if sold, the proceeds from the sale shall be forfeited, pursuant to Sections 12159, 12160, 12161, and 12162.

(2) All shark or swordfish gill nets possessed by the permittee shall be seized and forfeited pursuant to Section 8630 or 12157.

(f) From August 15 of the year of issue to January 31, inclusive, of the following year, swordfish may be taken under a permit issued pursuant to this article.

HISTORY:

Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 1985 ch 1558 § 5, effective October 2, 1985; Stats 1989 ch 1308 § 5; Stats 1992 ch 389 § 1 (AB 2341), operative until January 1, 1995; Stats 1994 ch 439 § 9 (SB 1478); Stats 1995 ch 371 § 2 (SB 458); Stats 2007 ch 285 § 124 (AB 1729), effective January 1, 2008.

§ 8576.5. Severing of pelvic fin of thresher shark taken with drift gill nets

Thresher shark taken with drift gill nets shall not have the pelvic fin severed from the carcass until after the shark is brought ashore.

HISTORY:

Added Stats 1988 ch 589 § 2.

§ 8577. Fishery closings

Notwithstanding Section 8394, the director may close the drift gill net shark and swordfish fishery, the swordfish harpoon fishery, or any area where either or both fisheries are conducted, if, after a public hearing, the director determines the action is necessary to protect the swordfish or thresher shark and bonito (mako) shark resources.

The director shall reopen a fishery or any fishing areas previously closed pursuant to this section if the director determines that the conditions which necessitated the closure no longer exist.

HISTORY:

Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 1994 ch 439 § 10 (SB 1478).

§ 8579. Application of article

(a) A permittee shall be subject to the provisions of this article whenever the permittee is using a drift gill net, unless the permittee has surrendered his or her permit to the department.

(b) A permittee may surrender his or her permit by notifying the department of his or her intentions by submitting a notarized form provided by the department and by sending or delivering his or her permit to a department office as prescribed on the form.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 2018 ch 844 § 6 (SB 1017), effective January 1, 2019.

§ 8580. Sale of swordfish

It is unlawful for any permittee to sell swordfish taken by him or her to other than the persons described in Section 8032 or 8033.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 1988 ch 246 § 7.

§ 8581. Revocation or suspension of licenses

Any license issued pursuant to Sections 8032 to 8036, inclusive, may be revoked or suspended by the commission, when requested by the department, upon a conviction for a violation of Section 8043 for failure to report, or for inaccurately reporting, shark or swordfish landings by fishermen operating under permits issued pursuant to Section 8394 or 8561.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982. Amended Stats 1988 ch 246 § 8.

§ 8582. Purpose of article; Sale or possession of marlin

(a) The Legislature finds and declares that the intent of this article is not to permit or encourage the taking of marlin for commercial purposes.

(b) It shall be a misdemeanor for any person operating under a permit pursuant to this article to sell or possess for sale or personal use any marlin. In the event a marlin is taken incidentally in a drift gill net, the permittee shall notify the department immediately that the fish is on the boat. No marlin may be removed from the boat except for delivery to the department.

HISTORY:
Added Stats 1982 ch 1078 § 3, effective September 15, 1982.

§ 8583. Program to transition holders of drift gill net permits out of drift gill net fishery

(a) By March 31, 2020, the department shall establish a program to transition the holders of drift gill net permits issued pursuant to Section 8561 out of the drift gill net fishery that includes the following conditions:

(1) A permittee who chooses to participate in the transition program shall indicate ****the permittee's* intention to the department to participate by submitting a notarized form provided by the department on or before January 1, 2020.

(2) A permittee who has landed swordfish or thresher shark with a shark or swordfish gill net or with a ****deep-set* buoy gear ***authorized pursuant to a federal*** exempted fishing permit between April 1, 2012, and March 31, 2018, inclusive, and who voluntarily surrenders ****the permittee's* drift gill net permit issued pursuant to Section 8561 and shark or swordfish gill net or nets shall receive, to the extent that funds for the transition program are available, the following amounts:

(A) Ten thousand dollars ($10,000) to surrender the permit.

(B) One hundred thousand dollars ($100,000) to surrender the net or nets.

(3) A permittee who has not landed swordfish or thresher shark on or after April 1, 2012, and who voluntarily surrenders ****the permittee's* drift gill net permit issued pursuant to Section 8561 and shark or swordfish gill net or nets shall receive, to the extent that funds for the transition program are available, ten thousand dollars ($10,000).

(4) The department shall inform a permittee who submits a notarized form pursuant to paragraph (1) whether the permittee meets the requirements of paragraph (2) or (3) and the department shall submit this information to the fiscal agent.

(5) Any permittee who participates in the transition program by surrendering ****the permittee's* permit pursuant to paragraph (2) or (3) shall be prohibited from obtaining a new California drift gill net shark and swordfish permit, shall agree not to fish under a federal drift gill net permit, shall agree not to transfer or renew a federal drift gill net permit, and shall surrender ****the permittee's* shark or swordfish gill net or nets to an entity approved by the department for the purpose of destroying the nets.

(b)(1) The department shall enter into an agreement with a fiscal agent for the fiscal agent to receive state and nonstate funds made available for purposes of the transition program, to put those funds in an escrow account, and, upon the receipt of adequate funds, to pay the applicable amount described in subdivision (a) to a participating permittee. As part of the agreement, the department shall require the fiscal agent to notify the department within 10 days of the receipt of one million dollars ($1,000,000) from nonstate sources for purposes of transitioning permittees out of the drift gill net fishery. If the department enters into an agreement with a fiscal agent that is a state entity pursuant to this subdivision, notwithstanding Section 13340 of the Government Code, any funds received from nonstate sources are continuously appropriated to that state entity for purposes of the transition program without regard to fiscal years.

(2) The department shall notify the Legislature pursuant to Section 9795 of the Government Code within 10 days of the date that the fiscal agent receives one million dollars ($1,000,000) from nonstate sources for purposes of the transition program and secures one million dollars ($1,000,000) through an agreement with the Ocean Protection Council pursuant to Section 35651 of the Public Resources Code.

(3) For purposes of this section, "fiscal agent" includes any of the following:

(A) The Department of Finance.

(B) The Pacific States Marine Fisheries Commission.

(C) The Controller.

(D) Any appropriate state or federal agency.

HISTORY:

Added Stats 2018 ch 844 § 7 (SB 1017), effective January 1, 2019. Amended Stats 2019 ch 497 § 119 (AB 991), effective January 1, 2020.

§ 8583.5. No property right in fish created by article

This article does not create or recognize a property right in fish expected to be caught using a permit issued pursuant to Section 8561.

HISTORY:

Added Stats 2018 ch 844 § 8 (SB 1017), effective January 1, 2019.

ARTICLE 17. NEARSHORE FISHERIES MANAGEMENT ACT

§ 8585. Citation of article

This article shall be known and may be cited as the Nearshore Fisheries Management Act.

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241).

§ 8585.5. Legislative findings and declarations

The Legislature finds and declares that important commercial and recreational fisheries exist on numerous stocks of rockfish (genus Sebastes), California sheephead (genus Semicossyphus), kelp greenling (genus Hexagrammos), cabezon (genus Scorpaenichthys), and scorpionfish (genus Scorpaena), in the nearshore state waters extending from the shore to one nautical mile offshore the California coast, that there is increasing pressure being placed on these fish from recreational and commercial fisheries, that many of these fish species found in the nearshore waters are slow growing and long lived, and that, if depleted, many of these species may take decades to rebuild. The Legislature further finds and declares that, although extensive research has been conducted on some of these species by state and federal governments, there are many gaps in the information on these species and their habitats and that there is no program currently adequate for the systematic research, conservation, and management of nearshore fish stocks and the sustainable activity of recreational and commercial nearshore fisheries. The Legislature further finds and declares that recreational fishing in California generates funds pursuant to the Federal Aid in Sport Fish Restoration Act (16 U.S.C. Secs. 777 to 777l, inclusive), with revenues used for, among other things, research, conservation, and management of nearshore fish. The Legislature further finds and declares that a program for research and conservation of nearshore fish species and their habitats is needed, and that a management program for the nearshore fisheries is necessary. The Legislature further finds and declares that the commission should be granted additional authority to regulate the commercial and recreational fisheries to assure the sustainable populations of nearshore fish stocks. Lastly, the Legislature finds and declares that, whenever feasible and practicable, it is the policy of the state to assure sustainable commercial and recreational nearshore fisheries, to protect recreational opportunities, and to assure long–term employment in commercial and recreational fisheries.

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241). Amended Stats 1999 ch 483 § 22 (AB 76).

§ 8586. Definitions

The following definitions govern the construction of this article:

(a) "Nearshore fish stocks" means any of the following: rockfish (genus Sebastes) for which size limits are established under this article, California sheephead (Semicossyphus pulcher), greenlings of the genus Hexagrammos, cabezon (Scorpaenichthys marmoratus), scorpionfish (Scorpaena guttata), and may include other species of finfish found primarily in rocky reef or kelp habitat in nearshore waters.

(b) "Nearshore fisheries" means the commercial or recreational take or landing of any species of nearshore finfish stocks.

(c) "Nearshore waters" means the ocean waters of the state extending from the shore to one nautical mile from land, including one nautical mile around offshore rocks and islands.

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241). Amended Stats 1999 ch 483 § 22.3 (AB 76).

§ 8586.1. Funding

Funding to pay the costs of this article shall be made available from the revenues deposited in the Fish and Game Preservation Fund pursuant to Sections 8587, 8589.5, and 8589.7, and other funds appropriated for these purposes.

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241).

§ 8587. Nearshore fishery permit

Any person taking, possessing aboard a boat, or landing any species of nearshore fish stock for commercial purposes shall possess a valid nearshore fishery permit issued to that person that has not been suspended or revoked, except that when using a boat to take nearshore fish stocks at least one person aboard the boat shall have a valid nearshore fishery permit. Nearshore fishing permits are revocable. The fee for a nearshore fishing permit is one hundred and twenty five dollars ($125).

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241). Amended Stats 1999 ch 483 § 22.5 (AB 76).

§ 8587.1. Adoption of regulations

(a) The commission may adopt regulations as it determines necessary, based on the advice and recommendations of the department, to regulate nearshore fish stocks and fisheries. Regulations adopted by the commission pursuant to this section may include, but are not limited to, requiring submittal of landing and permit information, including logbooks; establishing a restricted access program; establishing permit fees; and establishing limitations on the fishery based on time, area, type, and amount of gear, and amount of catch, species, and size of fish.

(b) Regulations adopted by the commission pursuant to this section may make inoperative any fishery management statute relevant to the nearshore fishery. Any regulation adopted by the commission pursuant to this subdivision shall specify the particular statute to be made inoperative.

(c) The circumstances, restrictions, and requirements of Section 219 do not apply to regulations adopted pursuant to this section.

(d) Any regulations adopted pursuant to this section shall be adopted following consultation with fishery participants and other interested persons consistent with Section 7059.

HISTORY:
Added Stats 1999 ch 483 § 23.3 (AB 76). Amended Stats 2002 ch 559 § 10 (AB 892).

§ 8588. Minimum size limits for specified fish taken under commercial fishing license; Regulations to modify limits

(a) Notwithstanding any other provision of this code or any regulation adopted by the commission, no fish listed under this section taken pursuant to a commercial fishing license, shall be possessed, sold, or purchased unless it exceeds the specified minimum total length in the round or dressed with head on, as established under subdivision (b), except that nearshore finfish taken in trawls and landed dead are exempt from these size limits.

(b) The minimum size limits are as follows:

(1) Black and yellow rockfish (Sebastes chrysomelas) .....10 in. or 254 mm
(2) Gopher rockfish (Sebastes carnatus) .....10 in. or 254 mm
(3) Kelp rockfish (Sebastes atrovirens) .....10 in. or 254 mm
(4) California scorpionfish or sculpin (Scorpaena guttata) .....10 in. or 254 mm
(5) Greenlings of the Genus Hexagrammos (Hexagrammos spp.) ..12 in. or 305 mm
(6) China rockfish (Sebastes nebulosus) .....12 in. or 305 mm
(7) Grass rockfish (Sebastes rastrelliger) .....12 in. or 305 mm
(8) California sheephead (Semicossyphus pulcher) .....12 in. or 305 mm
(9) Cabezon (Scorpaenichthys marmoratus) .....14 in. or 356 mm

(c) The commission may adopt regulations to modify the minimum size limits or to specify maximum size limits based on the best available scientific information.

(d) Regulations adopted by the commission pursuant to subdivision (c) shall only be adopted following public notice and not less than one public hearing.

(e) Any nearshore fish as defined in this article or in regulations adopted by the commission pursuant to this section that are taken in a nearshore fishery shall be measured immediately upon being brought aboard the vessel and released immediately if not in compliance with the size limits specified.

(f) This section shall remain in effect until the adoption of regulations implementing a fishery management plan for nearshore fish stocks by the commission, and as of that date, is repealed.

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241), ch 1053 § 1 (SB 1336).

§ 8589. Deposits of money

Funding to prepare the plan pursuant to subdivision (d) of Section 7072 and any planning and scoping meetings shall be derived from moneys deposited in the Fish and Game Preservation Fund pursuant to Section 8587 and other funds appropriated for these purposes.

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241).

§ 8589.5. Suspension of permits

The commission shall temporarily suspend and may permanently revoke the nearshore fishing permit of any person convicted of a violation of this article. In addition to, or in lieu of, a license or permit suspension or revocation, the commission may adopt and apply a schedule of fines for convictions of violations of this article.

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241).

§ 8589.7. Use of collected fees; Accounting

(a) Fees received by the department pursuant to Section 8587 shall be deposited in the Fish and Game Preservation Fund to be used by the department to prepare, develop, and implement the nearshore fisheries management plan and for the following purposes:

(1) For research and management of nearshore fish stocks and nearshore habitat. For the purposes of this section, "research" includes, but is not limited to, investigation, experimentation, monitoring, and analysis and "management" means establishing and maintaining a sustainable utilization.

(2) For supplementary funding of allocations for the enforcement of statutes and regulations applicable to nearshore fish stocks, including, but not limited to, the acquisition of special equipment and the production and dissemination of printed materials, such as pamphlets, booklets, and posters aimed at compliance with nearshore fishing regulations.

(3) For the direction of volunteer groups assisting with nearshore fish stocks and nearshore habitat management, for presentations of related matters at scientific conferences and educational institutions, and for publication of related material.

(b) The department shall maintain internal accounts that ensure that the fees received pursuant to Section 8587 are disbursed for the purposes stated in subdivision (a).

(c) The commission shall require an annual accounting from the department on the deposits into, and expenditures from, the Fish and Game Preservation Fund, as related to the revenues generated pursuant to Section 8587. Notwithstanding Section 7550.5 of the Government Code, a copy of the accounting shall be provided to the Legislature for review by the Joint Committee on Fisheries and Aquaculture, and if that committee is

not in existence at the time, by the appropriate policy committee in each house of the Legislature.

(d) Unencumbered fees collected pursuant to Section 8587 during any previous calendar year shall remain in the fund and expended for the purposes of subdivision (a). All interest and other earnings on the fees received pursuant to Section 8587 shall be deposited in the fund and shall be used for the purposes of subdivision (a).

HISTORY:
Added Stats 1998 ch 1052 § 14 (AB 1241).

ARTICLE 18. PRAWNS AND SHRIMP

§ 8590. "Prawns"; "Shrimp"

For the purposes of this article, "prawns" or "shrimp", or both, include all of the following species:

(a) Spot prawn (Pandalus platyceros).
(b) Ridgeback prawn (Sicyonia ingentis).
(c) Coonstrip prawn (Pandalus danae).
(d) Pacific ocean shrimp (Pandalus jordani).
(e) Bay shrimp (Crangon franciscorum and Crago sp.).
(f) Red rock shrimp (Lysmata californica).

HISTORY:
Added Stats 1984 ch 1271 § 18. Amended Stats 1985 ch 1442 § 6.

§ 8591. Taking for commercial purposes

Prawns or shrimp may be taken for commercial purposes under the regulations of the commission.

HISTORY:
Added Stats 1984 ch 1271 § 18.

§ 8593. Areas for taking

Except as provided in this article, prawns or shrimp may be taken in any waters of the state.

HISTORY:
Added Stats 1984 ch 1271 § 18.

§ 8594. Depth limit for taking in specified locations

From Point Conception south to the Mexican border, prawns or shrimp may be taken with prawn or shrimp traps only in waters 50 fathoms or greater in depth.

HISTORY:
Added Stats 1984 ch 1271 § 18. Amended Stats 1994 ch 935 § 12 (SB 492).

§ 8595. Use of trawl nets and traps; Incidental takings

(a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3, or in either a prawn trap or a shrimp trap, subject to Article 1 (commencing with Section 9000) of Chapter 4.

(b) No other species shall be taken in a prawn trap or a shrimp trap. Any other species taken incidentally with a prawn trap or a shrimp trap shall be immediately released.

HISTORY:
Added Stats 1984 ch 1271 § 18. Amended Stats 1985 ch 1442 § 7.

ARTICLE 19. MARINE AQUARIA PETS

§ 8596. "Marine aquaria pet trade"; "Drop net"

The following definitions govern the construction of this article:

(a) "Marine aquaria pet trade" means any activities connected with collecting, holding, selling, and displaying live aquatic marine life for pet, hobby, curio, or display purposes. "Marine aquaria pet trade" does not include activities connected with collecting, holding, selling, or displaying live aquatic marine life by, or for, scientific institutions exempted from permits pursuant to subdivision (e) of Section 2150.

(b) "Drop net" means a small, circular net with weights attached along the perimeter and with a single float attached at the center. A drop net is not more than 48 inches in its greatest diameter.

HISTORY:
Added Stats 1992 ch 742 § 14 (AB 2261).

§ 8597. Marine aquaria collector's permit; Species that may be collected

(a) It is unlawful for any person to take, possess aboard a boat, or land for marine aquaria pet trade purposes any live organisms identified in subdivision (b), unless that person has a valid marine aquaria collector's permit that has not been suspended or revoked. At least one person aboard the boat shall have a valid marine aquaria collector permit.

(b) Except as provided in Section 8598.2, and unless otherwise prohibited in this code, or regulations made pursuant thereto, specimens of the following groups or species may be taken, possessed aboard a boat, or landed under a marine aquaria collector's permit:

(1) Marine plants:
- (A) Chlorophyta.
- (B) Phaeophyta.
- (C) Rhodophyta.
- (D) Spermatophyta, all species.

(2) Invertebrates:
- (A) Polychaeta—worms; all species.
- (B) Crustacea—shrimp, crabs; all species, except the following:
  - (i) Dungeness crab—Cancer magister.
  - (ii) Yellow crab—Cancer anthonyi.
  - (iii) Red crab—Cancer productus.
  - (iv) Sheep crab— Loxorhynchus grandis.
  - (v) Spot prawn—Pandalus platyceros.
  - (vi) Ridgeback prawn—Sicyonia ingentis.
  - (vii) Golden prawn—Penaeus californiensis.
  - (viii) Sand crab—Emerita analoga.
  - (ix) Redrock shrimp—Lysmata californica.
  - (x) Bay shrimp—Crangon sp. and Palaemon macrodactylus.
  - (xi) Ghost shrimp—Callianassa sp.
- (C) Asteroidea—Sea stars; all species.
- (D) Ophiuroidea—Brittle stars; all species.
- (E) Gastropoda—snails, limpets, sea slugs; all species, except Kellet's whelk—Kelletia kelleti.
- (F) Bivalvia—clams and mussels; all species.
- (G) Polyplacophora—Chitons; all species.
- (H) Cephalopoda—Octopuses and squids; all species, except two spot octopuses—Octopus bimaculatus and Octopus maculoides—and market squid—Loligo opalescens.
- (I) Tunicata—Sea squirts; all species.

(3) Vertebrates:

(A) Osteichthyes—Finfishes all species, except the following:

(i) Rockfish—Sebastes sp. larger than six inches total length.

(ii) Sheephead—Semicossyphus pulcher larger than six inches total length.

(iii) Anchovy—Engraulis mordax.

(iv) Sardine—Sardinops sagax.

(v) Pacific/chub mackerel—Scomber japonicus.

(vi) Jack mackerel—Trachurus symmetricus.

(vii) Queenfish—Seriphus politus.

(viii) White Croaker—Genyonemus lineatus.

(ix) Top smelt—Atherinops affinis.

(x) Grunion—Leuresthes tenuis.

(xi) Shiner surf perch—Cymatogaster aggregata.

(xii) Longjawed mudsucker—Gillichthys mirabilis.

(B) Chondrichthyes—sharks, rays, and skates; all species less than 18 inches total length, except that leopard shark (Triakis semifasciata) shall be 36 inches or larger in total length.

(c) The holder of a permit issued pursuant to this section is not required to obtain or possess a kelp harvester's license issued pursuant to Section 6651, a tidal invertebrate permit issued pursuant to Section 8500, or a general trap permit issued pursuant to Article 1 (commencing with Section 9000) of Chapter 4, when taking, possessing, or landing live organisms for marine aquaria pet trade purposes pursuant to subdivision (b), subject to regulations governing the taking of tidal invertebrates. The commission shall adopt regulations to implement this subdivision, and, for that purpose, may incorporate other regulations by reference.

HISTORY:

Added Stats 1992 ch 742 § 14 (AB 2261). Amended Stats 1996 ch 870 § 41 (AB 3245); Stats 2004 ch 431 § 17 (AB 2760); Stats 2007 ch 285 § 125 (AB 1729), effective January 1, 2008.

§ 8598. Specimens not to be taken or possessed for commercial purposes

(a) Notwithstanding Section 8140 or subdivision (b) of Section 8597, specimens of the following groups or species shall not be taken, possessed aboard a boat, or landed for commercial purposes. Taking, possessing, or landing of any of the following species in a commercial operation is prima facie evidence that it was taken, possessed, or landed for commercial purposes:

(1) Invertebrates:

(A) Phylum Porifera—all sponges.

(B) Genus Pelagia sp.—jellyfish.

(C) Coelenterata—corals, anemones; all species.

(D) Order Gorgonacea—all gorgonians.

(E) Order Pennatulacea—all species, except Renilla kollikeri.

(F) Feather-duster worm—Eudistylia polymorpha.

(G) Fiddler crab—Uca crenulata.

(H) Umbrella crab—Cryptolithodes sitchensis.

(I) Stalked or goose barnacles—Pollicipes sp.

(J) Giant acorn barnacle—Balanus nubilus or B. aguila.

(K) Owl limpet—Lottia gigantea.

(L) Coffee bean shells—Trivia sp.

(M) Three-winged murex—Pteropurpura trialata.

(N) Vidler's simnia—Simnia vidleri.

(O) Queen tegula—Tegula regina.

(P) Opisthobranchia (including nudibranchs)—all subclass Opisthobranchia species except:

(i) Sea hares—Aplysia californica and Aplysia vaccaria.

(ii) Hermissenda crassicornis.
(iii) Lion's mouth—Melibe leonina.
(iv) Aeolidia papillosa.
(v) Spanish shawl—Flabellina iodinea.

(2) Vertebrates:

(A) All shark and ray eggcases.

(B) Brown smoothhound sharks—Mustelus hinlei—that are less than 18 inches in a whole condition or dressed with head and tail removed.

(C) Family Agonidae—all poachers.

(D) Wolf-eel—Anarrhichthys ocellatus.

(E) Juvenile sheephead—Semicossyphus pulcher (under six inches).

(F) Garibaldi—Hypsypops rubicundus.

(3) Live rocks.

(A) Rocks with living organisms attached, commonly called "live rocks," shall not be taken or possessed except as provided in subparagraph (C).

(B) Rocks shall not be broken to take marine aquaria species, and any rock displaced to access any of those species shall be returned to its original position.

(C) Rocks cultured under the authority of an aquaculture registration may be possessed.

(b) No organisms may be taken, possessed, or landed for marine aquaria pet trade purposes under the terms of a marine aquaria collector's permit in any of the following areas:

(1) On the north side of Santa Catalina Island from a line extending three nautical miles 90 degrees true from Church Rock to a line extending three nautical miles 270 degrees true from the extreme west end of the island.

(2) On the south or "back" side of Santa Catalina Island from a line extending three nautical miles 90 degrees true from Church Rock to a line extending three nautical miles 270 degrees true from the extreme west end of the island.

(3) Marine life refuges, marine reserves, ecological reserves, and state reserves.

HISTORY:

Added Stats 1992 ch 874 § 6 (AB 3189), effective September 22, 1992, operative January 1, 1993. Amended Stats 1993 ch 730 § 1 (AB 1788); Stats 1994 ch 146 § 45 (AB 3601); Stats 1995 ch 947 § 11 (AB 666), effective October 16, 1995, ch 948 § 1 (AB 77); Stats 1996 ch 870 § 42 (AB 3245); Stats 1999 ch 483 § 23.7 (AB 76); Stats 2007 ch 285 § 126 (AB 1729), effective January 1, 2008.

§ 8598.2. Prohibited methods of taking organisms

(a) Marine organisms identified in subdivision (a) of Section 8597 shall not be taken except by the following methods:

(1) Hook and line.
(2) Drop net.
(3) Dip Net.
(4) Trap.
(5) Hand.
(6) Slurp gun.
(7) Spatula.

(b) Chemical anesthetics, poisons, or irritants shall not be used or possessed by any person taking or possessing fish, plants, or other marine organisms for the marine aquaria industry. For the purposes of this section, chemicals commonly used aboard vessels for insect and rodent control may be possessed if no means of delivering those chemicals, including, but not limited to, squirt bottles, used to target those marine organisms is possessed.

(c) Appliances shall be used so that rocks or other mineral matter, aquatic plants, fish, or other aquatic life not listed in subdivision (b) of Section 8597 are not removed from the bottom or otherwise disturbed.

HISTORY:
Added Stats 1992 ch 742 § 14 (AB 2261).

§ 8598.3. Fee for permit; Ban on simultaneous collection under scientific collector's permit

(a) The fee for a marine aquaria collector's permit shall be three hundred thirty dollars ($330).

(b) A person engaged in taking, possessing, or landing marine species under a marine aquaria collector's permit shall not take, possess aboard a boat, or land any species under the authority of a scientific collector's permit issued pursuant to Section 1002, 5515, or 10660 on the same fishing trip.

(c) The commission shall adjust the amount of the fees specified in subdivision (a) as necessary, to fully recover, but not exceed, all reasonable administrative and implementation costs of the department and the commission relating to those licenses.

HISTORY:
Added Stats 1992 ch 742 § 14 (AB 2261). Amended Stats 1994 ch 849 § 41 (SB 2113); Stats 1996 ch 870 § 43 (AB 3245); Stats 2012 ch 559 § 24 (AB 2402), effective January 1, 2013.

§ 8598.4. Closure of fishery to protect organisms

Notwithstanding any other provision of this code, the director may close any portion of the fishery established under this article or any area in which this fishery is conducted, if, upon written finding, the director determines the action is necessary to protect any organisms listed in subdivision (a) of Section 8597 or the environment in which those organisms are located. The director shall reopen a fishery or any fishing areas previously closed pursuant to this section if the director determines that the conditions which necessitated the closure no longer exist.

HISTORY:
Added Stats 1992 ch 742 § 14 (AB 2261).

§ 8598.6. Fine for violation of article

Notwithstanding Section 12000, a violation of this article or any regulation adopted thereunder is punishable by a fine of not less than two thousand dollars ($2,000) or more than five thousand dollars ($5,000).

HISTORY:
Added Stats 1992 ch 742 § 14 (AB 2261).

ARTICLE 20. WHITE SHARKS AND BASKING SHARKS

§ 8599. White shark taking

(a) It is unlawful to take any white shark (Carcharodon carcharias) for commercial purposes, except under permits issued pursuant to Section 1002 for scientific or educational purposes or pursuant to subdivision (b) for scientific or live display purposes.

(b) Notwithstanding subdivision (a), white sharks may be taken incidentally by commercial fishing operations using set gill nets, drift gill nets, or roundhaul nets. White shark taken pursuant to this subdivision shall not have the pelvic fin severed from the carcass until after the white shark is brought ashore. White shark taken pursuant to this subdivision, if landed alive, may be sold for scientific or live display purposes.

(c) Any white shark killed or injured by any person in self–defense may not be landed.

HISTORY:
Added Stats 1993 ch 1174 § 3 (AB 522).

§ 8599.3. Department cooperation

The department shall cooperate, to the extent that it determines feasible, with

appropriate scientific institutions to facilitate data collection on white sharks taken incidentally by commercial fishing operations.

HISTORY:
Added Stats 1993 ch 1174 § 3 (AB 522).

§ 8599.4. Regulations on basking sharks

The commission may adopt regulations to manage basking sharks. A basking shark may not be taken commercially unless the commission adopts regulations for that activity and the taking is in accordance with those regulations.

HISTORY:
Added Stats 1999 ch 483 § 25 (AB 76).

CHAPTER 3. NETS

ARTICLE 1. GENERALLY

§ 8601. What constitutes set net or set line

Any net or line used to take fish that is anchored to the bottom on each end and is not free to drift with the tide or current is a set net or set line. Any net so placed that it will catch or impound fish within a bight, bay, or estuary, or against the shore upon the receding of the tide is a set net. Fyke nets, shrimp nets, or crab nets are not set nets.

HISTORY:
Enacted 1957. Amended Stats 1976 ch 474 § 1; Stats 1988 ch 1009 § 8; Stats 1989 ch 655 § 1.

§ 8601.5. Marking of set nets and set lines; Recovery of set nets

(a) Set nets and set lines shall be marked at both ends with buoys displaying above their waterlines, in numerals at least 2 inches high, the fisherman's identification number.

(b) Each piece or panel of a set net shall be marked along the corkline of the net, in a manner determined by the department to adequately identify the net, with the fisherman's identification number. The distance between the markings shall not exceed 45 fathoms. If the lost or abandoned net is recovered by the department or persons designated by the department, the commission may require the owner of the lost or abandoned net to pay for all recovery costs. The commission may revoke the owner's set net permit issued pursuant to Section 8681 for failure to comply with this subdivision.

(c) If a person is unable to recover a set net or portion of a set net, the person shall contact one of the department offices located in the City of Belmont, Monterey, Los Alamitos, or San Diego, not later than 72 hours after returning to port following the loss and shall report all of the following information:

(1) The date and time when the set net was lost.

(2) The location, including depth, where the net was lost.

(3) A description of the lost net, including the mesh size, length, height, and target species, and whether anchors remain attached to the net.

(4) The name and fisherman's identification number of the person owning the net.

(5) The name and fisherman's identification number of the person fishing with the net, if different from paragraph (4).

(6) The name and California Fish and Game number of the vessel from which the lost net was being fished.

HISTORY:
Added Stats 1989 ch 655 § 2. Amended Stats 2001 ch 753 § 21 (AB 1673).

§ 8601.6. Required breaking strength of footrope

(a) The footrope (leadline) of any set net shall have a breaking strength of at least 50 pounds less than the combined breaking strength of the headrope and corkline.

(b) This section shall become operative on August 15, 1990.

HISTORY:
Added Stats 1989 ch 655 § 3, operative August 15, 1990.

§ 8602. Manner of determining length of meshes

The length of the meshes of any net shall be determined by taking at least four meshes and measuring them inside the knots or, in the case of knotless nets, inside the points at which the meshes are joined while they are simultaneously drawn closely together.

HISTORY:
Enacted 1957. Amended Stats 1973 ch 136 § 1.

§ 8603. Restrictions on use of net or other appliance in taking fish

It is unlawful to use or operate or assist in using or operating any net, trap, line, spear, or appliance, other than in connection with angling, in taking fish, except as provided in this chapter or Chapter 4 of this part.

HISTORY:
Enacted 1957.

§ 8604. Illegal disturbance or injury to net or trap; Exception

It is unlawful willfully to disturb or injure any net, trap, or other apparatus to take fish which is being legally used in the waters of this state.

This section does not apply to employees of the department while they are engaged in the performance of their official duties.

HISTORY:
Enacted 1957. Amended Stats 1982 ch 1534 § 5; Stats 1988 ch 220 § 1.

§ 8605. Right of use of net or appliance for recovery of fish from landlocked areas

The department or any person authorized by it may use any net or other appliance in any district for the purpose of recovering fish from overflowed areas or landlocked sloughs or ponds where they have been left isolated by receding streams or floodwaters.

HISTORY:
Enacted 1957.

§ 8606. Encouraging development of new commercial fishing gear and methods of use; Permits [Repealed]

HISTORY:
Added Stats 1970 ch 234 § 2. Amended Stats 1986 ch 910 § 3, effective September 22, 1986; Stats 1991 ch 677 § 2 (SB 615), effective October 7, 1991; Repealed Stats 2018 ch 477 § 7 (AB 1573), effective January 1, 2019.

§ 8606.1. Phasing out of nearshore trawl nets

(a) The Legislature finds and declares that the use of nearshore trawl nets was authorized through the experimental gear permit process and the alternative gear development program as a potential alternative to the use of gill and trammel nets in areas where the use of that gear type has been prohibited.

(b) The Legislature, in considering the needs of user groups, requires the use of nearshore trawl nets to be phased out effective January 1, 1993.

HISTORY:
Added Stats 1991 ch 677 § 2.1 (SB 615), effective October 7, 1991. Amended Stats 1992 ch 1370 § 29 (AB 3193), effective October 27, 1992.

§ 8607. Possession or operation of net, trap, or line subject to federal groundfish regulations

It is unlawful for any person possessing or operating any type of net, trap, or line that is subject to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.) to possess or land any load of fish in violation of those federal groundfish regulations.

HISTORY:
Added Stats 1983 ch 1048 § 7, effective September 26, 1983.

§ 8608. Authority to permit or restrict use of nets within specified distances from pier, jetty, or dock

Notwithstanding Sections 8660, 8665, 8724, and 8780, the commission may, after a public hearing, when it determines that it is in the best interests of the state's marine resources and fisheries, adopt regulations, authorizing the use of nets not less than 75 feet from any private pier, wharf, jetty, breakwater, or dock, and restricting the use of the nets within 750 feet of any public pier. However, nothing in this section authorizes the commission to adopt regulations which would extend beyond the maximum of 750 feet the area in which the use of nets is prohibited, as specified in Sections 8660, 8665, 8724, and 8780, or which would prohibit the use of any nets within 75 feet of any private pier, wharf, jetty, breakwater, or dock if that use of the net is permitted by law.

HISTORY:
Added Stats 1983 ch 431 § 1.

§ 8609. Legislative findings and declarations concerning gill and trammel nets

The Legislature finds and declares that:

(a) The central California nearshore gill and trammel net fisheries for California halibut (Paralichthys californicus) and white croaker (Genyonemus lineatus) and the use of gill nets in these fisheries are expanding at a rapid rate.

(b) The incidental take of certain species of seabirds and marine mammals in set gill and trammel nets could be increasing to a level which may be adversely impacting the viability of the populations of nontarget species.

HISTORY:
Added Stats 1984 ch 203 § 1, effective June 20, 1984. Amended Stats 1985 ch 436 § 1, effective July 30, 1985; Stats 1989 ch 564 § 6.

ARTICLE 1.4. MARINE RESOURCES PROTECTION ACT OF 1990

§ 8610.1. Codification of initiative constitutional amendment

The Marine Resources Protection Act of 1990 (Art. X B, Cal. Const.) was adopted as an initiative constitutional amendment at the November 6, 1990, general election. This article codifies and implements that initiative constitutional amendment.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.2. Definitions and applicable references

(a) "District" for the purposes of this article and of Article X B of the California Constitution means a fish and game district as defined in this code on January 1, 1990.

(b) Except as specifically provided in this article, all references to sections, articles, chapters, parts, and divisions of this code are to those statutes in effect on January 1, 1990.

(c) "Ocean waters" means the waters of the Pacific Ocean regulated by the state.

(d) "Zone" means the Marine Resources Protection Zone established pursuant to this article. The zone consists of the following:

(1) In waters less than 70 fathoms or within one mile, whichever is less, around the Channel Islands consisting of the Islands of San Miguel, Santa Rosa, Santa Cruz, Anacapa, San Nicolaus, Santa Barbara, Santa Catalina, and San Clemente.

(2) The area within three nautical miles offshore of the mainland coast, and the area within three nautical miles off any manmade breakwater, between a line extending due west from Point Arguello and a line extending due west from the Mexican border.

(3) In waters less than 35 fathoms between a line running 180 degrees true from Point Fermin and a line running 270 degrees true from the south jetty of Newport Harbor.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.3. Use of gill nets or trammel nets in zone before specified date

(a) From January 1, 1991, to December 31, 1993, inclusive, gill nets or trammel nets may only be used in the zone pursuant to a nontransferable permit issued by the department pursuant to Section 8610.5.

(b) On and after January 1, 1994, gill nets and trammel nets shall not be used in the zone.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.4. Restriction of use of gill nets or trammel nets as to certain fish and locations

(a) Notwithstanding any other provision of law, gill nets and trammel nets may not be used to take any species of rockfish.

(b) In ocean waters north of Point Arguello on and after November 7, 1990, the use of gill nets and trammel nets shall be regulated by Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680) and Article 6 (commencing with Section 8720) of Chapter 3 of Part 3 of Division 6, or any regulation or order issued pursuant to these articles, in effect on January 1, 1990, except that as to Sections 8680, 8681, 8681.7, and 8682, and subdivisions (a) to (f), inclusive, of Section 8681.5, or any regulation or order issued pursuant to these sections, the provisions in effect on January 1, 1989, shall control where not in conflict with other provisions of this article, and shall be applicable to all ocean waters. Notwithstanding the provisions of this section, the Legislature shall not be precluded from imposing more restrictions on the use or possession of gill nets or trammel nets. The director shall not authorize the use of gill nets or trammel nets in any area where the use is not permitted even if the director makes specified findings.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.5. Issuance of permit for gill net or trammel net

The department shall issue a permit to use a gill net or trammel net in the zone for the period specified in subdivision (a) of Section 8610.3 to any applicant who meets both of the following requirements:

(a) Has a commercial fishing license issued pursuant to Sections 7850 to 7852.3, inclusive.

(b) Has a permit issued pursuant to Section 8681 and is presently the owner or operator of a vessel equipped with a gill net or trammel net.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.6. Fees for permits

The department shall charge the following fees for permits issued pursuant to Section 8610.5 pursuant to the following schedule:

Calendar Year	Fee
1991	$ 250
1992	500
1993	1,000

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.7. [Section repealed 2008.]

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1). Amended Stats 2006 ch 538 § 190 (SB 1852), effective January 1, 2007. Repealed Stats 2007 ch 263 § 21 (AB 310), effective January 1, 2008. The repealed section related to compensation for discontinuation of use of gill net or trammel net.

§ 8610.8. [Section repealed 2008.]

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1), inoperative January 1, 1995. Repealed Stats 2007 ch 263 § 22 (AB 310), effective January 1, 2008. The repealed section related to Marine Resources Protection Account.

§ 8610.9. Use of funds remaining in Marine Resources Protection Account

Any funds remaining in the Marine Resources Protection Account in the Fish and Game Preservation Fund on or after January 1, 1995, shall, with the approval of the commission, be used to provide grants to colleges, universities, and other bona fide scientific research groups to fund marine resource related scientific research within the ecological reserves established by Section 8610.14. An amount, not to exceed 15 percent of the total funds remaining in that account on or after January 1, 1995, may be expended for the administration of this section.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.10. [Section repealed 2013.]

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1). Repealed Stats 2012 ch 728 § 51 (SB 71), effective January 1, 2013. The repealed section related to an annual report on marine resources protection.

§ 8610.11. Violation of article

It is unlawful for any person to take, possess, receive, transport, purchase, sell, barter, or process any fish obtained in violation of this article.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.12. Monitoring program

To increase the state's scientific and biological information on the ocean fisheries of this state, the department shall establish a program whereby it can monitor and

evaluate the daily landings of fish by commercial fishermen who are permitted under this article to take these fish. The cost of implementing this monitoring program shall be borne by the commercial fishing industry.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.13. Penalties for violations of provisions

The penalty for a violation of Section 8610.3 or 8610.4 is as specified in Section 12003.5.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1). Amended Stats 2007 ch 263 § 23 (AB 310), effective January 1, 2008.

§ 8610.14. Establishment of ecological reserves

(a) Prior to January 1, 1994, the commission shall establish four new ecological reserves in ocean waters along the mainland coast. Each ecological reserve shall have a surface area of at least two square miles. The commission shall restrict the use of these ecological reserves to scientific research relating to the management and enhancement of marine resources, including, but not limited to, scientific research as it relates to sport fishing and commercial fishing.

Recreational uses, including, but not limited to, hiking, walking, viewing, swimming, diving, surfing, and transient boating are not in conflict with this section.

(b) Prior to establishing the four ecological reserves, the commission shall conduct a public hearing at each of the recommended sites or at the nearest practicable location.

(c) On and after January 1, 2002, the four ecological reserves established pursuant to subdivision (a) shall be called state marine reserves, unless otherwise reclassified pursuant to Section 2855, and shall become part of the state system of marine managed areas.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1). Amended Stats 1993 ch 1250 § 1 (AB 206), effective October 11, 1993; Stats 2000 ch 385 § 6 (AB 2800).

§ 8610.15. Effect on other closures to protect wildlife

This article does not preempt or supersede any other closures to protect any other wildlife, including sea otters, whales, and shorebirds.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

§ 8610.16. Severability of provisions

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

HISTORY:
Added Stats 1992 ch 94 § 1.5 (AB 1).

ARTICLE 1.5. DEVELOPMENT OF ALTERNATIVE FISHING GEAR

§ 8614. Effect on unpaid balance of loan with State Coastal Conservancy of revocation of or failure to renew experimental permit

(a) If an experimental permit is revoked or not renewed, pursuant to a judgment, a decision of the commission, or a legislative enactment, and the permittee has an

outstanding loan with the State Coastal Conservancy under Section 31125 of the Public Resources Code, as added by Chapter 910 of the Statutes of 1986, for the purchase of alternative fishing gear, the unpaid balance of the loan shall be excused from the date of revocation or nonrenewal of the permit, or from the date of any judgment, decision, or enactment which terminates the permit, if the permittee relinquishes the permit and returns the collateral fishing gear to the department, in which case the department shall take possession of the alternative fishing gear for the State Coastal Conservancy. Any alternative gear received by the department due to a revocation, nonrenewal, or termination of an experimental permit may be resold by the State Coastal Conservancy at fair market value to other experimental permit applicants or holders under this article. If the permittee chooses to keep the alternative gear and repay the loan, the rate of interest shall be reduced to 3 percent for the remaining balance of the loan.

(b) If the Legislature approves the permanent use or type of gear and the commercial fishing permit or the license for the permanent use or type of gear is revoked for a violation of the terms and conditions under which the fishery is conducted, the permittee shall be responsible for any remaining balance on any outstanding loan with the State Coastal Conservancy for the purchase of alternative fishing gear.

HISTORY:

Added Stats 1986 ch 910 § 3.5, effective September 22, 1986. Amended Stats 1991 ch 677 § 2.4 (SB 615), effective October 7, 1991.

§ 8615. Termination of permit at permittee's request; Procedure

(a)(1) Within the first six months of operation pursuant to an experimental permit and after a reasonable and concerted effort to utilize a new type of commercial fishing gear, the permittee may request that the experimental permit be terminated if it is economically infeasible to harvest the target species or if the alternative gear is impractical, inefficient, or ineffective within the fishery or regional area selected. The permittee shall submit copies of all landing receipts, a financial statement setting forth the expenses and any revenue generated by the operation of the alternative fishing gear, and a brief summary from any observers, monitors, and employees regarding the operation of the alternative fishing gear to the department. The department shall review the permittee's submitted material.

(2) If the submitted material supports the claim that the new type of commercial fishing gear utilized by the permittee was either inefficient, impractical, or ineffective, or that it was not economically feasible for the permittee to harvest the target species, the department shall terminate the experimental permit and submit its findings to the State Coastal Conservancy. Upon receiving the department's report, the State Coastal Conservancy may terminate the permittee's loan. If the permittee returns the collateral fishing gear to the department, the State Coastal Conservancy shall reimburse the permittee from the loan fund for the principal amount of the loan repaid by the permittee. The department shall take possession of the fishing gear for the State Coastal Conservancy, which may resell the gear as set forth in subdivision (a) of Section 8614.

(3) If the information does not support the claim made by the permittee, the department may still terminate the experimental permit. The State Coastal Conservancy may terminate the remaining balance on the loan if the permittee returns the collateral fishing gear to the department, but the State Coastal Conservancy shall not reimburse the permittee for previous loan payments.

(b) After six months of operation pursuant to an experimental permit, any request to terminate the permit for the reasons set forth in subdivision (a) shall include, in addition to the information required by paragraph (1) of subdivision (a), an explanation of the changed circumstances or reasons that cause the new type of gear to become inefficient, impractical, or ineffective or economically infeasible to harvest the target species after the initial six-month operating period. The department shall review the request and

make its recommendation to the State Coastal Conservancy following the procedures set forth in subdivision (a). If the department terminates the experimental gear permit, the State Coastal Conservancy may terminate the remaining balance on the loan if the permittee returns the collateral fishing gear to the department, but it shall not reimburse the permittee for any loan payments received. The department shall take possession of the alternative fishing gear for the State Coastal Conservancy, which may resell the gear as set forth in subdivision (a) of Section 8614.

HISTORY:
Added Stats 1986 ch 910 § 3.5, effective September 22, 1986. Amended Stats 2006 ch 538 § 191 (SB 1852), effective January 1, 2007.

ARTICLE 2. NETS FOR PARTICULAR VARIETIES OF FISH

§ 8623. Yellowtail, barracuda, or white sea bass; Nets; Exceptions

(a) It is unlawful to use any purse seine or round haul net to take yellowtail, barracuda, or white sea bass.

(b) It is unlawful to possess any yellowtail, barracuda, or white sea bass, except those taken south of the international boundary between the United States and Mexico, and imported into the state under regulations of the commission as provided in Section 2362, on any boat carrying or using any purse seine or round haul net, including, but not limited to, a bait net as described in Section 8780.

(c) Gill nets with meshes of a minimum length of 3½ inches may be used to take yellowtail and barracuda.

(d) Gill nets with meshes of a minimum length of six inches may be used to take white sea bass; however, during the period from June 16 to March 14, inclusive, not more than 20 percent by number of a load of fish may be white seabass 28 inches or more in total length, up to a maximum of 10 white seabass per load, if taken in gill nets or trammel nets with meshes from 3½ to 6 inches in length.

(e) Notwithstanding the provisions of this section, the department may issue permits to hook and line commercial fishermen to possess a bona fide bait net on their vessels for the purpose of taking bait for their own use only.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 2057 § 2; Stats 1988 ch 589 § 1.

§ 8625. Use of gill nets and trammel nets to take California halibut

(a) Except as otherwise provided in this code, set gill nets and trammel nets with mesh size of not less than 8½ inches may be used to take California halibut.

(b) Except as provided in subdivision (c), not more than 1,500 fathoms (9,000 feet) of gill net or trammel net shall be fished in combination each day for California halibut from any vessel in ocean waters.

(c) Not more than 1,000 fathoms (6,000 feet) of gill net or trammel net shall be fished in combination each day for California halibut from any vessel in ocean waters between a line extending due west magnetic from Point Arguello in Santa Barbara County and a line extending 172° magnetic from Rincon Point in Santa Barbara County to San Pedro Point at the east end of Santa Cruz Island in Santa Barbara County, then extending southwesterly 188° magnetic from San Pedro Point on Santa Cruz Island.

(d) This section shall become operative on August 15, 1989.

HISTORY:
Added Stats 1988 ch 1031 § 2, operative August 15, 1989.

§ 8626. Reduction of minimum mesh size for gill and trammel nets to take California halibut; Assessment of impact of mesh size restriction

(a) Notwithstanding Section 8625, and where consistent with the determination made pursuant to subdivisions (b) and (c), the director may reduce the minimum mesh size

permitted for gill and trammel nets used to take California halibut from 8½ inches to not less than 8 inches in any or all areas south of a line extending 240° magnetic from the boundary line between the Counties of Los Angeles and Ventura.

(b) If, on or before October 1, 1990, the department determines that commercial landings of California halibut taken south of the line extending 240° magnetic from the boundary line between the Counties of Los Angeles and Ventura in the period between September 1, 1989, and August 31, 1990, decline by 10 percent or more compared with landings of California halibut taken in this area during the period between September 1, 1988, and August 31, 1989, the department shall assess the impact of the 8½ inch minimum mesh size restriction on the California halibut fishery in the area described in subdivision (a). The assessment shall include, but is not limited to, an analysis of landing data, including landings of California halibut in Los Angeles, Orange, and San Diego Counties, the age and size composition of the catch, and the department's monitoring at sea of the gill and trammel net fishery.

(c) If the department determines that the 8½ inch minimum mesh size, established pursuant to Section 8625 has directly resulted in a decline of 10 percent or more in landings of California halibut south of the line extending 240° magnetic from the boundary between the Counties of Los Angeles and Ventura, the director shall hold a public hearing in the area affected to make findings and take public testimony prior to taking any action pursuant to subdivision (a).

(d) This section shall become operative on August 15, 1989.

HISTORY:
Added Stats 1988 ch 1031 § 3, operative August 15, 1989.

ARTICLE 3. SEIZURE

§ 8630. Nets unlawfully used as public nuisance; Seizure; Forfeiture; Procedure

Any net or trap used for taking fish in violation of the provisions of this code is a public nuisance. It is the duty of every person authorized to make an arrest for such a violation to seize and keep the net and report the seizure to the department. The department may commence proceedings in the superior court of the county or city and county in which the seizure is made by petitioning the court for a judgment forfeiting the net. Upon the filing of the petition, the clerk of the court shall fix a time for a hearing and cause notices to be posted for 14 days in at least three public places in the place where the court is held, setting forth the substance of the petition and the time and place fixed for its hearing. At that time, the court shall hear and determine the proceeding and, upon proof that the net was used in violation of this code shall order it forfeited. Any net so forfeited shall be sold or destroyed by the department. The proceeds from all those sales shall be paid into the Fish and Game Preservation Fund.

HISTORY:
Enacted 1957. Amended Stats 1985 ch 1442 § 8.

§ 8631. Tagging in lieu in physical seizure of net unlawfully used; Tag requirements; Unauthorized removal of tags as misdemeanor

In lieu of a physical seizure pursuant to this article, any person authorized to make an arrest for a violation of any provision of this code, may attach to any net used for taking fish in violation of this code a tag of metal or other material, which shall be adopted by the department for this purpose and furnished to such person. The tag shall be impressed or printed with language stating that the net to which it is attached is thereby seized by the department as a public nuisance. The act of attaching such tag shall be a seizure within the meaning of this section.

Removal of a tag attached to any net pursuant to this section by any person other than a person authorized by the department, or the use of any such net by any person for fishing purposes, unless authorized by the department or by the superior court, is a misdemeanor.

HISTORY:
Enacted 1957.

§ 8632. Removal by department of seized net from vessel; Notice

Within three days after the department has been notified in writing that a vessel carrying a seized net has arrived in port, the department may remove the net from the vessel, unless the owner has furnished a bond in accordance with Section 8633. The notice shall be sufficient when delivered to the office of the department nearest to the port at which the vessel has arrived.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 127 (AB 1729), effective January 1, 2008.

§ 8633. Application for repossession of net; Bond; Conditions; Return of net

When any net is seized pursuant to this article, the owner or any other person otherwise entitled to possession of the net may apply to the superior court of the county or city and county in which the seizure was made, or the county or city and county of which the claimant is a resident, for leave to file a bond and regain possession of the net during the pendency of the proceedings. The bond shall be in an amount determined by the judge to be the actual value of the net at the time of its release. It shall be filed within three days after the seizure of the net, and shall be conditioned upon the return of the net to the custody of the department in the event the net is ordered forfeited. Upon filing the bond, the person on whose behalf it is given shall be put in possession of the net and may use the net until it is finally ordered delivered up and forfeited, if such be the judgment of the court.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 632 § 2.

§ 8634. Delivery of repossessed net after forfeiture

When any net is seized pursuant to this article and the owner or any other person otherwise entitled to possession of the net has filed a bond and regained possession of the net, the person in possession of the net, when in the judgment of the court the net is ordered forfeited, shall deliver the net to the department by removing the net from the boat and placing in a warehouse or storage designated by the department.

HISTORY:
Enacted 1957.

§ 8635. Seized nets or traps as contraband

(a) Notwithstanding Section 8633, any net or trap seized pursuant to Section 8630 as illegal because of its size, manner of construction, materials used in its construction, or configuration of its parts is presumed to be contraband and shall not be returned pending forfeiture unless it can be and is modified to eliminate the condition of illegality. This subdivision does not apply to any net or trap seized pursuant to Section 8630 for illegal use.

(b) Notwithstanding subdivision (a), any net or trap seized pursuant to Section 8630 that is needed for evidence may be held for evidence.

HISTORY:
Added Stats 1983 ch 1048 § 8, effective September 26, 1983.

ARTICLE 4. NETS GENERALLY IN PARTICULAR DISTRICTS

§ 8660. Districts 19 and 19A; Use near pier or breakwater

Nothing in this chapter authorizing the use of nets in District 19 or 19A shall authorize the use of any net within 750 feet of any pier, wharf, jetty, or breakwater, except that dip nets may be used subject to the provisions of Section 8870.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 617 § 1.

§ 8661. Districts 19A and 20; Right of net carrying–vessels to cross to open water or to enter harbor in emergency

Vessels may carry nets across Districts 19A and 20 to open water outside those districts. Vessels carrying nets may enter harbors in Districts 19A and 20 only in cases of distress or emergency.

HISTORY:
Enacted 1957.

§ 8663. Possession of gill net, trammel net, or fyke net unlawful as specified

No gill net, trammel net, or fyke net may be possessed on any boat in the waters of any district lying upstream from a line drawn between Antioch Point and the westerly tip of Kimball Island and from a line drawn from Point Sacramento across the stream and touching the most easterly point on Montezuma Island.

HISTORY:
Enacted 1957.

§ 8664. Nets found in specified rivers; Evidence of unlawful use; Exceptions

Except in Districts 6 and 7, any net found in, or within 500 feet of the Klamath, Smith, Eel, Mad, Van Dusen, or Mattole Rivers, or their tributaries, is prima facie evidence that the owner or person in possession of the net is or has been using it unlawfully. The provisions of this section do not apply to trawl or drag nets being transported.

HISTORY:
Enacted 1957.

§ 8664.2. [Section repealed 2015.]

HISTORY:
Added Stats 1987 ch 702 § 10, effective September 18, 1987. Repealed Stats 2014 ch 71 § 56 (SB 1304), effective January 1, 2015. The repealed section related to the use of gill and trammel nets offshore of, and the discharge of firearms within, the sea otter translocation zone surrounding San Nicolas Island, and violation of the California Endangered Species Act for the incidental taking of sea otters within the sea otter management zone located south of Point Conception.

§ 8664.5. Use of gill or trammel nets in specified districts; Public hearing following determination of adverse impact from use of nets

(a) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in those portions of District 17 between a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County and a line extending 252° magnetic from Yankee Point, Carmel Highlands, in Monterey County in waters 30 fathoms or less in depth at mean lower low water.

(b) Notwithstanding Sections 8693 and 8724, gill nets and trammel nets shall not be used in that portion of District 18 north of a line extending due west from Point Sal in Santa Barbara County in waters 30 fathoms or less in depth at mean lower low water.

(c) Notwithstanding Sections 8693 and 8724, any person using gill nets or trammel nets in those portions of Districts 17 and 18 from a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County to a line extending due west from Point Sal in Santa Barbara County in waters between 30 fathoms and 40 fathoms in depth at mean lower low water shall comply with all of the following requirements in order to ensure adequate monitoring of fishing effort to protect marine mammals:

(1) Prior to the use, the person shall notify the department that gill nets or trammel nets will be set in the area.

(2) The person shall give adequate notification, as determined by the department, to the department at its office in Monterey or Morro Bay at least 24 hours prior to each fishing trip to ensure full compliance and cooperation with the monitoring program. The department may require that an authorized monitor be on board the vessel. The department shall determine whether on board, at sea, or shoreside monitoring is appropriate. If the authorized monitor is not on board the fishing vessel, the fishing vessel operator and the authorized monitor shall make every effort to remain in radio contact if the radio equipment is made available to the monitor.

(3) To ensure the effectiveness of the monitoring program, gill nets and trammel nets may be set or pulled only between one–half hour after sunrise and one–half hour before sunset.

(4) A permit may be revoked and canceled pursuant to Section 8681 for failure to comply with the department's notification and monitoring requirements.

(d) If the director determines that the use of gill or trammel nets is having an adverse impact on any population of any species of seabird, marine mammal, or fish, the director shall issue an order prohibiting or restricting the use, method of use, size, or materials used in the construction of either or both types of those nets in all or any part of District 10 or 17, or in all or any part of District 18 north of a line extending due west from Point Conception in Santa Barbara County for a specified period. The order shall take effect no later than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place convenient to the affected area within one week of the effective date of the order to describe the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary.

(e) For purposes of this section, "adverse impact" means either of the following:

(1) The danger of irreparable injury to, or mortality in, any population of any species of seabird, marine mammal, or fish which is occurring at a rate that threatens the viability of the population as a direct result of the use of gill nets or trammel nets.

(2) The impairment of the recovery of a species listed as an endangered species or threatened species pursuant to the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.) or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3) or a species of seabird, marine mammal, or fish designated as fully protected under this code, as a direct result of the use of gill nets or trammel nets.

(f) This section does not apply to any gill net with meshes 3½ inches or less in length in any portion of District 18 between Yankee Point in Monterey County and Point Sal in Santa Barbara County.

(g) The Legislature finds and declares that this section, as amended by Chapter 884 of the Statutes of 1990, and as amended by the act that amended this section during the 1992 portion of the 1991–92 Regular Session, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article X B of the California Constitution.

HISTORY:

Added Stats 1982 ch 316 § 1, effective June 28, 1982. Amended Stats 1983 ch 131 § 17, effective June 27, 1983; Stats 1984 ch 203 § 3, effective June 20, 1984; Stats 1985 ch 50 § 1, effective May 24, 1985; Stats 1986 ch 910 § 4, effective September 22, 1986; Stats 1989 ch 318 § 4, ch 564 § 7; Stats 1990 ch 25 § 1 (SB 473), effective March 19, 1990, ch 884 § 1 (SB 2563); Stats 1992 ch 94 § 2 (AB 1).

§ 8664.67. "Impacted fisherman"

"Impacted fisherman" for purposes of Sections 8664.5 and 8664.65, means any person who, from January 1, 1986, to December 31, 1990, inclusive, landed a minimum of 1,000 pounds of fish, other than shark or rockfish, in each of at least three calendar years during that period with set gill and trammel nets and landed the fish at ports within areas subject to gill and trammel net closures pursuant to Section 8664.5. Landings shall be verified by the fisherman's submittal of landing receipts as provided in Section 8043.

HISTORY:
Added Stats 1992 ch 1370 § 31 (AB 3193), effective October 27, 1992.

§ 8664.7. Effective length of prohibition order

The initial period of effectiveness of an order issued pursuant to subdivision (c) of Section 8664.5 shall not exceed 120 days. After a further public hearing, the director may, on the basis of a report prepared by the department on the condition of the local population of any species of seabird, marine mammal, or fish, extend the order for a further specified period or reissue the order for a further specified period.

HISTORY:
Added Stats 1983 ch 131 § 18, effective June 27, 1983. Amended Stats 1985 ch 50 § 3, effective May 24, 1985.

§ 8664.8. Use of set or drift gill or trammel nets in specified waters

(a) Notwithstanding Sections 8685, 8687, 8696, and 8724, and except as provided in subdivisions (c) and (d), set or drift gill or trammel nets shall not be used in ocean waters between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and the westerly extension of the California–Oregon boundary.

(b)(1) Notwithstanding Sections 8664.5, 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used in waters which are 40 fathoms or less in depth at mean lower low water between a line extending 245° magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and a line extending 225° magnetic from Pillar Point at Half Moon Bay in San Mateo County.

(2) Notwithstanding Sections 8664.5, 8687, 8696, and 8724, set or drift gill or trammel nets shall not be used in ocean waters which are 60 fathoms or less in depth at mean lower low water between a line extending 225° magnetic from Pillar Point at Half Moon Bay in San Mateo County to a line extending 220° magnetic from the mouth of Waddell Creek in Santa Cruz County.

(c) Subdivisions (a) and (b) do not apply to the use of drift gill nets operated under a permit issued by the department in that part of Arcata Bay in Humboldt County lying northeast of the Samoa Bridge during the period from April 1 to September 30, inclusive. The department may issue not more than six permits pursuant to this subdivision. Each permit shall specify the amount and type of gear which may be used under the permit.

(d) Subdivisions (a) and (b) do not apply to the use of set gill nets used pursuant to Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6 or regulations adopted under that article or to the use of drift gill nets with a mesh size of 14 inches or more.

(e)(1) Notwithstanding subdivision (b) and Sections 8687, 8696, and 8724, gill or trammel nets shall not be used within three nautical miles of the Farallon Islands in San Francisco County, and within three nautical miles of Noonday Rock buoy located approximately 3½ miles 276° magnetic from North Farallon Island.

(2) If the director determines that the use of set or drift gill or trammel nets is having an adverse impact on any population of any species of sea bird, marine mammal, or fish, the director shall issue an order prohibiting the use of those nets between three nautical miles and five nautical miles of the Farallon Islands and Noonday Rock buoy or any portion of that area. The order shall take effect not later

than 48 hours after its issuance. The director shall hold a properly noticed public hearing in a place convenient to the affected area within one week of the effective date of the order to describe the action taken and shall take testimony as to the effect of the order and determine whether any modification of the order is necessary. Gill and trammel nets used to take fish in District 10 shall be marked at each end with a buoy displaying above its waterline in Arabic numerals at least two inches high, the fisherman's identification number issued by the department under Section 7852. Nets shall be marked at both ends and at least every 250 fathoms between the ends with flags of the same color and at least 144 square inches in size, acceptable to the department.

(f) The Legislature finds and declares that this section, as amended by Chapter 1633 of the Statutes of 1990, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article X B of the California Constitution.

HISTORY:
Added Stats 1984 ch 203 § 5, effective June 20, 1984. Amended Stats 1985 ch 436 § 3, effective July 30, 1985; Stats 1986 ch 817 § 12; Stats 1987 ch 269 § 18, effective July 27, 1987, ch 1298 § 3, effective September 28, 1987; Stats 1988 ch 1511 § 2; Stats 1989 ch 399 § 1; Stats 1990 ch 1633 § 3 (AB 3703); Stats 1992 ch 94 § 3 (AB 1).

§ 8664.13. Construction of set gill and trammel nets with breakaway and anchoring features

During the period from December 15 to May 15, inclusive, set gill nets and trammel nets with mesh eight inches or greater and less than 12 inches used in ocean waters 25 fathoms or less in depth between a line extending due west magnetic from Point Conception and the westerly extension of the boundary line between the Republic of Mexico and the United States shall be constructed with breakaway and anchoring features, as follows:

(a) The corkline and any other line which may extend across the top of the net shall have a combined breaking strength not to exceed 2,400 pounds.

(b) A breakaway device shall be used along the corkline (headrope) and along the leadline (footrope) at regular intervals of 45 fathoms or less.

(c) Each breakaway or disconnect device shall be constructed as described in either of the following:

(1) Of nylon twine, or an equivalent material, with a breaking strength of 200 pounds or less, using not more than eight complete circular (360) wraps of the twine to connect the ends of each corkline and leadline interval, which allows each breakaway or disconnect device a breaking strength of not more than 1,600 pounds.

(2) As the department may otherwise authorize.

(d) Anchors used to secure each end of the net to the ocean bottom shall weigh not less than 35 pounds each, and shall be attached to the net by a ground rope and bridle with combined length of not less than 15 fathoms from the anchor to the net.

HISTORY:
Added Stats 1987 ch 979 § 2, effective September 23, 1987.

§ 8665. District 118.5; Nets unlawful within specified distance from pier or dock; Exceptions

In District 118.5, nets may not be used within 750 feet of any pier or dock, except for bait nets described in Section 8780 used to capture live bait and lobster traps authorized for use pursuant to Section 9010.

HISTORY:
Added Stats 1983 ch 431 § 3. Amended Stats 1984 ch 368 § 1; Stats 1985 ch 106 § 37.

§ 8666. Permit to take with set gill nets or seines mullet or carp in specified waters; Restrictions

The department may issue a revocable permit to take with set gill nets or seines,

mullet or carp in the waters of the Salton Sea and in those portions of the New and Alamo Rivers upstream one mile from their mouths as marked by the department, under commercial license, subject to such restrictions as the commission deems advisable.

HISTORY:
Enacted 1957.

§ 8667. Taking or possession of fish by commercial fishermen; Exceptions

No fish other than mullet or carp, and no mullet less than 14 inches in length may be taken or possessed by a licensed commercial fisherman while fishing in the Salton Sea or the New and Alamo Rivers.

HISTORY:
Enacted 1957.

§ 8668. Fishing within boundaries of state or federal game refuge; Prohibitions

No commercial fishing under Section 8666, 8667, or 8669 shall be carried on within the boundaries of any state or federal game refuge.

HISTORY:
Enacted 1957.

§ 8669. Unlawful possession of gill nets in specified waters; Exception

It is unlawful to possess gill nets, seines, or other devices capable of being used to take mullet or carp for commercial purposes, within 500 yards of the Salton Sea and those portions of the New and Alamo Rivers designated as commercial fishing waters lying in District 22, except during such open season as may be prescribed by the commission.

HISTORY:
Enacted 1957.

§ 8670. Unlawful use or possession of net for taking certain fish for commercial purposes in tidal waters upstream from Carquinez Bridge

It is unlawful for any person to use, operate, or assist in using or operating any net to take salmon, steelhead, striped bass, sturgeon, or shad for commercial purposes in any of the tidal waters lying upstream from the Carquinez Bridge, or to possess on any boat in these waters any net the use of which is illegal in such waters.

HISTORY:
Added Stats 1957 ch 960 § 3, operative September 27, 1957. Amended Stats 1979 ch 877 § 4, effective September 22, 1979.

ARTICLE 5. GILL AND TRAMMEL NETS

§ 8680. Findings and declarations

(a) The Legislature finds and declares that it is in the best interest of the people of the state, the commercial fishing industry, and California's marine resources that fishermen who use gill nets or trammel nets be experienced in the use of those nets.

(b) In accordance with Section 4 of Article X B of the California Constitution, this section contains the provisions in effect on January 1, 1990.

HISTORY:
Added Stats 1980 ch 961 § 1, effective September 19, 1980. Amended Stats 1981 ch 354 § 1; Stats 1989 ch 1242 § 2; Stats 1992 ch 94 § 6 (AB 1).

§ 8681. Required permit

(a) Gill nets or trammel nets shall not be used for commercial purposes except under a revocable, nontransferable permit issued by the department. Each permittee shall keep an accurate record of his or her fishing operations in a logbook furnished by the department. The commission may suspend, revoke, or cancel a permit, license, and commercial fishing privileges pursuant to Section 7857. A permit may be revoked and canceled for a period not to exceed one year from the date of revocation.

(b) In accordance with Section 4 of Article X B of the California Constitution, this section contains the provisions in effect on January 1, 1989.

HISTORY:

Added Stats 1980 ch 961 § 2, effective September 19, 1980. Amended Stats 1981 ch 354 § 2; Stats 1989 ch 1242 § 3; Stats 1992 ch 94 § 7 (AB 1); Stats 2007 ch 285 § 128 (AB 1729), effective January 1, 2008.

§ 8681.5. Ban on new gill or trammel net permits; Exception; Transfer of permits

(a) The department shall issue no new gill net or trammel net permits under Section 8681. However, the department may renew an existing, valid permit issued under Section 8681, under regulations adopted pursuant to Section 8682 and upon payment of the fee prescribed under Section 8683.

(b) Notwithstanding subdivision (a) or Section 8681, any person who has an existing, valid permit issued pursuant to Section 8681, and presents to the department satisfactory evidence that he or she has taken and landed fish for commercial purposes in at least 15 of the preceding 20 years, may transfer that permit to any person otherwise qualified under the regulations adopted pursuant to Section 8682 upon payment of the fee prescribed under Section 8683.

(c) The fee collected by the department for the transfer of a gill and trammel net permit issued pursuant to Section 8682 shall not exceed the cost of the permit fee as prescribed under Section 8683.

(d) For purposes of subdivision (b), the death of the holder of the permit is a disability which authorizes transfer of the permit by that person's estate to a qualified fisherman pursuant to Section 8682. For purposes of a transfer under this subdivision, the estate shall renew the permit, as specified in Section 8681, if the permittee did not renew the permit before his or her death. The application for transfer by that person's estate shall be received by the department, including the name, address, and telephone number of the qualified fisherman to whom the permit will be transferred, within one year of the date of death of the permitholder. If no transfer is initiated within one year of the date of death of the permitholder, the permit shall revert to the department for disposition pursuant to Section 8681.

(e) Any active participant who becomes disabled in such a manner that he or she can no longer earn a livelihood from commercial fishing may transfer his or her permit as provided under this section.

(f) The Legislature finds and declares that this section, as amended by Chapter 94 of the Statutes of 1992, is more restrictive on the use and possession of gill nets and trammel nets than the version of this section in effect on January 1, 1989, and therefore complies with Section 8610.4, and Section 4 of Article X B of the California Constitution.

HISTORY:

Added Stats 1985 ch 1002 § 3. Amended Stats 1989 ch 1242 § 4; Stats 1992 ch 94 § 8 (AB 1); Stats 1999 ch 483 § 26 (AB 76).

§ 8681.7. Appeal from denial of permit renewal

(a) Notwithstanding Section 8681.5, any person who possessed a valid permit issued pursuant to Section 8681 and who was denied renewal of that permit, may appeal to the commission where evidence can be presented that illness or the loss of a vessel resulted in the person not meeting the qualifications for renewal or reissuance of that permit.

(b) The appeal shall be filed with the commission within 60 days of a denial of the renewal of a permit.

(c) If the commission determines that a permit is to be issued to a prior permittee under this section, a permit shall be made available to that person upon payment of required fees.

(d) In accordance with Section 4 of Article X B of the California Constitution, this section contains the provisions in effect on January 1, 1989.

HISTORY:
Added Stats 1987 ch 209 § 1, effective July 23, 1987. Amended Stats 1989 ch 1242 § 5; Stats 1992 ch 94 § 9 (AB 1).

§ 8682. Regulations for issuance of permits; Advisory committee

(a) The commission shall establish regulations for the issuance of gill net and trammel net permits as necessary to establish an orderly gill net and trammel net fishery. In promulgating regulations, the commission shall consider recommendations of the gill net and trammel net advisory committee created pursuant to subdivision (b). The regulations shall include, but are not limited to, a requirement that persons being granted a permit have had previous experience as a crewmember of a vessel using gill nets or trammel nets or have successfully passed a proficiency test administered by the department, under such regulations as the commission shall prescribe.

(b) The director shall establish an advisory committee, consisting of fishermen experienced in the use of gill nets and trammel nets, to advise the department in developing regulations to be proposed to the commission governing the use of gill nets and trammel nets.

(c) In accordance with Section 4 of Article X B of the California Constitution, this section contains the provisions in effect on January 1, 1989.

HISTORY:
Added Stats 1992 ch 94 § 11 (AB 1).

§ 8683. Permit fee

The fee for a permit issued pursuant to Section 8681 is three hundred thirty dollars ($330).

HISTORY:
Added Stats 1990 ch 1703 § 63 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 94 § 13 (AB 1), ch 701 § 41 (SB 1565), effective September 14, 1992, operative April 1, 1993.

§ 8684. Swordfish and marlin catch

No incidental catch of swordfish or marlin is authorized by this article. Any swordfish or marlin caught incidentally by a gill or trammel net permittee operating under a permit issued pursuant to Section 8681 shall be delivered to the department.

A permit issued pursuant to Section 8681 shall be revoked for conviction of a violation of this section.

HISTORY:
Added Stats 1980 ch 886 § 12, effective September 14, 1980. Amended Stats 1983 ch 1300 § 13.

§ 8685. Prohibited possession in Districts 1, 2, and 3

In Districts 1, 2, and 3, gill nets may not be possessed on any boat.

HISTORY:
Enacted 1957.

§ 8685.5. Unlawful uses; Species

Notwithstanding any other provision of law, gill nets may not be used to take salmon, steelhead, or striped bass.

HISTORY:
Added Stats 1980 ch 393 § 1.5, effective July 11, 1980.

§ 8685.6. Sale of fish taken unlawfully

It is unlawful to sell or possess for sale any salmon, steelhead, or striped bass which were taken in California waters by the use of a gill net.

HISTORY:
Added Stats 1980 ch 393 § 2, effective July 11, 1980.

§ 8685.7. Purchase of fish taken by use of gill net

It is unlawful for any person to knowingly purchase any salmon, steelhead, or striped bass which were taken in California waters by the use of a gill net.

For the purpose of this section, "person" includes a broker who purchases salmon, steelhead, or striped bass which were unlawfully taken by gill net for the purpose of reselling those fish.

HISTORY:
Added Stats 1982 ch 1079 § 1.

§ 8686. Prohibited possession in Districts 1½, 2½, and Trinity and Klamath River District

In Districts 1½, 2½, and in the Trinity and Klamath River District, it is unlawful to possess any gill or trammel net with meshes over 1¾ inches in length, except under regulations which may be prescribed by the commission.

HISTORY:
Enacted 1957.

§ 8687. Possession and use in Districts 6, 7, 8, 9, and 10

Except as otherwise provided in this code, drift gill nets may be used in Districts 6, 7, 8, 9, and 10.

HISTORY:
Enacted 1957. Amended Stats 1980 ch 393 § 3, effective July 11, 1980; Stats 1984 ch 203 § 8, effective June 20, 1984.

§ 8688. Use of gill nets in Districts 11, 12, and 13

In Districts 11, 12, and 13, gill nets may be used to take only herring, subject to Article 15 (commencing with Section 8550) of Chapter 2. No gill net may be possessed on any boat in Districts 11, 12, and 13, except by persons possessing a valid permit aboard boats specifically authorized to take herring during the open seasons established by the commission.

HISTORY:
Added Stats 1985 ch 1442 § 10. Amended Stats 1991 ch 485 § 4 (AB 1376), effective October 3, 1991.

§ 8691. Use of set gill nets and trammel nets of specified mesh to take rockfish and lingcod in specified waters

Set gill nets and trammel nets with mesh smaller than 4⅛ inches shall not be used or possessed on any boat taking rockfish or lingcod in ocean waters between a line extending 245° magnetic from the most westerly point of the Point Reyes headlands and a line extending 250° magnetic from the Pigeon Point Lighthouse.

HISTORY:
Added Stats 1988 ch 1511 § 4.

§ 8692. Use of gill nets to take rockfish or lingcod in specified waters

Notwithstanding Section 8693, it is unlawful to use gill nets to take rockfish or lingcod in the following waters:

(a) Between a line running 240° magnetic from Santa Cruz Point and a line running 240° magnetic from Point Sur lighthouse in Monterey County in waters 100 fathoms or less in depth.

(b) Between a line running 240° magnetic from Point Sur lighthouse and a line running 240° magnetic from Pfeiffer Point in Monterey County in waters 75 fathoms or less in depth.

HISTORY:
Added Stats 1986 ch 1248 § 2.

§ 8692.5. Net limits

(a) Not more than 1,250 fathoms (7,500 feet) of gill net or trammel net shall be fished in combination each day from any vessel for lingcod in ocean waters.

(b) The Legislature finds and declares that this section, as amended by this act at the 1991–92 Regular Session of the Legislature, is more restrictive on the use and possession of gill nets and trammel nets than the provisions in effect on January 1, 1990, and therefore complies with Section 8610.4, and Section 4 of Article XB of the California Constitution.

HISTORY:
Added Stats 1990 ch 780 § 1 (SB 1760). Amended Stats 1992 ch 94 § 14 (AB 1).

§ 8693. Use in Districts 17, 18, 19 and 20A

(a) Except as otherwise provided in this code, drift gill nets and set gill nets may be used in Districts 17, 18, 10, and 20A, except for the taking of salmon.

(b) Rockfish and lingcod may be taken with drift gill nets and set gill nets in Districts 17, 18, 19, and 20A, subject to the following restrictions:

(1) Rockfish and lingcod shall not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in water less than 40 fathoms.

(2) Rockfish and lingcod shall not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from Point Santa Cruz, inside 40 fathoms, by means of drift gill nets or set gill nets which have mesh smaller than 5½ inches.

(3) Drift gill nets and set gill nets shall not be used nor shall they be possessed on any boat taking rockfish and lingcod with mesh smaller than 4⅛ inches when used in Districts 17 and 18 north of Point Buchon, or with mesh smaller than 4⅛ inches when used in District 18 south of Point Buchon or in District 19. Drift gill nets and set gill nets used or possessed on any boat taking rockfish and lingcod in District 17, 18, or 19, shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine.

(4) In District 18 south of Point Sal and in District 19, drift gill nets and set gill nets shall not be used to take rockfish and lingcod with the mesh of the net in waters less than 70 fathoms in depth, except that those nets shall not be used in waters less than 100 fathoms in depth at the Sixty Mile Bank.

(5) Loads or lots of fish taken in the areas described in paragraphs 1 to 4, inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish.

(6) Gill nets shall not be used to take rockfish in District 20A.

HISTORY:
Added Stats 1980 ch 886 § 14, effective September 14, 1980. Amended Stats 1982 ch 890 § 12; Stats 1984 ch 203 § 9, effective June 20, 1984; Stats 1987 ch 269 § 23, effective July 27, 1987; Stats 1988 ch 589 § 3.

§ 8694. Prohibited use or possession in District 19A

In District 19A, gill nets may not be used, nor may they be possessed on any boat.

HISTORY:
Enacted 1957.

§ 8696. Use from western point of Point Reyes headlands

Except as otherwise provided, set gill nets may be used south of a line extending 245° magnetic from the western point of the Point Reyes headlands in Marin County except for the taking of salmon.

HISTORY:
Added Stats 1963 ch 2030 § 2. Amended Stats 1967 ch 552 § 1; Stats 1985 ch 436 § 4, effective July 30, 1985, ch 1442 § 14.

§ 8700. Gill net as trammel net

Any line used on a gill net which shall tend to cause the webbing of such gill net to bag or hang slack shall cause such net to lose its identity as a gill net and become a trammel net.

HISTORY:
Enacted 1957.

ARTICLE 6. TRAMMEL NETS

§ 8720. "Trammel net"

"Trammel net" includes entangling nets constructed of more than one wall of webbing.

HISTORY:
Enacted 1957.

§ 8721. Prohibited use or possession in Districts 1, 2, and 3

In Districts 1, 2, and 3, trammel nets may not be possessed on any boat.

HISTORY:
Enacted 1957.

§ 8724. Use in Districts 10, 17, 18 and 19; Exceptions

(a) Except as otherwise provided, in Districts 10, 17, 18, and 19, drift and set trammel nets may be used if the meshes are at least 8½ inches in length, except that these nets may not be used in District 18 within 750 feet of any pier or jetty, nor may they be used for the taking of salmon.

(b) This section shall become operative on August 15, 1989.

HISTORY:
Added Stats 1988 ch 1031 § 5, operative August 15, 1989.

§ 8725. Prohibited use or possession in District 19A

In District 19A, trammel nets may not be used, nor may they be possessed on any boat.

HISTORY:
Enacted 1957.

ARTICLE 7. ROUND HAUL NETS

§ 8750. "Round haul nets"

As used in this article, "round haul nets" are circle seines, and include purse seines and ring or half ring, and lampara nets.

HISTORY:
Enacted 1957.

§ 8751. Prohibited possession in Districts 1, 2 and 3; Exception

In Districts 1, 2, and 3, round haul nets may not be possessed on any boat, except in that part of District 3 lying within the boundaries of the Moss Landing Harbor District, where round haul or any other type of nets may be possessed on any boat, and except in that part of District 2 lying within Marin County.

HISTORY:
Enacted 1957. Amended Stats 1976 ch 882 § 2.

§ 8752. Use in Districts 6, 7, 8, 9, 10 and 11

In Districts 6, 7, 8, 9, 10, and 11, purse and round haul nets may be used.

HISTORY:
Enacted 1957.

§ 8754. Use in Districts 16, 17, 18 and 19; Exception

In Districts 16, 17, 18, and 19, purse and round haul nets may be used, except that purse seines or ring nets may not be used in that portion of District 19 lying within three miles offshore from the line of the high–water mark along the coast of Orange County from sunrise Saturday to sunset Sunday from May 1 to September 10, inclusive.

Purse seine or ring nets may not be used from May 1 to September 10, inclusive, in the following portions of District 19:

(a) Within a two–mile radius of Dana Point.

(b) Within a two–mile radius of San Mateo Point.

(c) Within two miles offshore from the line of the high–water mark along that portion of the coast of Orange County lying between the northernmost bank of the mouth of the Santa Ana River and a point on that coast six miles south therefrom.

HISTORY:
Enacted 1957. Amended Stats 1992 ch 48 § 4 (AB 763), effective May 11, 1992.

§ 8755. Use in Districts 20A and 21; Exceptions

In Districts 20A and 21, purse and round haul nets may be used.

(a) Purse and round haul nets may be used, except: (1) from sunrise Saturday to sunset Sunday, in that portion of District 20 from a line extending three nautical miles east magnetically from the extreme easterly end of Santa Catalina Island southwesterly and northerly to a line extending three nautical miles southwest magnetically from the most southerly promontory of China Point and (2) at any time during the period commencing on June 1st and ending on September 10 in each year, in that portion of District 20 from a line extending three nautical miles east magnetically from the extreme easterly end of Santa Catalina Island southerly to a line extending three nautical miles southeasterly magnetically from the United States government light on the southeasterly end of Santa Catalina Island.

(b) Subdivision (a) shall not be construed as restricting the right to use the waters therein specified for anchorage of vessels at any time.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 2006 § 1; Stats 1965 ch 1927 § 1; Stats 1973 ch 638 § 7.

§ 8756. Prohibited use for taking specified fish

Salmon, steelhead, striped bass, or shad may not be taken with purse or round haul nets.

HISTORY:
Enacted 1957.

§ 8757. Use in Districts 19, 19B, and 20; Possession of dead fish

Notwithstanding Section 8661, and in addition to Sections 8754, 8755, and 8780, round haul nets may be used to take fish in those portions of Districts 19 and 20 that are closed to the use of round haul nets by Sections 8754 and 8755 and in Districts 19A and 19B, but only for use or sale of those fish for live bait and subject to the following restrictions:

(a) In Districts 19A and 19B, round haul nets may not be used within 750 feet of any public pier.

(b) It is unlawful to buy, sell, or possess in any place of business where fish are bought, sold, or processed, any dead fish taken under the authority of this section.

HISTORY:
Added Stats 1992 ch 638 § 1 (AB 2315). Amended Stats 1995 ch 371 § 3 (SB 458).

ARTICLE 8. BAIT NETS

§ 8780. "Bait net"; Authorized uses

(a) As used in this chapter, the term "bait net" means a lampara or round haul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. Notwithstanding Section 8757, except for drum seines and other round haul nets authorized under a permit issued by the department pursuant to this section, the nets may not have rings along the lead line or any method of pursing the bottom of the net.

(b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 19B, 20A, 21, 118, and 118.5.

(c) In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers, sardines, mackerel, squid, and smelt for live bait purposes only. Bait nets may not be used within 750 feet of Seal Beach Pier or Belmont Pier.

(d) No other species of fish may be taken on any boat carrying a bait net in District 19A, except that loads or lots of fish may contain not more than 18 percent, by weight of the fish, of other bait fish species taken incidentally to other fishing operations and that are mixed with other fish in the load or lot.

HISTORY:
Added Stats 1991 ch 667 § 4.5 (SB 615), effective October 7, 1991. Amended Stats 1992 ch 638 § 2 (AB 2315); Stats 1998 ch 464 § 3 (AB 1928).

§ 8780.1. Regulations for bait nets

The commission may, upon the recommendation of the department, adopt regulations governing the use of bait nets.

HISTORY:
Added Stats 1999 ch 483 § 29 (AB 76).

ARTICLE 9. BEACH NETS

§ 8800. "Beach net"

As used in this chapter, a "beach net" is any net hauled from the water to the beach or shore, and includes beach seines and haul seines.

HISTORY:
Enacted 1957.

§ 8801. Prohibited possession in Districts 1, 2 and 3

In Districts 1, 2, and 3, beach nets may not be possessed on any boat.

HISTORY:
Enacted 1957.

§ 8802. Use in Districts 8 and 9

In Districts 8 and 9, beach nets may be used.

HISTORY:
Enacted 1957.

§ 8803. Use in District 10

In District 10, beach nets may be used, the meshes of which are at least 1½ inches in length. In that portion of District 10 lying south of Pt. Lobos, beach nets not over 20 feet in length, the meshes of which are at least seven–eighths of an inch in length, may be used to take surf smelt only.

HISTORY:
Enacted 1957.

§ 8804. Use in District 11

In District 11, beach nets may be used.

HISTORY:
Enacted 1957.

§ 8805. Prohibited possession in Districts 12 and 13

In Districts 12 and 13, beach nets may not be possessed on any boat.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 312 § 3.

§ 8806. Prohibited use in District 18

In District 18, beach nets may not be used.

HISTORY:
Enacted 1957.

§ 8807. Use in District 19 to take smelt

In District 19, beach nets, the meshes of which are at least 1½ inches in length, may be used to take smelt between September 1st and January 31st.

HISTORY:
Enacted 1957.

ARTICLE 10. TRAWL NETS

§ 8830. "Trawl net"

"Trawl net" means a cone or funnel–shaped net which is towed or drawn through the water by a fishing vessel and includes any gear appurtenant to the net. Except as otherwise provided in this article, the use of trawl nets shall conform to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.).

HISTORY:
Added Stats 1983 ch 1048 § 10, effective September 26, 1983.

§ 8831. Minimum length of meshes

It is unlawful for any person to use any trawl net with meshes which are less than 4½ inches in length except as provided in this article or as provided by federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.).

HISTORY:
Enacted 1957. Amended Stats 1969 ch 488 § 1; Stats 1983 ch 1048 § 12, effective September 26, 1983.

§ 8832. Use in marine and brackish waters inside Golden Gate Bridge

Trawl nets and Chinese shrimp nets may be used in marine and brackish waters inside of the Golden Gate Bridge to take shrimp, oriental gobies, longjaw mudsuckers, plainfin midshipmen, and staghorn sculpin only in accordance with regulations which the commission may prescribe.

HISTORY:
Enacted 1957. Amended Stats 1969 ch 488 § 2; Stats 1978 ch 386 § 1; Stats 1993 ch 1117 § 3 (SB 1030).

§ 8833. Districts 4, 19, 19A, 20, 20A and 21

(a) In Districts 4, 19, 19A, 20, 20A, and 21, trawl nets or dragnets may not be possessed.

(b) Notwithstanding the provisions of subdivision (a) of this section, trawl nets and dragnets may be possessed, under such regulations as the commission shall prescribe, in Districts 4, 19, 19A, 19B, and 21.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 1155 § 1.

§ 8834. Maximum weight of crab to be taken or possessed on boat with trawl or drag net

It is unlawful to take or possess more than 500 pounds of crabs on any boat on which any type of trawl or drag net is carried or operated.

HISTORY:
Enacted 1957. Amended Stats 1983 ch 1300 § 14.

§ 8834.1. Possession on board, or landing of salmon from vessel with trawl net

It is unlawful for any person to possess salmon on board, or to land salmon from, a vessel on which exists any type of trawl net, except that salmon taken incidentally with other species with a trawl net may be possessed and landed if authorized to be taken incidentally pursuant to Section 663.10 of Part 663 of Title 50 of the Code of Federal Regulations, pursuant to a permit issued by the department under Section 1022, or pursuant to both.

HISTORY:
Added Stats 1983 ch 1048 § 13, effective September 26, 1983. Amended Stats 2018 ch 477 § 8 (AB 1573), effective January 1, 2019.

§ 8834.5. Taking or possession of Dungeness crab from vessel with trawl or drag net; Transfer to another vessel

South of a line extending due west, true, from Point Reyes, it is unlawful for any person on a vessel on which any type of trawl or drag net is carried or operated to take or possess Dungeness crab, as defined in Section 8275, or to transfer Dungeness crab to another vessel.

HISTORY:
Added Stats 1986 ch 817 § 13.

§ 8835. Use in Districts 6, 7 and 10

In Districts 6, 7, and 10, trawl nets may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore.

HISTORY:
Enacted 1957.

§ 8836. Use in Districts 17, 18 and 118.5

In Districts 17, 18, and 118.5, trawl nets may be used in waters not less than three nautical miles from the nearest point of land on the mainland shore, including those portions of Monterey Bay, Estero Bay, and San Luis Obispo Bay which lie within those districts.

HISTORY:
Enacted 1957.

§ 8837. Use or possession of net including bag or cod–end

It is unlawful to use or possess any trawl net that includes any bag or cod–end or modification thereof, other than a bag or cod–end of a single layer of webbing, except as authorized by Section 8496 or by the commission.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 313 § 1; Stats 1980 ch 1052 § 5; Stats 1996 ch 870 § 45 (AB 3245); Stats 1998 ch 378 § 2 (SB 1475); Stats 1999 ch 483 § 30 (AB 76).

§ 8840. Chafing gear

Chafing gear may be used or possessed but shall not be connected directly to the terminal, or closed, end of the cod–end. Except for chafing gear prescribed under federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.), all chafing gear shall have a minimum mesh size of six inches, unless only the bottom one–half, or underside, of the cod–end is covered by chafing gear, which may be of any size mesh.

HISTORY:
Enacted 1957. Amended Stats 1983 ch 1048 § 16, effective September 26, 1983.

§ 8841. Authority and management of bottom trawl fisheries and others targeting same species; Commercial fishing for prawns and pink shrimp

(a) The commission is hereby granted authority over all state-managed bottom trawl fisheries not managed under a federal fishery management plan pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) or a state fishery management plan pursuant to Part 1.7 (commencing with Section 7050), to ensure that resources are sustainably managed, to protect the health of ecosystems, and to provide for an orderly transition to sustainable gear types in situations where bottom trawling may not be compatible with these goals.

(b) The commission is hereby granted authority to manage all of the following fisheries in a manner that is consistent with this section and Part 1.7 (commencing with Section 7050):

(1) California halibut.
(2) Sea cucumber.
(3) Ridge-back, spot, and golden prawn.
(4) Pink shrimp.

(c) The commission is also granted authority over other types of gear targeting the same species as the bottom trawl fisheries referenced in subdivision (a) to manage in a manner that is consistent with the requirements of Part 1.7 (commencing with Section 7050).

(d) Every commercial bottom trawl vessel issued a state permit is subject to the requirements and policies of the federal groundfish observer program (50 C.F.R. 660.360).

(e) The commission may only authorize additional fishing areas for bottom trawls after it determines, based on the best available scientific information, that bottom trawling in those areas is sustainable, does not harm bottom habitat, and does not unreasonably conflict with other users.

(f) It is unlawful to use roller gear more than eight inches in diameter.

(g) Commencing April 1, 2006, it is unlawful to fish commercially for prawns or pink shrimp, unless an approved bycatch reduction device is used with each net. On or before April 1, 2006, the commission shall approve one or more bycatch reduction devices for use in the bottom trawl fishery. For purposes of this subdivision, a rigid grate fish excluder device is the approved type of bycatch reduction device unless the commission, the Pacific Marine Fishery Management Council, or the National Marine Fisheries Service determines that a different type of fish excluder device has an equal or greater effectiveness at reducing bycatch. If the commission does not approve a bycatch reduction device prior to April 1, 2006, then a device that is approved by the Pacific Marine Fishery Management Council or the National Marine Fisheries Service shall be deemed approved by the commission.

(h) Except as provided in Section 8495 or 8842, it is unlawful to engage in bottom trawling in ocean waters of the state.

(i) This section does not apply to the use of trawl nets pursuant to a scientific research permit.

(j) The commission shall facilitate the conversion of bottom trawlers to gear that is more sustainable if the commission determines that conversion will not contribute to overcapacity or overfishing. The commission may participate in, and encourage programs that support, conversion to low-impact gear or capacity reduction by trawl fleets. The department may not issue new permits to bottom trawlers to replace those retired through a conversion program.

(k) As soon as practicable, but not later than May 1, 2005, the commission and the department shall submit to the Pacific Fishery Management Council and the National Marine Fisheries Service a request for federal management measures for the pink shrimp fishery that the commission and the department determine are needed to reduce bycatch or protect habitat, to account for uncertainty, or to otherwise ensure consistency with federal groundfish management.

(*l*) No vessel may utilize bottom trawling gear without a state or federal permit.

HISTORY:

Added Stats 2004 ch 721 § 1 (SB 1459). Amended Stats 2005 ch 334 § 3 (AB 1431); Stats 2006 ch 538 § 192 (SB 1852), effective January 1, 2007.

§ 8842. Prescribed net design; Authorized waters; Incidentally taken fish; Potential addition of other authorized waters

(a) Trawl nets of a design prescribed by the commission may be used or possessed to take shrimps or prawns under a permit issued by the department under regulations adopted by the commission.

Sections 8831, 8833, 8835, and 8836 do not apply to trawl nets used or possessed under a permit issued pursuant to this section.

(b) Trawling for shrimps or prawns shall be authorized only in those waters of Districts 6, 7, 10, 17, 18, and 19 that lie not less than three nautical miles from the nearest point of land on the mainland shore, and all offshore islands and the boundary

line of District 19A, except that in waters lying between a line extending due west from False Cape and a line extending due west from Point Reyes, trawling is allowed not less than two nautical miles from the nearest point of land on the mainland shore until January 1, 2008.

(c) When fishing for pink shrimp (Pandalus jordani) under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,500 pounds of incidentally taken fish per calendar day of a fishing trip, except Pacific whiting, shortbelly rockfish, and arrowtooth flounder, which may be taken in any amount not in excess of federal regulations. No Pacific halibut and not more than 150 pounds of California halibut shall be possessed or landed when fishing under a permit issued pursuant to this section. When fishing for ridgeback prawn and spotted prawn under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,000 pounds of incidentally taken fish per trip.

(d) Commencing January 1, 2008, the commission shall permit the taking of pink shrimp not less than two nautical miles from shore in waters that lie between a line extending due west from False Cape and a line extending due west from Point Reyes from the nearest point of land on the mainland shore, if the commission finds that, upon review of information from the federal groundfish observer program and other available research and monitoring information that it determines relevant, the use of trawl gear minimizes bycatch, will not damage seafloor habitat, will not adversely affect ecosystem health, and will not impede reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.

HISTORY:
Added Stats 1993 ch 1104 § 2 (AB 1567), operative January 1, 1997. Amended Stats 1994 ch 935 § 14 (SB 492), operative April 1, 1997; Stats 1996 ch 764 § 4 (AB 474), operative April 1, 1999, ch 870 § 47 (AB 3245), operative April 1, 1999; Stats 1998 ch 1052 § 16 (AB 1241), operative April 1, 2001; Stats 2004 ch 721 § 5 (SB 1459).

§ 8843. Prohibited use of trawl net with cod–end of minimum length

It is unlawful to use any trawl net with cod–end mesh less than 7½ inches in length and with a cod end less than 29 meshes long and a circumference of not less than 47 meshes in waters lying between one and three nautical miles from the mainland shore between a line running due west (270° true) from Point Arguello and a line running due south (180° true) from Point Mugu.

HISTORY:
Added Stats 1971 ch 1341 § 2. Amended Stats 1972 ch 985 § 3; Stats 1974 ch 935 § 2; Stats 1992 ch 1370 § 36 (AB 3193), effective October 27, 1992.

ARTICLE 11. DIP NETS

§ 8870. Authorized use; Restrictions

Dip nets may be used subject to the following restrictions:

(a) In Districts 1, 1½, 2, 3, and 4, dip nets may not be baited, and may not measure more than six feet in greatest breadth.

(b) In District 19, hand–held dip nets 30 feet or less in greatest breadth may be used. In that district dip nets may not be used within 750 feet of any pier, wharf, jetty, or breakwater, except to take anchovies, squids, and sardines for bait, and to take smelt.

(c) In District 20, hand–held dip nets 30 feet or less in greatest breadth may be used.

HISTORY:
Enacted 1957. Amended Stats 1986 ch 763 § 7, effective September 15, 1986.

ARTICLE 12. OTHER NETS

§ 8890. Baited hoop nets

Baited hoop nets not to exceed three feet in diameter may be used at any time in that portion of District 18 lying south of a line running east and west through Point Arguello and in District 19, to take rock crabs, red crabs, and yellow crabs only.

HISTORY:
Enacted 1957.

CHAPTER 4. OTHER MEANS OF TAKING

ARTICLE 1. TRAPS

§ 9000. Use of traps for commercial purposes; Freshwater baitfish traps

(a) Except as expressly authorized in this article, no person shall use a trap to take any finfish, mollusk, or crustacean in the waters of this state for commercial purposes.

(b) Traps may be used to take finfish in ocean waters only as authorized by this article.

(c) Freshwater baitfish traps that are used as provided in Section 8463 are not subject to this article.

HISTORY:
Added Stats 1984 ch 1271 § 20. Amended Stats 1998 ch 525 § 13 (SB 2028); Stats 2004 ch 431 § 18 (AB 2760).

§ 9000.5. Definitions

For the purposes of this article, the following terms have the following meanings:

(a) "Bucket trap" means a plastic bucket of five gallons or less in capacity.

(b) "Deeper nearshore species" means those finfish identified as deeper nearshore species in regulations adopted by the commission pursuant to Section 8587.1.

(c) "General trap permit" means a valid permit to take fish for commercial purposes issued pursuant to Section 9001 that has not been suspended or revoked.

(d) "Korean trap" means a molded plastic cylinder that does not exceed 6 inches in diameter and does not exceed 24 inches in length.

(e) "Nearshore species" means those finfish identified as such in regulations adopted by the commission pursuant to Section 8587.1.

(f) "Popup" means a mechanism capable of releasing a submerged buoy at a predetermined time.

HISTORY:
Added Stats 2004 ch 431 § 19 (AB 2760).

§ 9001. General trap permits

(a) Finfish, mollusks, or crustaceans shall not be taken by a person with traps for commercial purposes in ocean waters except under a valid general trap permit issued to that person that has not been suspended or revoked.

(b) Any person who operates or assists in operating any trap to take finfish, mollusks, or crustaceans, other than lobster or Dungeness crabs, as defined in Section 8275, or who possesses or transports finfish, mollusks, or crustaceans on any boat, barge, or vessel when any trap is aboard, shall have a general trap permit issued to that person that has not been revoked or suspended while engaged in the activity.

(c) The fee for the general trap permit shall be thirty–five dollars ($35).

(d) This section does not apply to the taking of lobster under Section 9010 or to the taking of Dungeness crab under Section 9011.

HISTORY:
Added Stats 1990 ch 1703 § 65 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 42 (SB 1565), effective September 14, 1992, operative April 1, 1993; Stats 1996 ch 870 § 48 (AB 3245).

§ 9001.6. When hagfish may be taken under general trap permit

Hagfish may be taken under a general trap permit, if all of the following criteria are met:

(a) Korean traps and bucket traps may be used to take only hagfish under this article.

(b) No more than a total of 500 Korean traps or a total of 200 bucket traps may be possessed aboard a vessel or in the water or combination thereof.

(c) No permittee may possess both Korean traps or bucket traps and other types of traps aboard a vessel at the same time. When Korean traps or bucket traps are being used or possessed aboard a vessel, no species of finfish other than hagfish shall be taken, possessed aboard, or sold for commercial purposes.

(d) Popups shall not be used on buoy lines attached to Korean traps or bucket traps, and shall not be possessed by a commercial fisherman aboard a vessel when taking hagfish.

HISTORY:
Added Stats 2004 ch 431 § 22 (AB 2760).

§ 9001.7. Taking of finfish under general trap permit; Lobster on vessel

Finfish, other than sablefish and hagfish, may be taken under a general trap permit if all of the following criteria are also met:

(a) Every person aboard the vessel possesses a valid general trap permit that has not been suspended or revoked.

(b) If nearshore species are present, at least one person aboard the vessel possesses a valid nearshore fishery permit and a nearshore fishery trap endorsement that has not been suspended or revoked.

(c) If deeper nearshore species are present, at least one person aboard the vessel possesses a valid deeper nearshore species fishery permit that has not been suspended or revoked.

(d) During the period from one hour after sunset to one hour before sunrise, finfish traps that are left in the water shall be unbaited with the door secured open. If, for reasons beyond the control of the permittee, all trap doors cannot be secured open prior to one hour after sunset, the permittee shall immediately notify the department.

(e) Popups shall not be used on buoy lines attached to finfish traps, and shall not be possessed aboard a vessel when taking finfish under a general trap permit.

(f) Trap destruction devices used on finfish traps shall conform to the current regulatory requirements for those devices pursuant to Section 9003 and as adopted by the commission.

(g) No finfish traps shall be set within 750 feet of any pier, breakwall, or jetty in District 6, 7, 17, 18, 19, 19A, 19B, 20, 20A, 20B, or 21.

(h) No more than 50 finfish traps may be used in state waters along the mainland shore.

(i) The mesh of any finfish trap used pursuant to this section shall measure not less than two inches by two inches.

(j) The following fish shall not be used as bait in finfish traps:

(1) Lobster.

(2) Crabs of the genus cancer, except rock crab, yellow crab, and red crab, as identified in Section 8282, which may be used as bait under the authority of a rock crab trap permit issued pursuant to Section 8282.

(3) Any other finfish or invertebrate to which a minimum size limit applies that is used or possessed in a condition so that its size can not be determined.

(k) Lobster may be possessed aboard or landed from any vessel on which finfish are also present, if every person aboard the vessel has a valid lobster permit that has not been suspended or revoked and complies with Article 5 of Chapter 2 of the Fish and Game Code, this article, and the regulations adopted pursuant thereto.

HISTORY:
Added Stats 1998 ch 1052 § 17 (AB 1241). Amended Stats 2004 ch 431 § 23 (AB 2760).

§ 9001.8. Taking of sablefish under general trap permit; Criteria

Sablefish may be taken under a general trap permit in ocean waters between a line extending due west true from Point Arguello in Santa Barbara County and the United States–Mexico international boundary line, if all of the following criteria are also met:

(a) The trap shall be six feet or less in its greatest dimension.

(b) The mesh of any trap used for sablefish pursuant to this section shall measure not less than two inches by two inches.

(c) The traps may be used only in waters 200 fathoms or deeper.

(d) No permittee may possess aboard a vessel at the same time, sablefish traps and any other commercial fishing gear, except that spot prawn traps may be possessed during spot prawn trap open fishing periods as established by the commission and if the permittee has a valid spot prawn trap vessel permit that has not been suspended or revoked.

HISTORY:
Added Stats 2001 ch 753 § 24 (AB 1673). Amended Stats 2004 ch 431 § 24 (AB 2760).

§ 9002. Unlawful actions upon trap of another; Movement of trap marked by numbered buoy

(a) Except as provided in subdivisions (b), (c), and (d), it is unlawful to willfully or recklessly disturb, move, or damage any trap that belongs to another person and that is marked with a buoy identification number pursuant to Section 9006.

(b) A person, who has been issued a general trap permit under Section 9001 and has it in his or her possession, may pull or raise a trap marked with a buoy, if the buoy is marked with a buoy identification number pursuant to subdivision (b) of Section 9006. A person pulling or raising a trap marked with a buoy identification number, other than his or her own buoy identification number, shall have written permission in his or her possession from the other person who holds the buoy identification number that is marked on the buoy.

(c) Subdivision (a) does not apply to employees of the department while engaged in the performance of official duties.

(d)(1) Subdivision (a) does not apply to publicly employed safety personnel, including, but not limited to, lifeguards, marine safety officers, harbor patrol officers, and peace officers, who, while engaged in the performance of their official duties, may remove a trap, buoy, or line located in or near breaking surf or adjacent to a public beach if they believe that the trap poses a public safety hazard. If any of those persons remove a trap, a buoy, or a trap or buoy line, any captured marine life shall be immediately returned to the ocean.

(2) Any person described in this subdivision who removes a trap and any attachments thereto identified by a buoy identification number shall make an attempt to contact the person whose permit or license number is marked on the buoy by personal contact, by telephone, by recorded message left on a telephone answering machine, by regular United States Postal Service, or by other means, advising where the property is located. Those persons shall have no responsibility to secure the trap or attachments against loss or damage.

(3) Employees of the department may disclose the name, address, and buoy identification numbers of currently permitted or licensed persons to representatives of

public safety agencies described in this subdivision to assist in the return of traps and attachments to their proper owners or operators.

(4) If the person whose permit or license number is marked on the buoy has been notified pursuant to this subdivision but has not retrieved the trap within seven days of notification, or if that person cannot be identified within seven days after the trap has been removed, the trap may be discarded.

(5) This subdivision does not create any duty on any state or local agency to remove or move a trap, line, or buoy that may endanger the public safety and does not create any liability pursuant to Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

HISTORY:
Added Stats 1984 ch 1271 § 20. Amended Stats 1984 ch 1271 § 22; Stats 1989 ch 284 § 1; Stats 1994 ch 1047 § 1 (AB 3057).

§ 9002.5. Development of regulations for retrieval of lost or abandoned commercial crab traps [Inoperative April 1, 2029; Repealed effective January 1, 2030]

(a) Notwithstanding Section 9002, the department, in consultation with the Dungeness crab task force, shall establish a retrieval program to provide for the retrieval of lost or abandoned commercial Dungeness crab traps by June 30, 2019.

(b) The retrieval program developed pursuant to subdivision (a) shall be consistent with all of the following***:***

(1)***(A)*** The department shall establish a retrieval permit that grants a person who obtains a retrieval permit the authority to retrieve Dungeness crab traps located in ocean waters belonging to another person without written permission from that person during both of the following periods of time:

(i) The closed season of the Dungeness crab commercial fishery, as described in Section 8276.

(ii) A period of time other than the time period described in clause (i) in which the director restricts the take of Dungeness crab pursuant to Section 8276.1 or regulations adopted pursuant to that section, if the director authorizes retrieval permitholders to retrieve traps during that time period.

(B) The department may establish any qualifications it deems necessary for a person to obtain a retrieval permit.

(C) The department shall require a permit fee in an amount necessary to fully recover, but not exceed, all reasonable administrative and implementation costs to the department of the retrieval program.

(2) Notwithstanding Chapter 4 (commencing with Section 2080) of Title 6 of Part 4 of Division 3 of the Civil Code or any other law, any Dungeness crab trap retrieved under the authority of a retrieval permit shall become the property of the retrieval permitholder.

(3) The department shall require a retrieval permitholder to notify the former trap owner of the retrieval of a Dungeness crab trap and ****to** offer to sell the trap to the former owner for a reasonable recovery fee, as determined by the retrieval permitholder, based on the cost of trap retrieval and storage of the trap. The department shall impose per-trap fees on any former trap owner who refuses to pay the recovery fee to the retrieval permitholder. The department shall set the rate of these per-trap fees at a level sufficient to recover any costs to the department from handling noncompliance with the gear retrieval program and to reimburse the retrieval permitholder for the reasonable cost of trap retrieval, storage, and disposal of crab traps belonging to a former owner who refuses to pay the recovery fees for those traps and, upon appropriation by the Legislature, shall use the proceeds of the per-trap fees

for these purposes. The department shall annually adjust the per-trap fees pursuant to Section 713.

(4) Notwithstanding Section 8022, the department may release contact information to a retrieval permitholder for purposes of the retrieval program under terms and conditions as the department deems necessary to preserve the confidentiality of the information released. Any release of information pursuant to this section ****does* not constitute a waiver of any applicable exemptions from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(5) The department may deny an application for renewal or transfer of a Dungeness crab vessel permit until the applicant pays any fees imposed pursuant to paragraph (3).

(6) The department shall submit the proposed retrieval program developed pursuant to this section to the Dungeness crab task force for review, and shall not implement the retrieval program until the task force has had 60 days or more to review the proposed retrieval program and recommend any proposed changes. The director may implement the retrieval program earlier than 60 days after it is submitted to the Dungeness crab task force for review, if recommended by the task force.

(c) This section shall become inoperative on April 1, 2029, and, as of January 1, 2030, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2030, deletes or extends the dates on which it becomes inoperative and is repealed.

HISTORY:
Added Stats 2012 ch 546 § 5 (AB 2363), effective September 25, 2012, inoperative April 1, 2019, repealed January 1, 2020. Amended Stats 2016 ch 542 § 6 (SB 1287), effective January 1, 2017, repealed January 1, 2020; Stats 2018 ch 985 § 10 (SB 1309), effective January 1, 2019, inoperative April 1, 2029, repealed January 1, 2030; Stats 2019 ch 472 § 30 (SB 262), effective January 1, 2020, inoperative April 1, 2029, repealed January 1, 2030; Stats 2019 ch 497 § 120 (AB 991), effective January 1, 2020, inoperative April 1, 2029, repealed January 1, 2030 (ch 472 prevails).

§ 9003. Destruct devices

Every trap shall have at least one destruction device which meets specifications approved by the department. In order to minimize the adverse effects on living marine resources, the specifications for destruction devices shall provide for a device that destructs rapidly enough to facilitate escape of a substantial proportion of all species confined in the trap from any trap that cannot be raised.

HISTORY:
Added Stats 1984 ch 1271 § 20. Amended Stats 1984 ch 1271 § 23.

§ 9004. Maximum intervals for servicing traps; Abandoned traps

Every trap shall be raised, cleaned, serviced, and emptied at intervals, not to exceed 96 hours, weather conditions at sea permitting, and no trap shall be abandoned in the waters of this state.

HISTORY:
Added Stats 1984 ch 1271 § 20.

§ 9005. Trap buoys

Every trap or string of traps shall be marked with a buoy. The department shall implement regulations by January 1, 2020, requiring standardized gear marking for those fisheries in which the department determines it is appropriate. As part of the regulations, the department shall establish a fee for each fishery requiring standardized gear marking pursuant to this section and shall set and adjust each fee in an amount to fully recover, but not exceed, all reasonable administrative and implementation costs of the department relating to the standardized gear marking requirement.

HISTORY:
Added Stats 1984 ch 1271 § 20. Amended Stats 2018 ch 985 § 11 (SB 1309), effective January 1, 2019.

§ 9006. Marking of traps used to take finfish or crustaceans with buoy; Identification numbers

Every trap used to take finfish or crustaceans shall be marked with a buoy. Each buoy shall be marked to identify the operator as follows:

(a) For a trap used to take lobster the commercial fishing license identification number followed by the letter "P."

(b) For a trap used to take Dungeness crab or hagfish, the commercial fishing license identification number only.

(c) For a trap used to take finfish other than sablefish or hagfish, the commercial fishing license identification number followed by the letter "Z."

(d) For a trap used to take sablefish, the commercial fishing license identification number followed by the letter "B."

HISTORY:
Added Stats 1985 ch 1442 § 16, operative April 1, 1987. Amended Stats 1995 ch 619 § 15 (AB 76); Stats 1996 ch 870 § 51 (AB 3245); Stats 2004 ch 431 § 25 (AB 2760).

§ 9007. Removal of trap without buoy or with unmarked buoy

Any trap used without a buoy, or with a buoy which is not marked pursuant to Section 9006, is a public nuisance and shall be removed from the waters of this state by any person authorized to enforce this code.

HISTORY:
Added Stats 1984 ch 1271 § 20.

§ 9008. Trap in violation of code or regulations as public nuisance; Seizure

Any trap used in violation of this code, or any regulations adopted pursuant thereto, is a public nuisance and, except as provided in Section 9007, shall be seized pursuant to Article 3 (commencing with Section 8630) of Chapter 3.

HISTORY:
Added Stats 1984 ch 1271 § 20.

§ 9010. Lobster traps

(a) Subject to Article 5 (commencing with Section 8250) of Chapter 2, spiny lobster may be taken with lobster traps under a lobster permit issued pursuant to Section 8254.

(b) Notwithstanding Sections 8660 and 8665, lobster traps may be used in any area of the state not otherwise closed to the taking of lobsters up to, but not closer than, 75 feet of any private pier, wharf, jetty, breakwater, or dock.

(c) A wire lobster trap shall be built of rectangular wire mesh with inside mesh measurement not less than 1½ inches by 3½ inches, the 3½-inch measurement to be parallel to the floor of the trap. A wire lobster trap shall be fitted with at least one rigid rectangular escape gap with an inside vertical measurement not less than 2⅜ inches at all points and an inside horizontal measurement of not less than 11½ inches at all points. The horizontal sides of the escape gap shall be located parallel to, and the escape gap within 2⅜ inches of the floor on any outside wall of, the rearmost chamber of the lobster trap and shall be clearly accessible to the lobsters.

(d) Notwithstanding subdivision (c), wire may be used to hold the escape gap in place that reduces the inside vertical or horizontal measurement of the escape gap specified in subdivision (c), but only if all of the following requirements are met:

(1) The overall diameter of the wire, including any coating on the wire, shall measure less than 0.176 inches in diameter (the diameter of 7 SWG gauge wire using the Standard Wire Gauge (SWG) standard of measurement).

(2) A maximum of one wire wrap shall be located on each vertical side of the escape gap.

(3) A maximum of two wire wraps shall be located on the bottom horizontal side of the escape gap.

(4) Wire shall not be used on the top horizontal side of the escape gap.

(5) Each wire shall be tightly wrapped against the inside surface of the escape gap and shall not pass over the inside surface more than once. As used in this paragraph, "tightly wrapped" means no space exists at any point between the wire and the inside surface of the escape gap.

(e) A lobster trap constructed of lath or other material shall have an opening to allow a means of escape along the full length of one side of the rearmost chamber. The escape opening shall be of a spacing of not less than 2⅜ inches, and the spacing shall be located parallel to, and within 2⅜ inches of, the floor of the lobster trap.

HISTORY:

Added Stats 1984 ch 1271 § 20. Amended Stats 1984 ch 1271 § 24; Stats 2010 ch 565 § 2 (AB 291), effective January 1, 2011.

§ 9011. Crab traps; Specifications; Incidental takings; Report

(a)(1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, Dungeness crab, as defined in Section 8275, may be taken with Dungeness crab traps.

(2) A Dungeness crab trap may have any number of openings of any size. However, every Dungeness crab trap shall have at least two rigid circular openings of not less than 4¼ inches, inside diameter, on the top or side of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap.

(3) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock crab may be taken incidentally with a Dungeness crab trap used pursuant to this subdivision to take Dungeness crab, provided that the incidental taking occurs only during the season when it is lawful to take both species. A rock crab, taken incidentally with a Dungeness crab trap, that does not comply with Article 6 (commencing with Section 8275) of Chapter 2, shall be immediately returned to the waters from which it was taken.

(b)(1) Subject to Article 6 (commencing with Section 8275) of Chapter 2, rock crab, as defined in Section 8275, may be taken with rock crab traps.

(2) A rock crab trap may have any number of openings of any size. However, a rock crab trap constructed of wire mesh with an inside mesh measurement of not less than 1⅞ inches by 3⅞ inches, with the 3⅞ inch measurement parallel to the floor, shall have at least one rigid circular opening of not less than 3¼ inches, inside diameter, located on any outside wall of the rearmost chamber of the crab trap and shall be located so that at least one-half of the opening is in the upper half of the trap. Rock crab traps constructed of other material shall have at least two rigid circular openings of not less than 3¼ inches, inside diameter, on the top or side of the rearmost chamber of the trap. If both of the openings are located on the side of the trap, at least one of the openings shall be located so that at least one-half of the opening is in the upper half of the trap. No rigid circular opening, as required, shall extend more than ½ inch beyond the plane of the wall side or top of the trap in which it is located, and it shall be clearly accessible to any crab which may be in the trap.

(3) Subject to Article 6 (commencing with Section 8275) of Chapter 2, Dungeness crab may be taken incidentally with a rock crab trap used pursuant to this subdivision to take rock crab, provided that the incidental taking occurs only during the season when it is lawful to take both species. A Dungeness crab, taken incidentally with a rock crab trap, that does not comply with Article 6 (commencing with Section 8275) of Chapter 2, shall be immediately returned to the waters from which it was taken.

(4) A person shall not possess any lobster aboard a vessel while the vessel is being used pursuant to this subdivision to take rock crab.

(c) On or before January 1, 2013, the department shall report to the appropriate policy and fiscal committees of the Legislature the impacts, if any, of the changes made to this section by Chapter 478 of the Statutes of 2009. The report shall include information about citations issued pursuant to this section relating to both rock crab and Dungeness crab for the years 2010 to 2012, inclusive.

HISTORY:
Added Stats 1987 ch 1422 § 5. Amended Stats 1990 ch 1218 § 2 (AB 2850); Stats 1991 ch 1067 § 5 (AB 354); Stats 2009 ch 478 § 2 (AB 825), effective January 1, 2010; Stats 2010 ch 328 § 69 (SB 1330), effective January 1, 2011.

§ 9012. Use of vessel to take and land crab for both commercial and sport purposes

(a) No vessel may be used to take and land crab for both commercial and sport purposes in the same day.

(b) In Districts 6, 7, 8, and 9, no trap shall be used to take Dungeness crab if that trap is attached to another trap or other traps by a common line.

HISTORY:
Added Stats 1994 ch 973 § 14 (AB 337).

§ 9015. Prawn or shrimp traps

(a) Subject to Article 18 (commencing with Section 8590) of Chapter 2, prawns or shrimp, as defined in Section 8590, may be taken with prawn traps or shrimp traps under a general trap permit issued pursuant to Section 9001.

(b) A prawn trap or a shrimp trap shall be six feet or less in its greatest dimension. Every opening from the exterior to the interior of a prawn trap or a shrimp trap shall be five inches or less in any dimension.

HISTORY:
Added Stats 1984 ch 1271 § 20.

§ 9020. Baitfish traps

(a) Subject to Section 8400, California killifish (Fundulus parvipinnis), mudsuckers (Gillichthys mirabilis), yellowfin gobies (Acanthogobius flavimanus), shiner perch (Cymatogaster aggregata), and staghorn sculpin (Leptocottus armatus) may be taken with baitfish traps under a general trap permit issued pursuant to Section 9001.

(b) A baitfish trap shall not exceed 12 inches in width, 12 inches in height, and 36 inches in greatest length with entrance at small ends of funnels or fykes not to exceed 2 inches in diameter.

HISTORY:
Added Stats 1984 ch 1271 § 20. Amended Stats 1985 ch 1442 § 17; Stats 1988 ch 1009 § 12.

§ 9022. Fin fish traps

(a) Notwithstanding Section 9000, traps used to take fin fish may not be used in Districts 10, 11, and 12, except for bait fish traps as provided for in Sections 8400 and 9020.

(b) Except as otherwise provided in subdivision (a), all marine species of fin fish subject to Section 8403 may be taken with one or more fin fish traps as prescribed by the commission under a general trap permit issued pursuant to Section 9001.

HISTORY:
Added Stats 1984 ch 1271 § 20. Amended Stats 1992 ch 1370 § 37 (AB 3193), effective October 27, 1992.

§ 9023. Carp traps

(a) Traps may be used throughout the year to take carp in any district under the restrictions set forth in subdivision (b).

(b) Traps shall not exceed six feet in greatest dimension. They shall be made of cotton or nylon twine. Meshes shall not be less than three and one-half inches in length, except that fyke and bait bags may be any size mesh. Traps shall have only a single vertical fyke opening at the top of the trap. They shall be baited only with grain or grain products. Fish other than carp taken in traps subject to this section shall be immediately returned to the water.

HISTORY:
Added Stats 1985 ch 1442 § 19. Amended Stats 2006 ch 538 § 193 (SB 1852), effective January 1, 2007.

§ 9024. Crayfish traps

Crayfish traps may be used at any time in any district to take crayfish only. Traps shall not exceed three feet in greatest dimension. Any other species taken with crayfish traps shall be returned to the water immediately. The commission may prohibit the use of crayfish traps which will injure fish or which will entrap unnecessarily large numbers of fish other than crayfish.

HISTORY:
Added Stats 1985 ch 1442 § 20.

ARTICLE 2. "FISHING LINES"

§ 9025. [Section renumbered 1995.]

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1271 § 21; Stats 1988 ch 1009 § 13; Stats 1989 ch 318 § 7; Amended and Renumbered F & G C § 9025.5 by Stats 1995 ch 677 § 4.

§ 9025.1. Legislative findings and declarations

The Legislature finds and declares that it is in the best interest of the people of the state and California's marine resources and fisheries that the use of commercial hook and line fishing gear be regulated in a manner that assures the orderly development of the fisheries, maintenance of viable resources, and sustainable and satisfying commercial and recreational harvests.

HISTORY:
Added Stats 1995 ch 827 § 2.5 (SB 123), effective October 13, 1995, operative January 1, 1996.

§ 9025.5. Troll lines or handlines

(a) Troll lines or handlines having not more than two hooks (plugs excepted) may be used in any district, and troll lines with more than two hooks may be used in Fish and Game Districts 6, 7, 10, 16, 17, 18, 19, and 19A, and that portion of Fish and Game District 11 west of the Golden Gate Bridge.

(b) "Troll line" means a line with one or more hooks towed by a vessel underway and making way.

(c) Notwithstanding subdivision (a), in that portion of Fish and Game District 10 in Tomales Bay south of a line extending 252 degrees magnetic from the western tip of Toms Point to the opposite shore, in that portion of Fish and Game District 11 east of the Golden Gate Bridge, and in Fish and Game Districts 12 and 13, commercial fishermen shall not use more than four troll lines or handlines at any time with not more than two hooks attached to each line, and when more than one commercial fisherman is aboard a vessel, not more than six lines with a maximum of two hooks per line may be fished aboard that vessel.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1271 § 1; Stats 1988 ch 1009 § 13; § 9025 Amended Stats 1989 ch 318 § 7; Amended and Renumbered by Stats 1995 ch 677 § 4 (SB 1176).

§ 9026. Set lines

Set lines may be used in Districts 6, 7, 10, 17, 18, and 19. It is unlawful to use set lines with hooks more than 100 feet above the anchor or ocean bottom.

HISTORY:
Enacted 1957. Amended Stats 1989 ch 318 § 8.

§ 9027. Number of hooks and requirements for fishing lines in specified waters in Districts 6, 7 and 10

(a)(1) Notwithstanding Section 9026, 9028, or 9029, in the area described in subdivision (b), it is unlawful to use more than 150 hooks on a vessel to take a fish for commercial purposes when using fishing lines authorized pursuant to this article.

(2) In the area described in subdivision (b), not more than 15 hooks shall be attached to any one fishing line, and no fishing line shall be attached to another fishing line, while those lines are being used for commercial fishing pursuant to this article except that a single troll line with not more than 30 hooks may be used to take California halibut.

(3) Each fishing line used pursuant to this article that is not attached to a vessel fishing in the area described in subdivision (b) shall be buoyed and the commercial fishing license identification number issued pursuant to Section 7850 to the permittee who is using the fishing line shall be marked on, and visible on the upper one–half of each buoy, in numbers at least two inches high.

(b) This section applies only to waters within one mile of shore within Fish and Game Districts 6, 7, and 10, but not including ocean waters in Fish and Game District 7 between a line extending 203 degrees magnetic from Gitchell Creek and a line extending 252 degrees magnetic from False Cape in Humboldt County and not including ocean waters in Fish and Game District 10 between a line extending 245 degrees magnetic from the most westerly point of the west point of the Point Reyes headlands in Marin County and a line extending due west magnetic from Point Bolinas in Marin County.

HISTORY:
Added Stats 2004 ch 431 § 26 (AB 2760).

§ 9027.5. Number of hooks and requirements for fishing lines in specified waters in Districts 17, 18 and 19

(a)(1) Notwithstanding Section 9026, 9028, or 9029 in the area described in subdivision (b), it is unlawful to use more than 150 hooks on a vessel to take fish for commercial purposes when using fishing lines authorized pursuant to this article.

(2) In the area described in subdivision (b), not more that 15 hooks shall be attached to any one fishing line, and no fishing line shall be attached to another fishing line, while those lines are being used for commercial fishing pursuant to this article.

(3) Each fishing line used pursuant to this article that is not attached to a vessel fishing in the area described in subdivision (b) shall be buoyed and the commercial fishing license identification number issued pursuant to Section 7852 to the permittee who is using the fishing line shall be marked on, and visible on the upper one–half of each buoy, in numbers not less than two inches in height.

(b) This section applies only to waters within one mile of the mainland shore in Fish and Game Districts 17, 18, and 19.

(c) Subdivision (a) does not apply to persons who are fishing south of a line extending due west from Point Conception and who are fishing for halibut, white sea bass, sharks, skates, or rays. The exemption in this subdivision does not apply if all of the fish

possessed by persons aboard the vessel does not consist of at least 80 percent by number of halibut, white sea bass, sharks, skates, and rays.

HISTORY:
Added Stats 2004 ch 431 § 27 (AB 2760).

§ 9028. Length of lines

Notwithstanding Sections 8603 and 9025.5, it is unlawful to use fishing lines, including, but not limited to, troll lines and handlines more than 900 feet in length unless they are used as set lines pursuant to Sections 8601 and 9026 or they are used as part of deep-set buoy gear authorized under federal law.

HISTORY:
Added Stats 1989 ch 318 § 9. Amended Stats 2018 ch 844 § 9 (SB 1017), effective January 1, 2019.

§ 9029. Fishing lines anchored to ocean bottom and attached at surface

(a) Notwithstanding Section 9028, a fishing line which is anchored to the ocean bottom at one end and attached at the surface to a fishing vessel or a buoy may be used in Districts 6, 7, 10, 17, 18, and 19.

(b) A fishing line otherwise permitted pursuant to subdivision (a), may not be used under any of the following circumstances:

(1) To take shortfin mako (bonito) sharks, thresher sharks, swordfish, or marlin.

(2) If the fishing line exceeds 3,000 feet in length from the anchor to the surface vessel or buoy.

(3) If any hooks are attached to the upper one–third of the line.

(c) A buoy attached to the surface end of a fishing line used pursuant to subdivision (a) shall display above its waterline, in numerals at least two inches high, the fisherman's identification number. For purposes of this section and Section 8601.5, "fisherman's identification number" means the number of the person's commercial fishing license issued pursuant to Section 7850.

HISTORY:
Added Stats 1989 ch 318 § 10. Amended Stats 1990 ch 1633 § 4 (AB 3703); Stats 1991 ch 485 § 5 (AB 1376), effective October 3, 1991.

§ 9029.5. Use of certain lines in specified waters in Districts 7 and 10 at certain times

Notwithstanding Sections 9025.5, 9026, and 9029, it is unlawful to use set lines, vertical fishing lines, or troll lines to take fish for commercial purposes within one mile of the nearest point of land on the mainland shore in Fish and Game District 7 or 10 from sunset on Friday to sunset on the following Sunday or from sunset of the day before a state recognized legal holiday until sunset on that holiday. For the purposes of this subdivision, a "set line" is a fishing line that is anchored to the bottom on each end and is not free to drift with the tide or current and a "vertical fishing line" is a fishing line that is anchored to the ocean bottom at one end and attached at the other end on the surface to a fishing vessel or a buoy. This section does not apply to the taking of salmon or California halibut for commercial purposes.

HISTORY:
Added Stats 2004 ch 431 § 28 (AB 2760).

ARTICLE 3. OTHER APPLIANCES

§ 9050. Tools for taking mollusks

A spade, shovel, hoe, rake, or other appliance operated by hand may be used to take mollusks, sand crabs, and shrimps in Districts 1, 1½, 2, 2½, 3, 3½, 4, 4⅛, 4¾, 6, 7, 8, 9,

10, 11, 12, 13, 16, 17, 18, 19, 19A, 20, 20A, and 21, except as specified in Sections 7332 and 8303, and except that freshwater clams shall not be taken by means of such appliances on any levee or on the berm of any levee.

HISTORY:
Enacted 1957. Amended Stats 1969 ch 488 § 6; Stats 1988 ch 1009 § 15.

§ 9051. Spears, harpoons, bows and arrows

(a) Spears, harpoons, and bows and arrows may be used for taking all varieties of skates, rays, and sharks, except soupfin sharks.

(b) This section shall become operative January 1, 1999.

HISTORY:
Added Stats 1993 ch 1174 § 5 (AB 522), operative January 1, 1999.

§ 9052. Slurp guns

Slurp guns may be used to take fish for commercial purposes in fish and game districts 6, 7, 10, 17, 18, 19, 20, and 20A.

HISTORY:
Added Stats 1991 ch 1067 § 6 (AB 354). Amended Stats 1992 ch 742 § 15 (AB 2261).

§ 9053. Powered equipment

(a) Powered equipment of such design as may be prescribed by the commission may be used to take crustaceans and mollusks under a revocable permit issued by the department and under such regulations as the commission shall prescribe.

(b) Taking of lobster or crabs under this section is subject to Article 5 (commencing with Section 8250) and Article 6 (commencing with Section 8275) of Chapter 2 of Part 3 of Division 6.

HISTORY:
Added Stats 1963 ch 2086 § 1. Amended Stats 1976 ch 1019 § 3; Stats 1985 ch 1442 § 21.

§ 9054. Appliances for taking sea urchins; Limitation on number of permits issued

Sea urchins shall not be taken for commercial purposes except under a valid sea urchin diving permit issued to that person that has not been suspended or revoked, subject to regulations adopted by the commission. Rakes, airlifts, or other handheld appliances may be used to take sea urchins. The commission may, whenever necessary to prevent overutilization or to ensure efficient and economic operation of the fishery, limit the number of permits that may be issued. The commission, as it determines appropriate to protect the resource, may limit the number of permits either on a statewide basis or within selected geographical areas.

HISTORY:
Added Stats 1973 ch 178 § 1. Amended Stats 1984 ch 1014 § 9; Stats 1986 ch 682 § 1; Stats 1996 ch 870 § 52 (AB 3245).

§ 9055. Sea urchin permit fee

The fee for a sea urchin permit authorized pursuant to Section 9054 is three hundred thirty dollars ($330).

HISTORY:
Added Stats 1990 ch 1703 § 67 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 43 (SB 1565), effective September 14, 1992, operative April 1, 1993.

CHAPTER 5. FUEL CONSERVATION ASSISTANCE PROGRAM

§ 9100. Loan fund program to assist low–income operators

The California Energy Extension Service of the Office of Planning and Research shall implement a revolving loan fund program to assist low–income fishing fleet operators reduce their energy costs and conserve fuel by providing low–interest loans to those operators.

HISTORY:
Added Stats 1991 ch 967 § 1 (SB 1032).

§ 9101. Report to Legislature

Commencing January 1, 1994, and thereafter biennially, the California Energy Extension Service of the Office of Planning and Research shall report to the Legislature on the status of the loan program, including the number and the amounts of loans made, the amount of loans repaid, and a comparison of the ethnic background of the loan recipients with the ethnic background of the low–income fishing fleet operators.

HISTORY:
Added Stats 1991 ch 967 § 1 (SB 1032).

DIVISION 6.5. STURGEON EGG PROCESSORS

§ 10000. Required license; Authorization under license

(a) Every person engaged in the business of canning, curing, preserving, packing, or otherwise processing, or dealing at wholesale in, the eggs of sturgeon for human consumption shall obtain a sturgeon egg processing license from the department for that purpose. The license required by this division is in addition to any other license, permit, or other authorization required by this code or by any other provision of law.

(b) Possession of a sturgeon egg processing license issued pursuant to this division authorizes the licensee to can, cure, preserve, pack, or otherwise process, or deal at wholesale in, the eggs of sturgeon if, and only if, the eggs are lawfully taken or lawfully possessed pursuant to Section 7230 or 8371.

HISTORY:
Added Stats 1985 ch 1403 § 10.

§ 10001. Application and license fee

A sturgeon egg processing license shall be issued and delivered upon application and the payment of a base fee of one hundred dollars ($100), as adjusted under Section 713, to the department. The license shall be valid for a period of 12 months from the date of issuance.

HISTORY:
Added Stats 1985 ch 1403 § 10.

§ 10002. Record and documentation of transactions

Every person licensed pursuant to this division shall make a true and legible record of each transaction involving the eggs of sturgeon. This documentation shall show all of the following:

(a) The weight of the eggs received.

(b) The name and address of the person from whom the eggs were received, and, if different, the name and address of the person who artificially propagated the sturgeon

from which the eggs were obtained or the name and address of the person from whom the sturgeon were received from which the eggs were obtained.

(c) The date of receipt.

(d) If imported into this state, the place where the sturgeon were taken.

(e) Whether the eggs are to be processed by the recipient or sold by him or her to another for processing, and, if the eggs are to be sold for processing by another, the name and address of that person.

(f) Such other information as the department may require and specify on the form.

HISTORY:
Added Stats 1985 ch 1403 § 10.

§ 10003. Maintenance of documentation and availability for inspection

The documentation required by Section 10002 shall be kept by the person or business holding the sturgeon egg processing license for a period of two years from the date of receipt of eggs and shall be available for inspection during normal business hours by the department.

HISTORY:
Added Stats 1985 ch 1403 § 10.

§ 10004. Confidentiality of information and records

Any information received or requested by the department shall be confidential, and the records shall not be public records, except that the information contained in the records may be compiled and published as summaries in a manner that will not disclose the individual record or business of any person.

HISTORY:
Added Stats 1984 ch 1403 § 10.

§ 10005. Sanctions for violations

(a) Any person convicted of a violation of this division or a violation of any other provision of this code or any regulation adopted pursuant thereto relating to sturgeon shall be prohibited from engaging in the business of canning, curing, preserving, packing, or otherwise processing, or dealing at wholesale or retail in the eggs of sturgeon in this state for one year from the date of the conviction.

(b) Any person convicted of a second or subsequent violation of this division or a violation of any other provision of this code or any regulation adopted pursuant thereto relating to sturgeon within five years of another offense resulting in a conviction of a violation of any of those provisions is prohibited from engaging in any activity for which a sturgeon egg processing license is required for five years from the date of the last conviction.

(c) The commission shall revoke any license issued pursuant to this division to the person who is prohibited from engaging in that business under this section. No sturgeon egg processing license revoked pursuant to this section shall be issued, reissued, or reinstated during the period of prohibition prescribed in this section.

(d) It is unlawful for any person to obtain, or attempt to obtain, a sturgeon egg processing license pursuant to this division during the period of prohibition prescribed in this section.

HISTORY:
Added Stats 1985 ch 1403 § 10.

DIVISION 7. REFUGES

CHAPTER 1. REFUGES AND OTHER PROTECTED AREAS

ARTICLE 1. GENERAL PROVISIONS

§ 10500. Acts unlawful in refuge

Except under a permit or specific authorization, it is unlawful to do any of the following:

(a) To take or possess a bird or mammalin a game refuge.

(b) To use or have in possession in a game refuge, a firearm, BB device as defined in Section 16250 of the Penal Code, crossbow, bow and arrow, or a trap or other contrivance designed to be, or capable of being, used to take birds or mammals, or to discharge a firearm or BB device or to release an arrow or crossbow bolt into a game refuge.

(c) To take or possess a fish or amphibian in a fish refuge, or to use or have in possession in that refuge a contrivance designed to be used for catching fish.

(d) To take or possess a bird, discharge a firearm or BB device, or release an arrow or crossbow bolt, within or intoa waterfowl refuge.

(e) To take or possess a quail in a quail refuge.

(f) To take or possess an invertebrate or specimen of marine plant life in a marine life refuge.

(g) To take or possess a clam or an instrument or apparatus capable of being used to dig clams in a clam refuge.

HISTORY:

Enacted 1957. Amended Stats 2007 ch 285 § 129 (AB 1729), effective January 1, 2008; Stats 2010 ch 178 § 31 (SB 1115), effective January 1, 2011, operative January 1, 2012; Stats 2015 ch 154 § 95 (AB 1527), effective January 1, 2016.

§ 10501. Hearing before opening of game refuge for taking of deer; Publication of notice

Before the commission opens any game refuge for the taking of deer, a public hearing shall be held at which at least one member of the commission shall be in attendance and such officers and employees of the department as are deemed necessary or are requested by interested parties, notice of which has been published at least once and at least 30 days prior to the hearing in a newspaper of general circulation which is printed and published in the county, or one of the counties, in which the area lies. If there is no newspaper of general circulation in any such county, the notice shall be published in such newspaper of general circulation as the commission determines will be most likely to give notice to the inhabitants of the area and such determination by the commission shall be final and conclusive.

HISTORY:

Enacted 1957.

§ 10501.5. Altitude restrictions for aircraft over game reserves and sanctuaries

(a) It is unlawful to fly any aircraft, including any airplane or helicopter, less than 3,000 feet above water or land over the Sespe Condor Sanctuary, and less than 1,000 feet above water or land over the Año Nuevo State Reserve, the Farallon Islands Game Refuge, the Point Lobos State Reserve, the California Sea Otter Game Refuge, and Anacapa, San Miguel, Santa Barbara, and San Nicolas Islands, except for rescue

operations, in case of any emergency, or for scientific or filmmaking purposes under a permit issued by the department after a review of potential biological impacts.

(b) This section does not apply to the landing of any aircraft, including any airplane or helicopter, on Anacapa, San Miguel, Santa Barbara, San Nicolas, and Farallon Islands for administrative or operational purposes of the National Park Service, the United States Navy, or the United States Coast Guard.

HISTORY:
Added Stats 1973 ch 770 § 1. Amended Stats 1989 ch 431 § 5.

§ 10502. Powers of commission

The commission may:

(a) Exercise control over all mammals and birds in a game refuge, and exercise control over all fish in a fish refuge.

(b) Authorize the department to issue, under any restrictions it deems best, permits that authorize the person named therein to carry, use, and possess, within a refuge, firearms, traps, or other contrivances for taking birds, mammals, fish, amphibians, or reptiles.

(c) Except as provided in Sections 10502.5, 10502.8, 10655, and 10657, authorize the department to issue permits that authorize the person named therein to take birds, mammals, fish, amphibians, or reptiles within a refuge.

(d) Adopt regulations not in conflict with any law for the protection of birds, mammals, fish, amphibians, reptiles, or marine life within a refuge.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1069 § 1; Stats 1988 ch 682 § 1; Stats 2015 ch 154 § 96 (AB 1527), effective January 1, 2016.

§ 10502.5. Director of Hopkins Marine Life Refuge; Appointment; Powers

The director may appoint the Director of the Hopkins Marine Life Refuge. The Director of the Hopkins Marine Life Refuge may issue a permit to any person under which the person may enter the Hopkins Marine Life Refuge for the purpose of taking fish or marine plants under the conditions that the department determines necessary for the protection and propagation of fish and wildlife and related scientific purposes in that refuge.

HISTORY:
Added Stats 1984 ch 1069 § 2.

§ 10502.6. Director of Dana Point Marine Life Refuge; Appointment; Powers

(a) The director may appoint a Director of the Dana Point Marine Life Refuge.

(b) Except as otherwise provided in this section, no state funds, including, but not limited to, the Fish and Game Preservation Fund, shall be used to pay the compensation or expenses of the Director of the Dana Point Marine Life Refuge. A city, county, or special district may use any funds, including state funds appropriated to the city, county, or special district, to pay the compensation and expenses of the director and a public postsecondary educational institution may use private or state funds to pay the compensation and expenses of the director.

(c) The Director of the Dana Point Marine Life Refuge may issue a permit authorizing any person to enter the Dana Point Marine Life Refuge for the purpose of taking fish or marine plants under the conditions that the department determines to be necessary for the protection and propagation of fish and wildlife and related scientific purposes in that refuge.

(d) The Director of the Dana Point Marine Life Refuge shall erect and maintain signs identifying the boundaries of the Dana Point Marine Life Refuge. The signs shall contain notification regarding the permit requirements of the refuge. The signs shall specify that

an access permit shall be obtained from the Director of the Dana Point Marine Life Refuge and a scientific collector's permit from the department in order to take any fish or specimen of marine plant life.

HISTORY:
Added Stats 1993 ch 259 § 1 (SB 716).

§ 10502.7. Director of Bodega Marine Life Refuge

(a) The director may appoint the Director of the Bodega Marine Life Refuge.

(b) The Director of the Bodega Marine Life Refuge may authorize any person to enter the Bodega Marine Life Refuge for the purpose of taking fish, invertebrates, or marine plants for scientific study and to take or possess fish, invertebrates, or marine plants for scientific study.

(c) The Director of the Bodega Marine Life Refuge may authorize any person to anchor a vessel in the Bodega Marine Life Refuge for the purpose of scientific study.

HISTORY:
Added Stats 1999 ch 502 § 4 (AB 1210), effective September 27, 1999.

§ 10502.8. Director of Catalina Marine Science Center Marine Life Refuge; Appointment; Powers

(a) The director may appoint the Director of the Catalina Marine Science Center Marine Life Refuge.

(b) The Director of the Catalina Marine Science Center Marine Life Refuge may authorize any person to enter the Catalina Marine Science Center Marine Life Refuge for the purpose of taking fish or marine plants under the conditions that the department determines necessary for the protection and propagation of fish and wildlife and related scientific purposes in that refuge.

(c) The Director of the Catalina Marine Science Center Marine Life Refuge, upon recommendation of the Director of the Catalina Marine Science Center, may authorize any person involved in oceanographic and scientific research in and around Santa Catalina Island to anchor or moor a vessel in the Catalina Marine Science Center Marine Life Refuge.

HISTORY:
Added Stats 1988 ch 682 § 2.

§ 10503. Acceptance of donations and grants; Acquisition of land

For the purposes of propagating, feeding, and protecting birds, mammals, fish, amphibians, and reptiles, the commission may do all of the following:

(a) Accept, on behalf of the state, donations of an interest in land within a refuge.

(b) Accept, on behalf of the state, from a person owning and in possession of patented land, other than land covered and uncovered by the ordinary daily tide of the Pacific Ocean, the right to preserve and protect all birds, mammals, fish, amphibians, and reptiles on the patented land.

(c) Accept, on behalf of the state, donations of birds, mammals, fish, amphibians, and reptiles, and of money given or appropriated. Those donations shall be used for the purposes for which they are accepted, and, as nearly as may be, for any purpose indicated by the donor.

(d) Acquire, by purchase, lease, rental, or otherwise, and occupy, develop, maintain, use, and administer land, or land and nonmarine water, or land and nonmarine water rights, suitable for state game farms or game refuges.

HISTORY:
Enacted 1957. Amended Stats 2000 ch 385 § 7 (AB 2800); Stats 2015 ch 154 § 97 (AB 1527), effective January 1, 2016.

§ 10504. Manner of acquisition; Regulations applicable

Any property acquired for game refuges shall be acquired in the name of the State, and shall, at all times, be subject to such regulations as may be prescribed from time to time by the commission for the occupation, use, operation, protection, and administration of such property as game refuges.

HISTORY:
Enacted 1957.

§ 10505. Acquisition of valid title

The department shall do all things necessary to secure a valid title in the State to the property acquired for game refuges, but no payment shall be made therefor until the title is satisfactory to the Attorney General and is vested in the State. The acquisition of the property by the State is not prohibited by reason of rights of way, easements, or reservations, which, from their nature, in the opinion of the department, will in no manner interfere with the use of the property for the purpose for which it is acquired.

HISTORY:
Enacted 1957.

§ 10506. Possession of firearms, BB devices, crossbows and bolts, or bows and arrows when traveling through game refuge; Notice to department

Nothing in this code prohibits the possession of firearms, BB devices as defined in Section 16250 of the Penal Code, crossbows and bolts, or bows and arrows by persons when traveling through any game refuges when the firearms are taken apart or encased and unloaded and the bows are unstrung or stored separately from any arrow or bolt. When the traveling is done on a route other than a public highway or other public thoroughfare or right of way, notice shall be given to the department at least 24 hours before that traveling. The notice shall give the name and address of the person intending to travel through the refuge, the name of the refuge, the approximate route, and the approximate time when that person intends to travel through the refuge.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 130 (AB 1729), effective January 1, 2008; Stats 2010 ch 178 § 32 (SB 1115), effective January 1, 2011, operative January 1, 2012.

§ 10507. Transportation of bird or mammal through game refuge

It is lawful for a person who has given the notice provided for in Section 10506 to transport a bird or mammal through a game refuge, if lawfully taken outside the refuge, and if the bird or mammal is carried openly and during the time between one hour before sunrise and one hour after sunset.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 98 (AB 1527), effective January 1, 2016.

§ 10508. Department and officers to enforce provisions; Prosecutions

The department and the district attorney, sheriff, and all peace officers of the county in which any refuge or part thereof is situated, shall enforce all of the provisions of this code relating to such refuge, and institute and assist in prosecutions for violations thereof.

HISTORY:
Enacted 1957.

§ 10509. "Fish and game refuge"; Construction

Any refuge designated as a "fish and game refuge" shall be considered, for the purposes of this division, as both a game refuge and a fish refuge.

HISTORY:
Enacted 1957.

§ 10510. Effect of open season on taking of game in refuge

No specification of an open season in any area authorizes the taking of a bird, mammal, fish, amphibian, or reptile from a refuge within that area from which the taking is prohibited by this code.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 99 (AB 1527), effective January 1, 2016.

§ 10511. Conflict with provisions of district in which refuge is located

Except as they may conflict with refuge provisions, the provisions of this code relating to a particular fish and game district shall apply to each refuge lying wholly, or in major part, within the boundaries of the district.

HISTORY:
Enacted 1957.

§ 10512. Notices and warnings on refuge; Posting

The department shall cause to be prepared suitable notices to be posted under its direction on each state game refuge, containing a warning to all persons to refrain for the period named therein from violations of the provisions of this chapter relating to state game refuges.

HISTORY:
Enacted 1957.

§ 10513. Taking of game on navigable water within refuge

Nothing in this chapter shall be construed as prohibiting or preventing a person from taking a bird, mammal, fish, amphibian, or reptile from or on navigable water in a state game refuge.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 100 (AB 1527), effective January 1, 2016.

§ 10514. Control and management of refuges; Right of entry

All state game refuges shall, for all purposes of protecting birds, mammals, fish, amphibians, or reptiles thereon, be under the control and management of the department, and the officers and employees of the department, all game wardens, and law enforcement officers may at all times enter in and upon state game refuges in the performance of their duties.

HISTORY:
Enacted 1957. Amended Stats 2008 ch 389 § 1 (SB 1166), effective January 1, 2009; Stats 2015 ch 154 § 101 (AB 1527), effective January 1, 2016.

ARTICLE 2. SPECIAL PROVISIONS FOR GIVEN AREAS

§ 10650. Mt. Tamalpais Game Refuge; Taking of predatory or destructive birds or mammals on private lands

In Mt. Tamalpais Game Refuge, the lawful occupant of privately owned land, or the employees of such occupant, may take on such lands, predatory, or destructive birds and mammals which are not protected or fostered by any of the laws of this State, and are not required to obtain permits for such taking.

HISTORY:
Enacted 1957.

§ 10651. Mt. Tamalpais Game Refuge; Possession and use of firearms by high school militia

In the Mt. Tamalpais Game Refuge firearms may be possessed and used by members of any high school militia while on the grounds of the high school at which time they may be enrolled.

HISTORY:
Enacted 1957.

§ 10652. Mt. Tamalpais Game Refuge; Taking birds or mammals under permit

In the Mt. Tamalpais Game Refuge, no threatened, endangered, or fully–protected birds or mammals may be taken under any permit issued by the department.

Except for wild pigs, it is unlawful to take any bird or mammal under a permit issued by the department unless the person possessing the permit is accompanied by a member of the commission, a deputy of the department, or a sheriff or deputy sheriff of Marin County.

HISTORY:
Enacted 1957. Amended Stats 1987 ch 1180 § 1.

§ 10653. San Francisco Game Refuge; Carrying of game through refuge

In the San Francisco Game Refuge, birds, mammals, fish, amphibians, and reptiles legally possessed may be carried openly by persons traveling through the refuge on public roads, between one-half hour before sunrise and one-half hour after sunset.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 102 (AB 1527), effective January 1, 2016.

§ 10654. San Francisco Game Refuge; Use of land for and protection of water supply

Nothing in this division prevents the full use of the land included in the San Francisco Game Refuge for water supply purposes, nor prohibits any authorized employee of the San Francisco water department from carrying out such reasonable measures as may be necessary for the protection of the water supply or the prevention of pollution of the streams or reservoirs.

HISTORY:
Enacted 1957.

§ 10655. Authorization to enter Catalina Marine Science Center Marine Life Refuge; Taking of fish or specimen of marine plant life

(a) A person involved in oceanographic and scientific research in and around Santa Catalina Island may be authorized by the Director of the Catalina Marine Science Center Marine Life Refuge to enter the Catalina Marine Science Center Marine Life Refuge and to anchor or moor a vessel therein.

(b) The Director of the Catalina Marine Science Center Marine Life Refuge, or any person that the Director of the Catalina Marine Science Center Marine Life Refuge has authorized under Section 10502.8, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department under Section 10502.8.

HISTORY:
Added Stats 1988 ch 682 § 3.

§ 10655.5. Unlawful acts

(a) Except as expressly provided in this division, it is unlawful to enter the Catalina Marine Science Center Marine Life Refuge for the purpose of taking or possessing any fish or marine plants or to take or possess any fish or marine plants in the Catalina Marine Science Center Marine Life Refuge.

(b) Except as permitted by federal law or emergency caused by hazardous weather, it is unlawful to anchor or moor a vessel in the Catalina Marine Science Center Marine Life Refuge without authorization by the Director of the Catalina Marine Science Center Marine Life Refuge pursuant to Section 10502.8.

(c) Section 10655 and this section do not prohibit or restrict navigation in the Catalina Marine Science Center Marine Life Refuge pursuant to federal law.

HISTORY:
Added Stats 1988 ch 682 § 4.

§ 10656. Bodega Marine Life Refuge activities

(a) Except as expressly provided in this division, it is unlawful to enter the Bodega Marine Life Refuge for the purpose of taking or possessing any fish, marine invertebrate, or marine plant, or to take or possess any fish, marine invertebrate, or marine plant in the Bodega Marine Life Refuge.

(b) Except as permitted by federal law or emergency caused by hazardous weather, it is unlawful to anchor or moor a vessel in the Bodega Marine Life Refuge without authorization by the Director of the Bodega Marine Life Refuge pursuant to Section 10502.7.

(c) This section does not prohibit or restrict navigation in the Bodega Marine Life Refuge pursuant to federal law.

HISTORY:
Added Stats 1999 ch 502 § 5 (AB 1210), effective September 27, 1999.

§ 10657. Hopkins Marine Life Refuge; Permits to take specimens for scientific purposes

(a) A person may be permitted by the Director of the Hopkins Marine Life Refuge to enter the Hopkins Marine Life Refuge under a permit.

(b) The Director of the Hopkins Marine Life Refuge, or any person to whom the Director of the Hopkins Marine Life Refuge has issued a permit under Section 10502.5, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department under Section 10502.5.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1069 § 3.

§ 10657.5. Purposes for which it is unlawful to enter Hopkins Marine Life Refuge

Except as expressly provided in this division, it is unlawful to enter the Hopkins Marine Life Refuge for the purpose of taking or possessing any fish or marine plants or to take or possess any fish or marine plants in the Hopkins Marine Life Refuge.

Section 10657 and this section do not prohibit or restrict navigation in the Hopkins Marine Life Refuge pursuant to federal law.

HISTORY:
Added Stats 1984 ch 1069 § 4.

§ 10658. San Diego Marine Life Refuge; Taking of specimens for scientific purposes; Authorized persons

In the San Diego Marine Life Refuge, licensees of the Regents of the University of California and all officers, employees, and students of such university may take, for

scientific purposes, any invertebrate or specimen of marine plant life without a permit from the department.

HISTORY:
Enacted 1957.

§ 10659. California Sea Otter Game Refuge; Hunting and trapping privileges of occupants of privately owned land

In the California Sea Otter Game Refuge, the lawful occupant of privately owned land, or the employees of such occupant, may possess firearms and traps and may take on such lands any nonprotected bird or mammal, and no permit is required for such taking.

HISTORY:
Added Stats 1959 ch 15 § 1.

§ 10660. Pacific Grove Marine Gardens Fish Refuge; Authorized takings

(a) In the Pacific Grove Marine Gardens Fish Refuge, fish, other than mollusks and crustaceans, may be taken under the authority of a sport fishing license as authorized by this code.

(b) Notwithstanding any other provision of this section, holders of scientific collectors' permits issued by the commission, or students working under their direction, may take marine life for scientific purposes in this refuge.

(c) In this refuge, sardines, mackerel, anchovies, squid and herring may be taken by ring net, lampara net or bait net as authorized by this code.

HISTORY:
Added Stats 1963 ch 1043 § 1. Amended Stats 1984 ch 367 § 1.

§ 10661. Bodega Marine Life Refuge; Taking of specimens for scientific purposes; Authorized persons

In the Bodega Marine Life Refuge, licensees of the Regents of the University of California and all officers, employees, and students of such university may take, for scientific purposes, any invertebrate or specimen of marine plant life without a permit from the department.

HISTORY:
Added Stats 1965 ch 1303 § 1.

§ 10662. Restrictions on use of firearms in District 4D

Notwithstanding any other provision in this code, it shall be unlawful for any person to fire a firearm, but it shall not be unlawful to possess a firearm in the following areas:

All of T.5S., R.5E, except Sections 1, 2, 11, 12, and 13, of Fish and Game District 4D.

HISTORY:
Added Stats 1967 ch 973 § 1.

§ 10663. Possession of firearms by land occupants or employees in Refuge 4–D

In Fish and Game Refuge 4–D the lawful occupant of privately owned lands or the employees of such occupants may possess firearms without a permit.

HISTORY:
Added Stats 1967 ch 973 § 1.5.

§ 10664. Forms of aquatic life permitted to be taken under sport fishing license in specified Orange County marine life refuges; Taking of fin fish

In the Laguna Beach, Newport Beach, Point Fermin, South Laguna Beach, Niguel, Irvine Coast, and Doheny Beach Marine Life Refuges, the following fish, mollusks, and

crustaceans may be taken under the authority of a sportfishing license as authorized by this code: abalone, lobster, rockfish (Scorpaenidae), greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye, halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito, California halibut, sole, turbot, and sanddab. Fin fish shall be taken only by hook and line or by spearfishing gear. All other fish and forms of aquatic life are protected and may not be taken without a written permit from the department.

HISTORY:
Added Stats 1968 ch 136 § 1. Amended Stats 1969 ch 56 § 1, effective April 29, 1969, ch 693 § 1; Stats 1971 ch 492 § 1, effective August 6, 1971; Stats 1988 ch 355 § 1; Stats 1993 ch 259 § 2 (SB 716).

§ 10665. Johnsville Game Refuge; Restrictions on firearms or devices; Exception; Possession within refuge of game lawfully taken outside of boundaries

Notwithstanding any provision of law to the contrary, in the Johnsville Game Refuge it shall be unlawful for any person to discharge a firearm or other device capable of killing or injuring any animal. However, it shall not be unlawful for the lawful occupants of privately owned lands or the employees of such occupants to possess firearms or other devices capable of killing or injuring an animal without a permit.

Birds and animals lawfully taken and possessed outside of the boundaries of the Johnsville Game Refuge may be possessed within the refuge.

HISTORY:
Added Stats 1968 ch 124 § 1.

§ 10666. James V. Fitzgerald Marine Reserve; Taking authorized under sport fishing license, and requirement of written permit

In the James V. Fitzgerald Marine Reserve, the following fish and mollusks may be taken under the authority of a sport fishing license as authorized by this code: abalone, rockfish (Sebastes), lingcod, surfperch (Embiotocidae), monkeyface eel, rock eel, white croaker, halibut, cabezon (Scorpaenichthys marmoratus), kelp greenling (Hexagrammos decagrammus), and smelt (Osmeridae and Antherinidae). No such fish having fins may be taken except by hook and line or by spearfishing. All other fish and forms of aquatic life are protected and may not be taken without a written permit from the department.

HISTORY:
Added Stats 1972 ch 257 § 2, operative January 1, 1978. Amended Stats 1978 ch 139 § 1, effective May 17, 1978; Stats 1980 ch 850 § 20; Stats 1981 ch 492 § 1, effective September 16, 1981.

§ 10667. Authorization to take and restrictions on taking or disturbing marine life in the Dana Point Marine Life Refuge

(a) In the Dana Point Marine Life Refuge below the intertidal zone, the following fish, mollusks, and crustaceans may be taken under the authority of a sportfishing license as authorized by this code: abalone (subject to the moratorium imposed under Section 5521), lobster, rockfish (Scorpaenidae), greenling, ling cod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, corbina, white seabass, opaleye, halfmoon, surfperch (Embiotocidae), blacksmith, barracuda, sheephead, bonito, California halibut, sole, turbot, and sanddab. Fin fish shall be taken only by hook and line or by spearfishing gear. All other fish and forms of aquatic life are protected and may not be taken without a written permit from the department.

(b) Except as expressly provided in this section, it is unlawful to enter the intertidal zone in the Dana Point Marine Life Refuge for the purpose of taking or possessing, or to take or possess, any species of fish, plant, or invertebrate, or part thereof, to use or have in possession any contrivance designed to be used for catching fish, to disturb any native plant, fish, wildlife, aquatic organism, or to take or disturb any natural geological

feature. This subdivision does not prohibit persons from entering the intertidal zone for the purpose of entertainment, recreation, and education while having a minimum impact on the intertidal environment and the living organisms therein. For this purpose, minimum impact includes foot traffic, general observation of organisms in their environment with immediate replacement of any unattached organisms to their natural location after temporary lifting for examination, and photography. Minimum impact does not include removal of attached organisms from their environment, gathering of fishing bait, littering, collecting rocks and shells, or turning rocks or other acts destructive to the environment.

(c) For the purposes of this section, "intertidal zone" means the area of the refuge between the mean lower low–water mark and the mean high–tide line described in Section 10907.

(d) Notwithstanding subdivision (a) or (b), the Director of the Dana Point Marine Life Refuge, or any person, who has a scientific collector's permit from the department, to whom the Director of the Dana Point Marine Life Refuge has issued a permit pursuant to Section 10502.6, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department pursuant to Section 10502.6.

(e) This section does not prohibit the entry of state and local law enforcement officers, fire suppression agencies, and employees of the department in the performance of their official duties. This section does not prohibit or restrict navigation in the Dana Point Marine Life Refuge pursuant to federal law.

HISTORY:
Added Stats 1993 ch 259 § 3 (SB 716). Amended Stats 2002 ch 573 § 7 (SB 2090).

ARTICLE 3. FEDERAL BIRD RESERVATIONS

§ 10680. Acceptance of "Migratory Bird Conservation Act"; Consent to acquisition of land by United States; Reservation to State of jurisdiction and authority

The people of the State, through their legislative authority, accept the provisions and benefits of the act of Congress known as the "Migratory Bird Conservation Act," approved February 18, 1929. Upon approval by the commission, they consent to the acquisition by the United States, by purchase, lease, gift, or devise, of such areas of land, water, or land and water, within the State, as the United States or its properly constituted officers or agents may deem necessary for migratory bird reservations in carrying out the provisions of such act of Congress; saving and reserving, however, to the State such full and complete jurisdiction and authority over all such areas as are not incompatible with the administration, maintenance, protection, and control thereof by the United States under the terms of such act of Congress, and saving and reserving to all persons within such areas all rights, privileges, and immunities under the laws of the State, insofar as they are compatible with the administration, maintenance, protection, and control of such areas by the United States under the terms of such act of Congress.

HISTORY:
Enacted 1957.

§ 10681. Necessity of consent by legislative body for proposed acquisition

Prior to such approval by the commission, the legislative body of the county concerned shall have given its written consent to the commission for the proposed acquisition.

HISTORY:
Enacted 1957.

§ 10682. Procedure where in lieu payments from United States to county do not equal taxes assessed on project

If in any year, on lands hereafter acquired, the in lieu payments from the United States to the county, pursuant to the provisions of law, do not equal the taxes assessed on a given project, the department shall pay from income derived from hunting privileges on the project an amount equal to the balance of the taxes on the entire project.

For the purposes of this section, the taxes on a given project are the assessed taxes on the project at the time of acquisition, plus any subsequent increases that may accrue from general county increases in the tax rates, but not subject to re–evaluation of such project properties after the time of acquisition.

HISTORY:
Enacted 1957.

§ 10683. Condition of state's consent to acquisition of land by United States

The consent of the State to the acquisition by the United States of land, water, or land and water for migratory bird reservations in accordance with this article, is subject to the condition that the United States conform to the laws of the State relating to the acquisition, control, use, and distribution of water with respect to the land acquired.

HISTORY:
Enacted 1957.

§ 10684. Duration of consent to acquisition of land

The consent contained in Section 10680 continues only so long as the property continues to belong to the United States and is held by it in accordance and in compliance with each and all of the conditions and reservations as prescribed in this article, and is used for the purposes for which it was acquired.

HISTORY:
Enacted 1957.

§ 10685. Consent to declaration, withdrawal, or determination of national forest or power site; Condemnation of lands for reservation

With the approval of the commission, the people of the State, through their legislative authority, also consent to the declaration, withdrawal, or determination of any part of any national forest or power site, and do further consent to the condemnation of any lands lying and being below an elevation known and described as minus 230–foot elevation below sea level, as a migratory bird reservation under the provisions of the act of Congress cited in Section 10680.

HISTORY:
Enacted 1957.

ARTICLE 4. CLAM REFUGES

§ 10711. Pismo clam bearing beaches within or offshore from San Luis Obispo County; Maximum area; Variation of closed locations; Procedure

The commission may close for the taking of clams not less than eight land miles of pismo clam bearing beaches within San Luis Obispo County as a clam refuge, but not more than 50 percent of any individual pismo clam bearing beach or beaches may be so closed at any time. The commission may from time to time vary the location of the closed and open portions of those beaches.

Before the commission closes, opens, or varies the location of the closed and open portions of pismo clam bearing beaches, one or more members of the commission shall hold in the county to be affected a public hearing, notice of which has been published at least once in a newspaper of general circulation, printed, and published in that county. The commission may determine which newspaper will be most likely to give notice to the inhabitants of the county, and its determination shall be final and conclusive. The commission may authorize any employee of the department in its place to hold the hearings, in which event a copy of a transcript of all proceedings taken or had at the hearing shall be furnished to each commissioner at least five days before any regulation is made by the commission.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 99 § 1; Stats 2000 ch 385 § 8 (AB 2800).

ARTICLE 5. WILDERNESS AREAS

§ 10740. Restricting travel by motorized vehicle

It is unlawful for any person other than a legally constituted peace officer or officer or employee of the Forest Service of the United States Department of Agriculture, the department, or of the Department of Forestry and Fire Protection, or county fish and game wardens or their duly authorized representatives, to travel by motor boat, automobile, motorcycle, or other type of motorized vehicle, or, except for emergencies and for rescue and aerial search for rescue purposes, to land an airplane, helicopter, or similar equipment, within the boundaries of a primitive, wilderness, or wild area closed to the above modes of travel as established by a duly authorized officer of the Forest Service of the United States Department of Agriculture and recorded in the office of the Regional Headquarters of the Pacific–Southwest Region of the Forest Service of the United States Department of Agriculture and with the department.

HISTORY:
Enacted 1957. Amended Stats 1981 ch 714 § 149; Stats 1992 ch 427 § 42 (AB 3355).

§ 10741. Right of access over road or trail; Conditions

Nothing in this article shall be construed as prohibiting access over any road or trail in any such area to any land to which any person is entitled to possession by such person or any person authorized by him to use such road or trail as a means of access to the land; provided, that none of the motorized vehicles or aircraft mentioned in Section 10740 shall be used by any person as a means of gaining access to the wilderness areas for the purpose of hunting or fishing. Nor shall anyone having a lawful right to enter a wilderness area with a motorized vehicle or aircraft fish or hunt while within the area after having entered the area with a motorized vehicle or aircraft.

HISTORY:
Enacted 1957.

CHAPTER 2. SPECIFIC REFUGE BOUNDARIES

ARTICLE 1. FISH AND GAME REFUGES

§ 10770. Refuges enumerated

The districts described in the following sections are fish and game refuges.

HISTORY:
Enacted 1957. Amended Stats 1981 ch 714 § 150.

§ 10771. San Francisco

The following constitutes and shall be designated the San Francisco Fish and Game Refuge: All that area within the County of San Mateo, within the following boundaries:

Beginning at a point on the westerly side of the Skyline Boulevard where said line crosses the fence line between the properties of the San Francisco Water Department and the Jersey farm, thence following southerly the westerly line of the Skyline Boulevard to the northerly line of the property of the Panama Realty Company, thence following in a generally southerly direction the easterly line of the property of the San Francisco Water Department to the center of the Canada Road, thence due west to the westerly line of said Canada Road, thence southerly along the westerly line of said road to the southerly line of the property of the San Francisco Water Department, thence westerly following the southerly line of the San Francisco Water Department to the Skyline Boulevard, thence northerly following the easterly line of the Skyline Boulevard to its intersection with the easterly line of the Carry E. Bridge property thence following northerly the easterly line of the said Carry E. Bridge property to its intersection with the easterly line of the Skyline Boulevard, thence northerly following the easterly line of the said Skyline Boulevard to the Half Moon Bay Road, thence crossing the said Skyline Boulevard and said Half Moon Bay Road to the westerly line of the property of the San Francisco Water Department on the northerly side of said Half Moon Bay Road, thence following the westerly line of the San Francisco Water Department in a generally northwesterly direction to the point of beginning.

HISTORY:
Enacted 1957.

ARTICLE 2. FISH REFUGES

§ 10801. Boundaries of Pacific Grove Marine Gardens Fish Refuge

The following constitutes the Pacific Grove Marine Gardens Fish Refuge:

All that area within the following boundaries as they existed April 1, 1963, not within the Hopkins Marine Life Refuge: Beginning at the point of intersection of the southeasterly corporate limit line of the City of Pacific Grove prolongated, and the line of mean high tide of the Bay of Monterey; thence northwesterly along said line of mean high tide to Point Pinos and continuing around said point in a westerly direction and continuing southwesterly along said line of mean high tide to the intersection with the southwesterly corporate limit line prolongated of said city; thence N. 70° 45' 00″ W. along said southwesterly corporate limit line prolongated to a point in the Pacific Ocean where the depth of water in said ocean is sixty (60) feet measured from the level of mean low tide; thence northwesterly along the line in said ocean which line is at a constant depth of sixty (60) feet measured from the level of mean low tide to Point Pinos and continuing around said point in an easterly direction and continuing southeasterly along the line in said bay which line is at a constant depth of sixty (60) feet measured from the level of mean low tide, to the intersection with the southeasterly corporate limit line of said city prolongated; thence S. 58° 57' 45″ W. along said southeasterly corporate limit line prolongated, to the point of beginning.

HISTORY:
Added Stats 1963 ch 1043 § 2. Amended Stats 1984 ch 367 § 2.

ARTICLE 3. GAME REFUGES

§ 10820. Game refuges enumerated

The districts described in the following sections are game refuges.

HISTORY:
Enacted 1957.

§ 10821. District 1C

The following constitutes Fish and Game District 1C: All that area within the County of Modoc within the following boundaries:

Beginning at the boundary of the Modoc National Forest on the east side of Sec. 28, T. 42 N., R. 14 E., where Parker Creek crosses the national forest boundary and following thence Parker Creek and the South Fork of Parker Creek to the summit of the Warner Mountains; thence southerly along the summit of the Warner Mountains to the headwaters of Mill Creek; thence following course of Mill Creek to Mill Creek Ranger Station and Mill Creek stock corrals in approximately Sec. 15, T. 40 N., R. 15 E. (unsurveyed); thence along road from Mill Creek Ranger Station and stock corrals running north of Cantrell's sawmill to Bowman Ranch, thence along same road to the Modoc National Forest boundary on the center line of Sec. 33, T. 41 N., R. 14 E.; thence north along said national forest boundary to Parker Creek, the point of beginning.

HISTORY:
Enacted 1957.

§ 10822. District 1F

The following constitutes Fish and Game District 1F: All that area within the County of Lassen within the following boundaries:

Beginning at the fork of the Puls Camp Road and the Poison Lake–Harvey Valley Road near the quarter section corner between Secs. 33 and 34, T. 33 N., R. 8 E.; thence northerly following the westerly side of said road by Dixie Springs and Puls Camp in Sec. 33, T. 34 N., R. 8 E., to Shroder Lake in Sec. 19, T. 34 N., R. 8 E.; thence southwesterly about one mile to the junction of said Puls Camp Road and the Little Valley Road in Sec. 24, T. 34 N., R. 7 E.; thence northwesterly following the southerly side of said Little Valley Road to its junction with the Blacks Lake Road; thence westerly following the southerly side of said Blacks Lake Road to the Eldridge place in Sec. 13, T. 34 N., R. 6 E.; thence southerly following the easterly side of said road to Jelly Camp in Sec. 25, T. 34 N., R. 6 E.; thence southeasterly following the easterly side of the Susanville–Pittville Road to junction of the Poison Lake–Harvey Valley Road; thence easterly following the northerly side of said Poison Lake–Harvey Valley Road to the point of beginning.

HISTORY:
Enacted 1957.

§ 10823. District 1G

The following constitutes Fish and Game District 1G: All that area within the County of Tehama within the following boundaries:

Beginning at a point where Deer Creek crosses the west township line of T. 25 N., R. 2 E.; thence north along said township line and along the west township line of T. 26 N., R. 2 E. to its intersection with Boatgunwale Creek; thence down Boatgunwale Creek to Mill Creek; thence up Mill Creek to the Ponderosa Truck Trail; thence following the Ponderosa Truck Trail to its intersection with South Antelope Creek; thence up South Antelope Creek to mouth of the North Fork of South Antelope Creek; thence up the North Fork to its source; thence following Manzanita Cut Trail to the South Fork of Rock Gulch Creek; thence down Rock Gulch Creek to its intersection with the Old Butte Meadows–Round Valley Trail; thence following the Old Butte Meadows–Round Valley Trail to its intersection with the Deer Creek Highway, thence down the Deer Creek Highway to its westerly crossing of Deer Creek, thence down Deer Creek to point of beginning.

HISTORY:
Enacted 1957.

§ 10824. District 1H

The following constitutes Fish and Game District 1H: All that area within the County of Plumas within the following boundaries:

Beginning at a point on the Western Pacific Railway known as Quincy Junction; thence following northerly the westerly side of the Old Road to Taylorsville; thence westerly along the southerly side of the County Road 207 to its intersection with the Western Pacific Railway from Crescent Mills to Keddie; thence southwesterly and southerly along these tracks to Keddie; thence southerly and southeasterly along main Western Pacific tracks from Keddie to Quincy Junction to the point of beginning.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 1197 § 1.

§ 10825. District 1I

The following constitutes Fish and Game District 1I: All that area within the County of Placer within the following boundaries:

Beginning at a point in Sec. 17, T. 14 N., R. 14 E., M.D.M., where the French House–Big Meadows Road intersects the South Fork of Long Canyon Creek; thence following southwesterly along said road to its intersection with the French Meadows–Georgetown Road near the section line between Secs. 22 and 23, T. 14 N., R. 13 E., thence southwesterly along the French Meadows–Georgetown Road where it intersects an unnamed tributary to the North Fork of Long Canyon Creek near the section line between Secs. 22 and 27, T. 14 N., R. 13 E.; thence northwesterly along said tributary to French House Site (near the center of Sec. 22, T. 14 N., R. 13 E.); thence northwesterly along the French House–Red Star Mine Jeep Road in Secs. 22 and 15, T. 14 N., R. 13 E., to its intersection with the Middle Fork of the American River, in Sec. 15, T. 14 N., R. 13 E.; thence northeasterly along the Middle Fork of the American River, to its intersection with the southern boundary of Sec. 35, T. 15 N., R. 13 E., thence due north on a line through the center of Sec. 35 to an intersection with the summit of Red Star Ridge in Sec. 26, T. 15 N., R. 13 E. (this being the divide between Duncan Creek and the Middle Fork of the American River); thence northeasterly following the summit of Red Star Ridge to a point in Sec. 4, T. 15 N., R. 14 E. where said ridge intersects the main Foresthill Divide between the North Fork of the American River and the Middle Fork of the American River; thence easterly along the summit of said divide to Needle Peak; thence southerly following the summit of the divide to Mt. Mildred; thence southwesterly following the summit of the divide between Gray Horse Creek and the Middle Fork of the American River to its intersection with the Big Meadows–Gray Horse Valley Trail (near the middle of Sec. 5, T. 14 N., R. 14 E.); thence following said trail to the South Fork of Long Canyon Creek (near the middle of Sec. 9, T. 14 N., R. 14 E.); thence southwesterly down the South Fork Long Canyon Creek to the point of beginning.

HISTORY:
Added Stats 1980 ch 249 § 2.

§ 10826. District 1J

The following constitutes Fish and Game District 1J: All that area within the County of Amador within the following boundaries:

Beginning at a point between Secs. 13 and 18, T. 8 N., R. 14 and 15 E., where the Carson Pass Highway (State Sign Route 88) enters Sec. 18, T. 8 N., R. 15 E.; thence northeasterly along the south side of State Highway 88 right of way to the Bear River Road in Section 12, T. 8 N., R. 15 E.; thence southeasterly along the westerly side of said road to the junction of the Ham's Spring and Cole Creek Roads in Section 20, T. 8 N., R.

16 E.; thence southeasterly along the westerly side of the Cole Creek Road to its termination at the P. G. & E. penstock in Section 33, T. 8 N., R. 16 E.; thence southerly along the westerly side of said penstock to its intersection with the Mokelumne River; thence down the north bank of the Mokelumne River in a southwesterly direction to the intersection of range line between T. 7 N., R. 14 and 15 E.; thence north along range line between T. 8 N., R. 14 and 15 E., to the intersection of State Sign Route 88 to the place of beginning.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 1131 § 1.

§ 10827. District 1N

The following constitutes Fish and Game District 1N: All that area within the Counties of Siskiyou and Modoc within the following boundaries:

Beginning at the junction of the Lava Ranger Station Road and the Egg Lake–Quaking Asp Road, thence following westerly and northerly the northerly and easterly side of said Lava Ranger Station Road to its junction with the Medicine Lake–Quaking Asp Road near the northwest corner of Sec. 18, T. 42 N., R. 5 E., thence easterly and southerly following the southerly and westerly side of the Medicine Lake–Quaking Asp–Egg Lake Road to the point of beginning.

HISTORY:
Enacted 1957.

§ 10828. District 1P

The following constitutes Fish and Game District 1P: All that area within the County of Plumas, within the following boundaries:

Beginning at the junction of the Milford–Beckwourth Road and the Last Chance–Doyle Road, thence following the easterly side of said Milford–Beckwourth Road to its junction with the Dixie Valley–Frenchman's Cove Road; thence following the easterly side of the Dixie Valley–Frenchman's Cove Road to its junction with the Little Last Chance Road; thence following the westerly side of the Little Last Chance Road to its junction with the Last Chance–Doyle Road; thence following the westerly side of the Last Chance–Doyle Road to the place of beginning.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 596 § 2.

§ 10829. District 1R

The following constitutes Fish and Game District 1R: All that area within the County of Tuolumne within the following boundaries:

Beginning at the junction of the North Fork of the Stanislaus River and the Middle Fork of the Stanislaus River; thence easterly following the northerly bank of said Middle Fork of the Stanislaus River to the mouth of the Shu–fly Creek, approximately in Sec. 9. T. 5 N., R. 18 E.; thence northerly following the westerly bank of said creek to its junction with Whit's Basin Creek; thence westerly following the southerly and westerly bank of said Whit's Basin Creek to its junction with the Sands Meadow Trail in Sec. 36, T. 6 N., R. 17 E.; thence northwesterly following said Sands Meadow Trail to its junction with the Government Truck Trail in Sec. 23, T. 6 N., R. 17 E.; thence westerly following said Truck Trail to Liberty Hill; thence following said Government Truck Trail westerly and southerly to its junction with the Boards Crossing–Beaver Creek Camp Road; thence northerly following said Boards Crossing–Beaver Creek Camp Road to Boards Crossing on the North Fork of the Stanislaus River; thence downstream following the easterly bank of said North Fork of the Stanislaus River to the point of beginning.

HISTORY:
Enacted 1957.

§ 10830. District 1S

The following constitutes Fish and Game District 1S: All that area lying within the County of Lassen within the following boundaries:

Beginning at the old Haydenhill Post Office in the approximate center of Sec. 36, T. 37 N., R. 9 E.; thence following westerly along the old Juniper Road through Windmill Flat to the junction of the Summit Spring Road near Meyers Spring; thence south through Lost Valley along the Lost Valley–Dixie Valley Road to the junction of the Dixie Valley–Grasshopper Road; thence east to the junction of the old Haydenhill–Slate Creek Road located approximately in Sec. 24, T. 35 N., R. 9 E.; thence north along the Haydenhill–Slate Creek Road to the place of beginning.

HISTORY:
Enacted 1957.

§ 10831. District 1V

The following constitutes Fish and Game District 1V: all that area within the County of Plumas within the following boundaries:

Beginning at the intersection of U.S. Alternate 40 Highway and U. S. Forest Service Road 24N12; thence following northerly the easterly side of U. S. Forest Service Road 24N12 to its intersection with U. S. Forest Service Road 24N10; thence easterly following the southerly side of U. S. Forest Service Road 24N10 to its intersection with U. S. Forest Service Road 24N07 (Relocated); thence easterly following the southerly side of U. S. Forest Service Road 24N07 (Relocated) to its intersection with U. S. Forest Service Road 25N08; thence southerly on the westerly side of U. S. Forest Service Road 25N08 to its intersection with U. S. Alternate 40 Highway; thence westerly along the northerly side of U. S. Alternate 40 Highway to the point of beginning.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 141 § 1.

§ 10832. District 2A

The following constitutes Fish and Game District 2A: All that area within the Counties of Mendocino, Lake, and Glenn within the following boundaries:

Beginning at the summit of Hull Mountain in Mendocino County, in the southwest corner of Sec. 2, T. 19 N., R. 10 W.; thence in a northeasterly direction down Hull Creek (sometimes known as Red Rock Creek) to its junction with Sand Creek; thence southeasterly down Sand Creek to its junction with Corbin Creek, thence in an easterly direction up Corbin Creek to Sec. 36, T. 20 N., R. 8 W.; thence in a southerly direction up a ravine to the Pacific Crest Road (24N02) on the summit of the Coast Range Mountains in Sec. 12, T. 19 N., R. 8 W.; thence southwesterly along the Pacific Crest Road (24N02) to Low Gap, where the Bloody Rock trail crosses the summit in Sec. 27, T. 19 N., R. 8 W.; thence in a westerly direction down the Bloody Rock trail and Cold Creek to South Eel River in Sec. 26, T. 19 N., R. 9 W.; thence down the river to the mouth of a ravine in the SE ½ of Sec. 27, T. 19 N., R. 9 W.; thence in a northwesterly direction up the ravine through Secs. 27 and 28 to the summit of Boardman Ridge; thence in a northwesterly direction up Boardman Ridge to the summit of Hull Mountain to the point of beginning.

HISTORY:
Enacted 1957. Amended Stats 1970 ch 87 § 1.

§ 10833. District 2B (Mount Tamalpais Game Refuge)

The following constitutes Fish and Game District 2B, the Mount Tamalpais Game Refuge: All that area within the County of Marin within the following boundaries:

Beginning at the intersection of the easterly shore of inner Bolinas Bay with the northwesterly boundary line extended, of the Stinson ranch conveyed to A. H. Stinson et al., by decree of distribution dated the 28th of July, 1911; thence northwesterly along the

said northwesterly boundary line to the southwesterly boundary line of the lands of the Marin municipal water district on the crest of Bolinas Ridge; thence northeasterly, northwesterly, and easterly along the westerly and northerly boundary line of the watershed lands of the said water district to its intersection with the southwesterly corner of the Rancho Canada de Herrera; thence north 14 degrees west along the westerly line of said Rancho Canada de Herrera to the southwesterly corner of the Bothin real estate property; thence in an easterly direction along the southerly line of the said Bothin property to its intersection with the westerly boundary line of the town of Fairfax; thence in a general southerly direction along the westerly boundary of the said town of Fairfax to its intersection with the southerly boundary line of the said Rancho Canada de Herrera; thence northerly 83 degrees 15 minutes east along said southerly line 3,200 feet, more or less, to its intersection with the southeasterly line of the county road leading from Fairfax to Bolinas; thence northerly along said road and along the Fairfax–Bolinas County Road to a point in the southerly line of the right of way of the Northwestern Pacific Railroad Company near Fairfax station; thence along the said last–mentioned line in a southerly direction following the westerly line of said railroad right of way to its intersection with the southerly line of the road or highway immediately south of Alto station; thence following the southerly side of said Alto–Belvedere Road and state highway easterly to its intersection with the northwesterly line of the Town of Belvedere; thence following the northwesterly line of the Town of Belvedere southwesterly to its extreme westerly corner; thence in a direct line to the extreme northerly corner of the Town of Sausalito; thence southwesterly along the northwesterly line of the Town of Sausalito to its intersection with the Northwestern Pacific Railroad; thence following the westerly line of the right of way of the Northwestern Pacific railroad to Manzanita Station; thence southwesterly in a direct line to the Mill Valley State Highway; thence westerly along the said highway to its intersection with Tennessee Avenue; thence following the southerly and easterly line of Tennessee Avenue, westerly and southerly, to the corner common to ranches E, F, and A, as said ranches are delineated on the Tamalpais Land and Water Company's map No. 3; thence southwesterly along the southeasterly boundary lines of ranches E, L, and K, as shown on the said last–mentioned map, to the shore of the Pacific Ocean; thence northwesterly along the shore of the Pacific Ocean and across the easterly end of the Bolinas sandspit, and along the easterly shore of inner Bolinas Bay, to the point of beginning, excepting from the area of said Mount Tamalpais Game Refuge all lands lying within incorporated areas.

HISTORY:
Enacted 1957.

§ 10835. District 3F

The following constitutes Fish and Game District 3F: All that area within the County of Contra Costa described as follows:

All of Secs. 29, 30, 31 and 32, T. 1 N., R. 1 E.; all of Secs. 5, 6, 7 and 8, T. 1 S., R. 1 E.; all of Secs. 25, 26, 35 and 36 of T. 1 N., R. 1 W; all of Secs. 1, 2, 11 and 12 of T. 1 S., R. 1 W.

HISTORY:
Enacted 1957.

§ 10836. District 3G

The following constitutes Fish and Game District 3G:

All those lands of the Leland Stanford Junior University within the Counties of San Mateo and Santa Clara, and consisting of lots numbers 1 to 33, inclusive; that portion of lots 35 and 42 lying outside of the town limits of the town of Mayfield; lots 36, 43, 46 to 75, inclusive; 80 to 86, inclusive; 89 to 98, inclusive, as shown on the map entitled "map

of the lands of the Leland Stanford Junior University at or near the site of the university in the Counties of Santa Clara and San Mateo, by A. T. and F. A. Herrmann of Herrmann Bros.," dated November, 1908, recorded in the Office of the County Recorder of the County of Santa Clara.

HISTORY:
Enacted 1957.

§ 10837. District 4D

The following constitutes Fish and Game District 4D: All that area within the County of Riverside described as follows:

Beginning at the intersection of State Highway 74 and Highway 111 in Section 20, T. 5 S., R. 6 E., S.B.B. & M.;

Thence northwesterly on State Highway 111 to its intersection with the south bank of the Palm Canyon wash and the east boundary of Section 25, T. 4 S., R. 4 E., S.B.B. & M.;

Thence southwesterly and southerly along east bank of Palm Canyon wash through said Section 25, Sections 36 and 35, T. 4 S., R. 4 E., S.B.B. & M. and Sections 2, 11, 14, 23, 25 and 36, T. 5 S., R. 4 E., S.B.B. & M.;

Thence continuing along the east bank of said Palm Canyon wash through Sections 1, 12, 13, T. 6 S., R. 4 E., and continuing through Sections 18, 19, 30 and 31, T. 6 S., R. 5 E., to a point of intersection with Omstott Creek;

Thence along the north bank Omstott Creek through Section 31, T. 6 S., R. 5 E., and continuing through Sections 5, 4, 9, 10, T. 7 S., R. 5 E., to the north line of said State Highway 74;

Thence easterly along north line of said Highway 74 to a point of intersection with the north line Section 12, T. 7 S., R. 5 E.;

Thence east along north line of said Section 12 to the northeast corner of said Section 12;

Thence south along the easterly boundary of Sections 12, 13, 24, 25 and 36, T. 7 S., R. 5 E.; and the easterly boundary of Section 1, T. 8 S., R. 5 E., to the point of intersection with the southwesterly corner of Section 31, T. 7 S., R. 6 E.;

Thence east and along the southerly boundary of said Section 31 and Sections 32, 33, 34 and 35, to the southeast corner of Section 36, T. 7 S., R. 6 E.;

Thence north along the easterly boundary of Sections 36, 25, 24, 13 and 12 to the northeast corner of Section 1, T. 7 S., R. 6 E.;

Thence west along the north line of said Section 1 to the southeast corner of Section 36, T. 6 S., R. 6 E.;

Thence north along the east line of said Section 36, Sections 25, 24 and 13 to the southwest corner of Section 7, T. 6 S., R. 7 E.;

Thence east along the south line of said Section 7 to the southeast corner thereof;

Thence north along the east line of said Section 7 and Section 6 of said T. 6 S., R. 7 E., to the northeast corner of said Section 6;

Thence west along the north line of said Section 6 of said T. 6 S., R. 7 E. to Marshall Street;

Thence north along Marshall Street and on the ¼ section line of Sections 31 and 30, T. 5 S., R. 7 E. to Highway 11;

Thence westerly along Highway 111 to the point of beginning.

HISTORY:
Enacted 1957. Amended Stats 1957 ch 1529 § 2; Stats 1967 ch 973 § 2.

§ 10838. District 4G

The following constitutes Fish and Game District 4G:

Beginning at the northeast corner of T. 4 S., R. 3 E., S. B. B. & M.; Thence on section lines, west one mile, north one mile, west two miles, north one mile and west three miles to the northwest corner of Sec. 30, T. 3 S., R. 3 E., S. B. B. & M.;

Thence south on the range line between R. 2 and 3 E., about 7¾ miles to the crest of the divide forming the northwesterly boundary of Strawberry Creek watershed;

Thence southwesterly along said divide to a point on the northerly boundary of Sec. 28 in T. 5 S., R. 2 E., S. B. B. & M.;

Thence southwesterly in a straight line to the junction of Strawberry Creek and the south fork of the San Jacinto River;

Thence southeasterly and northeasterly along the crest of the divide between the waters of Dry Creek, a tributary of Strawberry Creek, and the waters of the south fork of the San Jacinto River and its tributaries to the northeasterly side of the right of way of the Pines to Palms Highway;

Thence southeasterly along the said northeasterly side of the right of way of the Pines to Palms Highway to the right bank of Hurkey Creek;

Thence northerly along the right bank of Hurkey Creek through Secs. 9 and 4 in T. 6 S., R. 3 E., and through Secs. 33, 28, 21, the southeast quarter of Sec. 16, the west one–half of Sec. 15, the east half of Sec. 10 and the northwest quarter of Sec 11 to the crest of the divide between the waters of Hurkey Creek and Murray Canyon;

Thence southeasterly along the crest of the divide between the waters flowing west into the San Jacinto River and the waters flowing east into Coachella Valley to a point on the south boundary of Sec. 24 in T. 5 S., R. 3 E., S. B. B. & M.;

Thence east on said south line of Sec. 24 to the southeast corner thereof. Thence north on the range line to the point of beginning.

HISTORY:
Enacted 1957.

§ 10840. California Sea Otter Game Refuge

The California Sea Otter Game Refuge consists of and includes the following:

All that portion of Monterey and San Luis Obispo Counties between Carmel River on the north and Santa Rosa Creek on the south, lying west of the Monterey–Cambria Pines Highway, also known as California Highway No. 1.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 15 § 2.

§ 10841. Preston School of Industry Game Refuge

The Preston School of Industry Game Refuge consists of and includes the following:

The Preston School of Industry Reservoir, which is situated on land occupied by the Preston School of Industry, Ione, Amador County.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 596 § 3.

§ 10842. District 1K, Johnsville Game Refuge

The following constitutes Fish and Game District 1K, the Johnsville Game Refuge: All that area within the County of Plumas within the following boundaries:

Beginning at the North ¼ corner of Section 24, T. 22 N., R. 11 E., M. D. M.; thence North 89° 39' 25″ East 334.93 feet; thence South 0° 08' 47″ East 418.08 feet; thence South 89° 48' 44″ West 167.37 feet; thence South 0° 09' 33″ East 668.15 feet; thence South 89° 59' 48″ West 496.21 feet; thence South 0° 09' 15″ East 83.34 feet; thence South 89° 58' 24″ West 164.51 feet; thence South 0° 08' 41″ East 83.31 feet; thence South 89° 59' 14″ West 82.26 feet; thence South 0° 08' 24″ East 83.29 feet; thence North 89° 59' 55″ West 82.26 feet; thence South 0° 03' 55″ East 83.09 feet; thence North 89° 51' 34″ West 82.43 feet; thence South 0° 03' 58″ East 83.05 feet; thence North 89° 50' 14″ West 82.42 feet; thence South 0° 03' 30″ East 331.95 feet; thence North 89° 46' 07″ West 329.53 feet; thence North 0° 03' 37″ West 331.59 feet; thence South 89° 49' 39″ East 164.68 feet; thence North 0° 04' 08″ West 165.91 feet; thence North 0° 04' 47″ West 498.64 feet; thence South 89° 57' 00″

West 164.57 feet; thence North 0° 04' 11″ West 184.90 feet; thence North 69° 21' 49″ East 175.25 feet; thence North 0° 05' 22″ West 584.25 feet; thence North 89° 43' 00″ East 985.90 feet to the point of beginning.

HISTORY:
Added Stats 1968 ch 124 § 2.

§ 10843. Farallon Islands Game Refuge

The following constitutes the Farallon Islands Game Refuge: the Southeast Farallons, including Maintop Island, Middle Farallon, the North Farallons, Noonday Rock, and the waters lying around each island within one nautical mile from the coastline of each island.

Section 10513 shall have no application in this refuge. Notwithstanding the provisions of Section 10500, persons on commercial vessels may possess unloaded firearms when traveling through the navigable waters of this refuge. Fishermen, however, may not take any seal or sea lion while in this refuge, notwithstanding the provisions of Section 4500 or 4500.5.

HISTORY:
Added Stats 1971 ch 143 § 1. Amended Stats 1971 ch 1200 § 3.

§ 10844. Education and outreach regarding game refuges; Report

(a) The department shall undertake appropriate education and outreach regarding the current location of existing game refuges, agency contacts for statutory notices in Sections 10506 and 10507, and the potential closure of all state game refuges, except the California Sea Otter Game Refuge and the Farallon Islands Game Refuge. The department shall provide an opportunity for public comment concerning the potential elimination of game refuges. The department shall provide information about game refuge boundaries, including, but not limited to, maps available both on the department's Internet Web site and in hardcopy format. The department shall also provide Internet Web site contact information for the public to contact the department in accordance with state law. The department may conduct regional workshops as it determines to be necessary to provide public information about the proposed elimination of game refuges.

(b) The department, on or before January 1, 2011, shall prepare and submit to the Legislature a description of the public education and outreach effort undertaken pursuant to subdivision (a), and a summary of any information provided by the public that is relevant to the potential closure of all state game refuges except the California Sea Otter Game Refuge and the Farallon Islands Game Refuge.

HISTORY:
Added Stats 2008 ch 389 § 2 (SB 1166), effective January 1, 2009.

ARTICLE 4. WATERFOWL REFUGES

§ 10860. Waterfowl refuges enumerated

The following districts are waterfowl refuges.

HISTORY:
Enacted 1957.

§ 10861. San Leandro Waterfowl Refuge

The following constitutes a waterfowl refuge and shall be designated the San Leandro Waterfowl Refuge: All the area within the County of Alameda, within the following boundaries:

Beginning at the Bay Farm Island Bridge, in Alameda, thence in a southerly direction, following the levee on westerly side of San Leandro Bay to the Hagenburger Road, thence in a northeasterly direction along said Hagenburger Road to a point where the Pacific Gas and Electric tower line crosses said Hagenburger Road, thence following said Pacific Gas and Electric tower line to the Pacific Gas and Electric substation at the foot of Fiftieth Avenue in Oakland, thence in a westerly direction along the high tide line of San Leandro Bay to the point of beginning.

HISTORY:
Enacted 1957.

ARTICLE 5. QUAIL REFUGES

§ 10880. Quail refuges enumerated

The following districts are quail refuges.

HISTORY:
Enacted 1957.

§ 10881. Bolinas Quail Refuge

The following constitutes a quail refuge and shall be designated the Bolinas Quail Refuge: All that area within the County of Marin, within the following boundaries:

Beginning at a point on the southeasterly line of the lands of Ludwig B. Freudenthal, as the same is described in Book 158 of official records on page 261, of Marin County records, and at a point which is 20 feet above mean high tide of the Pacific Ocean, and running thence northeasterly and northwesterly along the southeasterly line of said Ludwig B. Freudenthal tract to a point on the southerly line of the "Mesa Road," thence northeasterly and along the southerly line of Mesa Road to the westerly line of the road leading from the Town of Bolinas to Sausalito, thence southeasterly and along the southerly line of the county road leading through the Town of Bolinas to the landing wharf at the entrance of Bolinas Bay, and 20 feet above mean high tide, thence southwesterly, westerly and northwesterly along a line which is 20 feet above mean high tide to the point of beginning.

HISTORY:
Enacted 1957.

ARTICLE 6. MARINE LIFE REFUGE

§ 10900. Marine life refuges enumerated

The refuges described in the following sections are marine life refuges.

HISTORY:
Enacted 1957.

§ 10901. Hopkins Marine Life Refuge

That portion of District 16 consisting of the land and ocean waters within the following boundaries constitutes a marine life refuge and shall be designated the Hopkins Marine Life Refuge:

Beginning at the point of intersection of the southeasterly corporate limit line of the City of Pacific Grove prolongated, and the line of highest tide of the Bay of Monterey; thence northwesterly along said line of highest tide to the intersection with the northerly extension of the west side of Third Street in said city; thence northerly to a point in said bay where the depth of water is 60 feet measured from the level of mean low tide; thence southeasterly along the line in said bay which line is at a constant depth of 60 feet

measured from the level of mean low tide to the intersection with the southeasterly corporate limit line of said city prolongated; thence S. 58° 57' 45″ W. along said southeasterly corporate limit line prolongated to the point of beginning.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1069 § 5.

§ 10902. San Diego Marine Life Refuge

The following constitutes a marine life refuge and shall be designated the San Diego Marine Life Refuge:

That portion of District 19 consisting of that certain strip of land lying between the westerly edge of Pueblo Lot No. 1298 of the pueblo lands of the City of San Diego, according to the official map of said pueblo lands as made by James Pascoe, and filed in the Office of the County Recorder of said County of San Diego, and the lowest tide line opposite to and west of said pueblo lot, which said strip of land is bounded on the north by the northerly boundary line of said pueblo lot extended westerly and on the south by the southerly boundary line of said pueblo lot extended westerly; together with the state waters of the State of California adjacent thereto, being those state waters which lie between said extended northerly and southerly boundaries of said pueblo lot and extend westerly from said lowest low tide line for a distance of 1,000 feet.

HISTORY:
Enacted 1957.

§ 10903. Bodega Marine Life Refuge

The following constitutes a marine life refuge and shall be designated the Bodega Marine Life Refuge:

That portion of District 10 consisting of that certain parcel of land bounded by the line of Mean High Tide of the Pacific Ocean lying between the northern boundary extended northwesterly and the southern boundary extended southwesterly of the lands of the Regents of the University of California according to the final order of condemnation in Case No. 47,617 in the Superior Court of the State of California in and for the County of Sonoma, recorded in Book 1930, at pages 656 and 659, inclusive, Official Records, Sonoma County, California, and extending into and including the state waters of the State of California for a distance of a thousand feet into the Pacific Ocean from the line of Mean High Tide.

HISTORY:
Added Stats 1965 ch 1303 § 2.

§ 10904. Laguna Beach Marine Life Refuge

The following constitutes a marine life refuge and shall be designated as the Laguna Beach Marine Life Refuge:

That portion of District 19 consisting of that certain parcel of land bounded by a line commencing at the mean high tide of the Pacific Ocean lying on the northern boundary of the City of Laguna Beach and running for a distance of 600 feet into the Pacific Ocean along that boundary, and thence generally southeastward and generally parallel to the shoreline at a distance of approximately 600 feet to the northern boundary of the South Laguna Beach Marine Life Refuge, and thence generally northeastward for a distance of approximately 700 feet to the mean high tide, and thence generally northwestward along the line of mean high tide to the point of beginning.

HISTORY:
Added Stats 1968 ch 136 § 2. Amended Stats 1993 ch 259 § 4 (SB 716).

§ 10905. Newport Beach Marine Life Refuge

The following constitutes a marine life refuge and shall be designated as the Newport Beach Marine Life Refuge:

That portion of District 19 consisting of that certain parcel of land bounded by the line of Mean High Tide of the Pacific Ocean between the eastern boundary of the City of Newport Beach and Poppy Avenue in the City of Newport Beach, and extending into and including the state waters of the State of California for a distance of two hundred feet into the Pacific Ocean from the line of Mean High Tide.

HISTORY:
Added Stats 1968 ch 136 § 3.

§ 10906. South Laguna Beach Marine Life Refuge

The following constitutes a marine life refuge and shall be designated as the South Laguna Beach Marine Life Refuge:

That portion of District 19 consisting of land and ocean waters bounded by a line commencing at the intersection of the line of mean high tide of the Pacific Ocean and a line which bears South 48° 50' 00″ West from the most westerly point of Lot 75 of Tract No. 702, as that tract is shown on a map recorded in Book 21, pages 1 to 3, Miscellaneous Maps, on file in the Office of the County Recorder of Orange County; thence running South 48° 50' 00″ West approximately 600 feet to the minus 20 foot mean lower low water contour; thence southeasterly and generally parallel to the shoreline to the northerly boundary of the Niguel Marine Life Refuge; thence North 35° 57' 06″ East to the line of mean high tide of the Pacific Ocean; thence northwesterly along the line of mean high tide of the Pacific Ocean to the point of beginning.

HISTORY:
Added Stats 1968 ch 136 § 4. Amended Stats 1993 ch 259 § 5 (SB 716).

§ 10907. Dana Point Marine Life Refuge

The following constitutes a marine life refuge and shall be designated as the Dana Point Marine Life Refuge:

That portion of District 19 consisting of land and ocean waters bounded by a line commencing at Station 70 of the mean high tide line as shown on Document Number 25208 recorded in Book 7651, page 69 of Official Records on file in the Office of County Recorder of Orange County; thence along the mean high tide line westerly and northerly 3500 feet more or less to intersection with a line which is 2440 feet south of and parallel to the north line of Fractional Section 21, R. 8 W., T. 8 S., S.B.M.'; thence west 1200 feet; thence southerly and easterly 1200 feet from and parallel to the shore line to an intersection with a line which bears S 40° 00' E. from said Station 70; thence N 40° 00' W. 1200 feet more or less to the point of beginning.

HISTORY:
Added Stats 1969 ch 56 § 2, effective April 29, 1969.

§ 10908. Doheny Beach Marine Life Refuge

The following constitutes a marine life refuge and shall be designated as the Doheny Beach Marine Life Refuge:

All that area lying 600 feet seaward of and below the mean high tide line of the Pacific Ocean between the prolongation of the line common to Blocks A and B of Tract No. 797, Capistrano Beach #3, in the County of Orange, State of California, as per map recorded in Book 25, pages 10 to 15, inclusive, of Miscellaneous Maps in the office of the County Recorder of such county, such line also being the prolongation of the easterly line of Doheny State Beach, a unit of the State Park System acquired by deed dated April 29, 1957, from the Union Oil Company of California, recorded on October 9, 1957, in Book 4063 of Official Records at page 88, Orange County, California, and the east breakwater of the Dana Point Harbor, a project of the Orange County Harbor District, a political subdivision of the State of California.

HISTORY:
Added Stats 1969 ch 56 § 3, effective April 29, 1969.

§ 10909. James V. Fitzgerald Marine Reserve

The following constitutes a marine life refuge and shall be designated the James V. Fitzgerald Marine Reserve:

That portion of District 10 consisting of that certain parcel of land bounded by a line commencing at the mean high tide of the Pacific Ocean lying on a line beginning at the northeasterly corner of Lot 8, Block 42 as said Lot and Block are shown on "Map of Moss Beach Heights San Mateo County Cal", recorded May 4, 1908, in Volume 6 of Maps at page 8, records of San Mateo County; thence North 88° 49' West along the northerly line of said Lot 8 and its Northwesterly prolongation to the intersection thereof with the Westerly line of that certain tract of land (Parcel No. 1) conveyed to the County of San Mateo for a marine reserve, recorded August 8, 1967, in Volume 5346 Official Records of San Mateo County at page 62 (70483–AA) last mentioned intersection being the shoreline of the Pacific Ocean (ordinary high water) and the true Point of Beginning along the prolongation of the Northerly line of said Lot 8, North 88° 49' West, 1000 feet, into the Pacific Ocean and thence generally Southerly and generally parallel to the shoreline for a distance of approximately three statute miles to the extension of a line beginning at the most Southerly terminus of Course No. 15 of the survey of the Rancho Corral de Tierra as shown on a Plat thereof on file in the Office of the Bureau of Land Management, U. S. Department of the Interior; said most Southerly terminus also being distant on said Course No. 15, South 28° 30' East 269.91 feet from the most Southerly corner of that certain 10.380 acre tract of land conveyed to the United States of America by Deed dated June 18, 1940, recorded October 28, 1940 in Book 918 of Official Records at page 373; running thence from said point of beginning along a line that is the Southwesterly prolongation of Course No. 14 of said survey, South 74° 45' West to the shoreline of the Pacific Ocean (ordinary high water) and the true point of beginning of the least area herein described; thence from said true point of beginning along the prolongation of said Course No. 14, South 74° 45' West, 1000 feet into the Pacific Ocean, thence Easterly along said line to the mean high tide line, thence generally Northerly along the line of the mean high tide to the point of beginning.

HISTORY:
Added Stats 1969 ch 675 § 2.

§ 10910. Point Fermin Marine Life Refuge

The following constitutes a marine life refuge and shall be designated as the Point Fermin Marine Life Refuge:

That portion of District 19 consisting of land and ocean waters bounded by the line of mean high tide of the Pacific Ocean extending into and including the state waters of the State of California for a distance of 600 feet below low–tide mark, in the San Pedro area of the City of Los Angeles in an area generally parallel to the shoreline lying between the easterly extension of 40th Street, westerly to the southerly extension of Gaffey Street at Point Fermin.

HISTORY:
Added Stats 1969 ch 693 § 2.

§ 10911. Niguel Marine Life Refuge

The following constitutes a marine life refuge and shall be designated as the Niguel Marine Life Refuge: That portion of California state tide and submerged lands bounded by a line commencing at a point which is the intersection of the line of mean high tide and a line which is 2,440 feet south of and parallel to the north line of Fractional Section 21, R.8W., T.8S., S.B.M., such point also being on the north boundary of the Dana Point

Marine Life Refuge, thence along the mean high tide line northerly and westerly 12,000 feet more or less to its intersection with the westerly prolongation of the most northerly boundary line of lot 101 of "Three Arches Palisades No. 1" as shown on a map filed in book 3, page 3, Records of Surveys in the Office of the County Recorder, Orange County; thence, S. 89° 54' W. 1,200 feet from such point of intersection along the westerly prolongation of such northerly boundary line; thence, south and west, and east parallel to and 1,200 feet from the line of mean high tide to a point on the north line of Dana Point Marine Life Refuge and also being 1,200 feet west of the point of beginning; thence, east 1,200 feet along the northerly boundary of Dana Point Marine Life Refuge to the point of beginning.

HISTORY:
Added Stats 1971 ch 492 § 2, effective August 6, 1971.

§ 10912. Irvine Coast Marine Life Refuge

The following constitutes a marine life refuge and shall be designated as the Irvine Coast Marine Life Refuge:

That portion of California state tide and submerged lands adjoining the Newport Beach Marine Life Refuge as described in Section 10905 and bounded by a line beginning at the intersection of the southwesterly extension of lot 141, Tract No. 3357 as shown on a map recorded in Book 107, Page 1 of Miscellaneous Maps on file in the office of the County Recorder, Orange County and the Line of Ordinary High Tide; thence, southeasterly along the Line of Ordinary High Tide approximately 20,000 feet to its intersection with the southwesterly extension of the northwesterly boundary line of the City of Laguna Beach; thence, southwesterly along such southwesterly extension 600 feet; thence, northwesterly along a line parallel to and 600 feet southwesterly of the Line of Ordinary High Tide to the southwesterly extension of said lot 141; thence, northeasterly 600 feet along such southwesterly extension to the point of beginning.

HISTORY:
Added Stats 1971 ch 492 § 3, effective August 6, 1971.

§ 10913. Encinitas Marine Life Refuge

The land and ocean waters within the following boundaries constitute the City of Encinitas Marine Life Refuge:

All those submerged lands lying between the mean high tide line in the City of Encinitas, County of San Diego, State of California, and a line which is 600 feet westerly of and parallel and concentric with that mean high tide line and lying southerly of the westerly prolongation of the northerly right–of–way line of "D" Street as shown on Map No. 148, in the City of Encinitas, County of San Diego, State of California, filed in the office of the County Recorder of San Diego County, and lying northerly of the following described line:

Beginning at the southeasterly corner of Lot N in Block 3 of Resubdivision of Sea Cliff Villa, in the City of Encinitas, County of San Diego, State of California, filed in the San Diego County Recorder's office, December 10, 1914; thence southwesterly along the southwesterly prolongation of the southeasterly line of said Lot N, South 36° 36'30″west, to a point on that line which is 600 feet westerly of and parallel and concentric with the mean high tide line.

HISTORY:
Added Stats 1989 ch 151 § 1.

ARTICLE 7. JUNIOR FISHING RESERVE

§ 10925. Designation; Restrictions; Purpose

(a) In that part of District 1½ comprising the waters of Francis Creek, Rees Creek, and Williams Creek, and in that part of District 1⅜ comprising the waters of the Sawmill

Pond, it is unlawful for any person over the age of 14 to take any fish. Not more than five fish may be taken and possessed from those waters during one day.

(b) It is the purpose of this section to create a junior fishing reserve for young people so that they may practice the art of angling safely without interference with, or being interfered with by, licensed sporting fishermen and others during lawful fishing seasons.

HISTORY:
Enacted 1957. Amended Stats 1989 ch 456 § 1.

ARTICLE 8. BURRO SANCTUARY

§ 10930. Boundaries

The following is a burro sanctuary: All that area within the following boundaries:

Beginning at the point at which the northern boundary line of Death Valley National Monument intersects with the easterly boundary line of the State of California;

Thence westerly along the northern boundary line of Death Valley National Monument to the point of intersection with the line common to R. 40 and 41 E., Mount Diablo Meridian, being the NE. corner of Sec. 24, T. 10 S., R. 40 E., M. D. B. & M.;

Thence northerly along the line common to R. 40 and 41 E., M. D. M., to the point of intersection with the line common to T. 9 and 10 S., Mount Diablo Base, being the NE. corner of Sec. 1, T. 10 S., R. 40 E., M. D. B. & M.;

Thence westerly along the line common to T. 9 and 10 S., M. D. B., and the prolongation thereof, to the point of intersection with the most easterly boundary line of the Inyo National Forest, as such boundary exists on the effective date of this act, being the NW. corner of Sec. 6, T. 10 S., R. 37 E., M. D. B. & M.;

Thence southerly and easterly along the most easterly boundary line of the Inyo National Forest to the most easterly southeast corner of said national forest;

Thence in a direct line in a generally southeasterly direction to the point at which the center line of State Highway Route 127 (No. 190) intersects with the line common to R. 41 and 42 E., M. D. M.;

Thence southerly along the line common to R. 41 and 42 E., M. D. M., to the point of intersection with the line common to T. 20 and 21 S., M. D. B., being the SW. corner of Sec. 31, T. 20 S., R. 42 E., M. D. B. & M.;

Thence westerly one–half mile, more or less, along the line common to T. 20 and 21 S., M. D. B., to the point of intersection with the line common to R. 41 and 42 E., M. D. M., being the NW. corner of Sec. 6, T. 21 S., R. 42 E., M. D. B. & M.;

Thence southerly along the line common to R. 41 and 42 E., M. D. M., to the point of intersection with the boundary line between Inyo and San Bernardino Counties;

Thence easterly along said county boundary line to the point of intersection with the easterly boundary line of the State of California;

Thence northwesterly along said easterly boundary line of the State to the point of beginning.

HISTORY:
Added Stats 1957 ch 867 § 2.

§ 10931. Taking of or harm to burros within sanctuary unlawful; Violation as misdemeanor; Exceptions

Except as otherwise provided in Chapter 5 (commencing with Section 4600) of Part 3, Division 4 of this code it is unlawful to take, possess, harm, molest, harass, or in any manner interfere with any burro which is in the burro sanctuary described in Section 10930 of this code. Any violation of these provisions is a misdemeanor.

The provisions of this section, other than those relating to the taking and possession of burros, do not apply to persons while lawfully on lands included within the sanctuary and engaged in the business of raising cattle.

HISTORY:
Added Stats 1957 ch 867 § 2 as § 19031. Renumbered Stats 1959 ch 596 § 4.

§ 10932. Catalina Marine Science Center Marine Life Refuge

The following constitutes a marine life refuge and shall be designated the Catalina Marine Science Center Marine Life Refuge:

All that area bounded on the south and southeast by the mean high tide line and by the present seaward boundary of the lease to tide and submerged lands now held by the University of Southern California from the State Lands Commission (No. 3692.1 Public Resources Code Series) and extending from a point on the mean high tide line at 33° 26' 39″ North Latitude 118° 29' 19″ West Longitude, thence to 33° 26' 50″ North Latitude 118° 29' 08″ West Longitude, thence to 33° 26' 57.5″ North Latitude 118° 28' 33.5″ West Longitude, thence to 33° 26' 55″ North Latitude 118° 28' 32″ West Longitude, and thence to a point on the mean high tide line at 33° 26' 53.5″ North Latitude 118° 28' 35″ West Longitude.

HISTORY:
Added Stats 1988 ch 682 § 5.

DIVISION 8. DISTRICTS

CHAPTER 1. BOUNDARIES

§ 11000. Division of State into districts; Mount Diablo base and meridian

For the protection of fish and game, the State of California is divided into fish and game districts to be known and designated as provided in this division.

Unless otherwise provided, the townships and ranges specified in this division are referred to the Mount Diablo base and meridian.

HISTORY:
Enacted 1957.

§ 11001. District 1

The following constitutes Fish and Game District 1:

Those portions of the following counties not included in other districts: Shasta, Tehama, Plumas, Butte, Sierra, Sutter, Yuba, Nevada, Placer, Sacramento, Madera, Tulare; those portions of San Joaquin County lying east and north of the east bank of the San Joaquin River and not included in District 3; those portions of Stanislaus and Merced Counties lying east of the west bank of the San Joaquin River; those portions of Fresno County lying east of the west bank of Fresno Slough, Fish Slough and Summit Lake; those portions of Kings County lying east of the main power line of the San Joaquin Light and Power Company, crossing the north line of Kings County in Section 4, T. 18 S., R. 19 E., southerly to its crossing of State Highway No. 41 between Secs. 21 and 22, T. 21 S., R. 19 E., and east of State Highway No. 41 southerly to its intersection with State Highway No. 33, and easterly of State Highway No. 33 from said intersection to the south line of said county in Section 36, T. 24 S., R. 18 E.; those portions of Kern County lying east of State Highway No. 33 between the northerly line of said county in Section one (1) T. 25 S., R. 18 E., M. D. B. & M., and the City of Taft and U.S. Highway No. 399 between the City of Taft and the City of Maricopa, and lying north of State Highway No. 166 from the City of Maricopa easterly to the intersection of said highway with U.S. Highway No. 99 in Section twelve (12), T. 11 N., R. 20 W., S. B. B. & M., and lying east of U.S. Highway No. 99 from the above–mentioned point of intersection to where the said U.S. highway crosses the northern boundary line of Los Angeles County, not included in other districts.

HISTORY:
Enacted 1957. Amended Stats 1965 ch 137 § 7.

§ 11002. District 1⅜

The following constitutes Fish and Game District 1⅜:

Those portions of the following counties not included in other districts: Alpine, El Dorado, Amador, Calaveras, Tuolumne and Mariposa.

Except as otherwise provided, all of the provisions of this code relating to District 1 shall apply to District 1⅜.

HISTORY:
Enacted 1957.

§ 11003. District 1½

The following constitutes Fish and Game District 1½:

Those portions of the Counties of Del Norte, Siskiyou, Trinity, and Humboldt not included in other districts.

HISTORY:
Enacted 1957.

§ 11004. District 1¾

The following constitutes Fish and Game District 1¾:

Those portions of the County of Modoc not included in other districts and that portion of the County of Siskiyou lying east of the Weed–Klamath Falls Highway between the north line of the County of Siskiyou and the Town of Weed and east of the Pacific Highway between the Town of Weed and the junction of Pacific Highway and the McCloud–Fall River Mills Highway and north and east of the McCloud–Fall River Mills Highway to the Siskiyou and Shasta county line and that part of Shasta County lying north and east of the McCloud–Fall River Mills Highway to its junction with the road to Lake Britton at Dickson Flat and east of that road through Burney Falls State Park to its junction with the Hat Creek–Lassen Highway at the Redding–Alturas Highway and east of the Hat Creek–Lassen Highway to Lassen Volcanic National Park and north and east to the north and east boundary of Lassen Volcanic National Park to its junction with the Lassen county line. That part of Lassen County north and east of the north and east boundary of the Lassen Volcanic National Park to its junction with the north line of District 25 and east of the east boundary of District 25 to its junction with the Lassen–Plumas county line approximately one mile southeast of Coyote Peak in Sec. 24, T. 28 N., R. 10 E. and north and west of the Plumas–Lassen county line between the boundary of District 25 and the Susanville–Taylorsville road.

HISTORY:
Enacted 1957.

§ 11005. District 2

The following constitutes Fish and Game District 2:

Those portions of the following counties not included in other districts: Mendocino, Glenn, Colusa, Yolo, Solano, Napa, Sonoma, and Marin; that portion of San Francisco Bay lying westerly of a line drawn from California Point to San Quentin Point; that portion of San Francisco Bay lying westerly of a line drawn from San Quentin Point to San Pedro Point, in Marin County; that portion of San Pablo Bay lying westerly of a line drawn from San Pedro Point to the south side of the mouth of Novato Creek; and that portion of San Pablo Bay lying northerly of a line drawn due east from the south side of the mouth of Novato Creek to the westerly shore of Mare Island.

HISTORY:
Enacted 1957.

§ 11006. District 2¼

The following constitutes Fish and Game District 2¼:

Lake County and the waters of Clear Lake.

Any reference in this code to Clear Lake refers to District 2¼.

Except as otherwise provided, all of the provisions of this code relating to District 2 apply to District 2¼.

HISTORY:
Enacted 1957.

§ 11007. District 2½

The following constitutes Fish and Game District 2½:

Those portions of T. 24 N., R. 18 and 19 W.; 23 N., R. 17 and 18 W.; 22 N., R. 17 and 18 W.; 21 N., R. 17 W., west of the summit of the divide between the Pacific Ocean and the south fork of the Eel River.

All of T.12, 13, 14, 15, 16, 17, 18 N., R. 16 W.; and T. 12, 13, 14, 15, 16, 17, 18, 19 and 20 N., R. 17 W.; and T. 17 and 18 N., R. 18 W. All being townships located in western Mendocino County.

HISTORY:
Enacted 1957.

§ 11008. District 3

The following constitutes Fish and Game District 3:

Those portions of the following counties not included in other districts: San Francisco, Contra Costa, Alameda, San Mateo, Santa Cruz, Santa Clara, San Benito, Monterey, San Joaquin, Stanislaus, Merced, Fresno, and Kings.

HISTORY:
Enacted 1957.

§ 11009. District 3½

The following constitutes Fish and Game District 3½:

Those portions of the following counties not included in other districts: San Luis Obispo, Santa Barbara, Ventura, and Kern.

Except as otherwise provided all of the provisions of this code applicable to District 3 apply to District 3½.

HISTORY:
Enacted 1957.

§ 11010. District 4

The following constitutes Fish and Game District 4:

Those portions of the following counties not included in other districts: San Bernardino, Riverside, and Orange.

HISTORY:
Enacted 1957.

§ 11011. District 4⅛

The following constitutes Fish and Game District 4⅛:

All of Los Angeles County not included within other districts.

Except as otherwise provided, all of the provisions of this code applicable to District 4 apply to District 4⅛.

HISTORY:
Enacted 1957.

§ 11012. District 4½

The following constitutes Fish and Game District 4½:

Those portions of the Counties of Mono and Inyo not included in other districts.

HISTORY:
Enacted 1957.

§ 11013. District 4¾

The following constitutes Fish and Game District 4¾:

Those portions of the Counties of San Diego and Imperial not included in other districts.

HISTORY:
Enacted 1957.

§ 11014. District 6

The following constitutes Fish and Game District 6:

The ocean waters and tidelands of the State to the high–water mark lying between the northern boundary of this State and a line extending due west from the west end of the north jetty at the entrance of Humboldt Bay, excluding all sloughs, streams, and lagoons.

HISTORY:
Enacted 1957.

§ 11015. District 7

The following constitutes Fish and Game District 7:

The ocean waters and tidelands of the State to high–water mark between a line extending due west from the west end of the north jetty at the entrance of Humboldt Bay and the southern boundary of Mendocino County, excluding the ocean waters between the north and south jetties at the entrance of Humboldt Bay from the westerly end of each of said jetties in the Pacific Ocean to their respective aprons on the shores of Humboldt Bay, and also excluding all sloughs, streams, and lagoons.

HISTORY:
Enacted 1957.

§ 11016. District 8

The following constitutes Fish and Game District 8:

The waters and tidelands to high–water mark of Humboldt Bay lying north of a straight line running east from the center of apron at the approach of the south jetty at the entrance of Humboldt Bay to the east shore line of the bay including the entrance of Humboldt Bay not included in District 7, and excluding all rivers, streams, and sloughs emptying into the bay.

HISTORY:
Enacted 1957.

§ 11017. District 9

The following constitutes Fish and Game District 9:

The waters and tidelands to high–water mark of Humboldt Bay lying south of a straight line running east from the center of apron at the approach to the south jetty at

the entrance of Humboldt Bay to the east shore line of the bay, excluding all rivers, streams, and sloughs emptying into the bay.

HISTORY:
Enacted 1957.

§ 11018. District 10

The following constitutes Fish and Game District 10:

The ocean waters and the tidelands of the State to highwater mark lying between the southern boundary of Mendocino County and a line extending west from the Pigeon Point lighthouse in San Mateo County, including the waters of Tomales Bay to a line drawn from the mouth of the unnamed creek approximately 1500 feet north of Tomasini Point southwesterly 218° magnetic to the mouth of the unnamed creek at Shell Beach, and excluding Bodega Lagoon and all that portion of Bolinas Bay lying inside of Bolinas bar, that portion of San Francisco Bay lying east of a line drawn from Point Bonita to Point Lobos and all rivers, streams, and lagoons.

The amendment of this section by the Legislature at the 1963 Regular Session has no effect on the cultivation of oysters by persons licensed under Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 1487 § 2, effective July 26, 1963.

§ 11019. District 11

The following constitutes Fish and Game District 11:

The waters and tidelands of San Francisco Bay to high–water mark bounded as follows: Beginning at the extreme westerly point of Point Bonita; thence in a direct line to the extreme westerly point of Point Lobos; thence around the shore line of San Francisco Bay to the foot of Powell Street; thence in a direct line northwesterly to Peninsula Point, the most southerly extremity of Belvedere Island; thence in a direct line westerly to the easternmost point of the ferry dock at Sausalito; thence southerly and westerly around the shore of San Francisco Bay to the point of beginning.

HISTORY:
Enacted 1957. Amended Stats 2000 ch 388 § 20 (AB 2941).

§ 11020. District 12

The following constitutes Fish and Game District 12:

The waters and tidelands of San Francisco Bay to high-water mark not included in Districts 11 and 13, the waters and tidelands to high-water mark of San Leandro Bay, Oakland Creek or estuary, San Antonio Creek in Alameda County, Raccoon Strait, San Pablo Bay, the Carquinez Strait to the Carquinez Bridge, and all lands and waters included within the exterior boundaries of these districts and excluding all tributary sloughs, creeks, bays, rivers, and overflowed areas not specifically described herein.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 103 (AB 1527), effective January 1, 2016.

§ 11022. District 13

The following constitutes Fish and Game District 13:

The waters and tidelands to high–water mark of San Francisco Bay lying to the south of a line drawn between the Ferry Building at the foot of Market Street in San Francisco and the mouth of the Oakland Creek or estuary in Alameda County, excluding all streams, sloughs, and lagoons.

HISTORY:
Enacted 1957.

§ 11024. District 16

The following constitutes Fish and Game District 16:

The waters and tidelands to high–water mark of that portion of Monterey Bay lying to the south of a line drawn 100° magnetic from the extreme northerly point of Point Pinos in a straight line easterly to the eastern shore of Monterey Bay.

HISTORY:
Enacted 1957. Amended Stats 1988 ch 1009 § 17.

§ 11025. District 17

The following constitutes Fish and Game District 17:

The waters and tidelands to high–water mark of Monterey Bay and the Pacific Ocean, lying between a line extending west from Pigeon Point Lighthouse and a line extending west from Yankee Point, Carmel Highlands in Monterey County, excluding the areas included in District 16, and excluding all rivers, creeks, sloughs and lagoons emptying into the Pacific Ocean and Monterey Bay within the boundaries thus defined.

HISTORY:
Enacted 1957. Amended Stats 1988 ch 1009 § 18.

§ 11026. District 18

The following constitutes Fish and Game District 18:

The ocean waters of the State and tidelands to high–water mark not included in other districts, lying between a line extending due west from Yankee Point, Carmel Highlands, in Monterey County, and a line extending from Point Rincon near or at the common boundaries between Santa Barbara and Ventura Counties westerly through Richardson Rock, and excluding all rivers, streams, sloughs, and lagoons.

HISTORY:
Enacted 1957.

§ 11027. District 19

The following constitutes Fish and Game District 19:

The ocean waters of the State and tidelands to high–water mark, and islands off the coast and waters adjacent thereto, lying southerly of Fish and Game District 18, and northerly of a westerly extension of the boundary line between the Republic of Mexico and San Diego County, excepting Districts 19A, 19B, 20, 20A, and 21, and excluding all rivers, streams, sloughs, lagoons, and bays.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 617 § 3.

§ 11028. District 19A

The following constitutes Fish and Game District 19A:

The ocean waters and tidelands to high–water mark lying between the southerly extremity of Malibu Point and the westerly extremity of Rocky Point (Palos Verdes Point), excluding all rivers, streams and lagoons.

HISTORY:
Enacted 1957.

§ 11029. District 19B

The following constitutes Fish and Game District 19B:

The ocean waters and tidelands to high–water mark northerly of the following line:

Beginning at the west end of the San Pedro Breakwater, thence in an extended line following the axis of said San Pedro Breakwater, the middle breakwater and the Long

Beach Breakwater to the east end of the latter, thence to the outer end of the west jetty of Anaheim Bay.

Except as otherwise provided, all of the provisions of this code applicable to Districts 4 and 4⅛ apply to District 19B.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 617 § 4.

§ 11030. District 20

The following constitutes Fish and Game District 20:

Santa Catalina Island and the portion of the state waters within three nautical miles of the island's coast line on the northerly, easterly, and southerly side of the island, lying between a line extending three nautical miles west magnetically from the extreme westerly end of Santa Catalina Island to a line extending three nautical miles southwest magnetically from the most southerly promontory of China Point.

HISTORY:
Enacted 1957.

§ 11031. District 20A

The following constitutes Fish and Game District 20A:

The waters lying around Santa Catalina Island, within three nautical miles of the coast line of the island, which are not included in District 20.

HISTORY:
Enacted 1957.

§ 11032. District 21

The following constitutes Fish and Game District 21:

The waters and tidelands to high water mark of San Diego Bay lying inside of a straight line drawn from the southerly extremity of Point Loma to the offshore end of the San Diego breakwater.

HISTORY:
Enacted 1957. Amended Stats 2007 ch 285 § 131 (AB 1729), effective January 1, 2008; Stats 2015 ch 154 § 104 (AB 1527), effective January 1, 2016.

§ 11033. District 22

The following constitutes Fish and Game District 22:

All of Imperial County and those portions of Riverside and San Bernardino Counties lying south and east of the following line: Starting at the intersection of Highway 99 with the north boundary of Imperial County, thence north along that highway to the intersection with Highway 60 and 70; thence east along Highway 60 and 70 to its intersection with the Cottonwood Springs Road in Sec. 9, T. 6 S., R. 11 E.; thence north along that road and the Mecca Dale Road to Amboy; thence east along Highway 66 to the intersection with Highway 95; thence north along Highway 95 to the California–Nevada boundary.

HISTORY:
Enacted 1957.

§ 11034. District 23

The following constitutes Fish and Game District 23:

The lands and waters lying within the drainage area of Rubicon and Little Rubicon Rivers above their confluence in Sec. 13, T. 13 N., R. 13 E.; all lands and waters lying within the drainage area of the South Fork of the American River and all its tributaries

above Chili Bar Bridge on the Placerville–Georgetown Highway; all of the lands and waters lying within the drainage area of Webber Creek above the Mother Lode Highway between El Dorado and Placerville; the waters of Lake Tahoe and the Truckee River, and all streams flowing into that lake and river, and all lands and waters within the drainage basin of that lake and river lying within this State; the waters of Silver Lake, Twin Lakes, Twin Lake, Blue Lakes, Meadow Lake, Wood Lake, Winnemucca Lake and Scott's Lake, Burnside Lake, the Carson River, the West Fork of the Carson River, Willow Creek and Markleeville Creek and all tributaries of those streams and all streams flowing into those lakes and all lands and waters lying within the drainage basin of those lakes, rivers and streams within this State; all the waters of the Cosumnes River and its tributaries, and all lakes lying within the watershed of that river and tributaries above the bridge on the Mother Lode Highway between Plymouth and Nashville, all being within the Counties of Alpine, Amador, and El Dorado.

HISTORY:
Enacted 1957.

§ 11035. District 25

The following constitutes Fish and Game District 25:

The waters of Lake Almanor and all streams flowing into that lake and all lands lying within the drainage basin of those streams and lake, all being within the Counties of Plumas and Lassen.

HISTORY:
Enacted 1957.

§ 11036. Klamath River District

The following constitutes the Klamath River Fish and Game District:

The waters of the Klamath River as described in the initiative act to create the Klamath River Fish and Game District, approved by the electors on November 4, 1924, which initiative act provides:

The Klamath River Fish and Game District is hereby created and shall consist of the Klamath River and the waters thereof, following its meanderings from the confluence of the Klamath River and the Shasta River in the County of Siskiyou to the mouth of the Klamath River in Del Norte County.

Every person, firm, corporation or company who constructs or maintains any dam or other artificial obstruction in any of the waters of said Klamath River Fish and Game District is guilty of a misdemeanor and upon conviction must be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail of the county in which the conviction shall be had, not less than 100 days, or by both such fine and imprisonment, and any artificial obstruction constructed, placed or maintained in said district is hereby declared to be a public nuisance.

HISTORY:
Enacted 1957. Amended Stats 1983 ch 1092 § 101, effective September 27, 1983, operative January 1, 1984.

§ 11037. Trinity and Klamath River District

The following constitutes the Trinity and Klamath River Fish and Game District:

The Klamath River and the waters thereof, following its meanderings from the mouth of the Klamath River in Del Norte County to its confluence with the Salmon River, and also the Trinity River and the waters thereof, following its meanderings from its confluence with the Klamath River in the County of Humboldt to its confluence with the south fork of the said Trinity River.

HISTORY:
Enacted 1957.

§ 11038. District 118

The following constitutes Fish and Game District 118:

The ocean waters and tidelands lying within the following boundaries:

Beginning at the south side of the pier at San Simeon thence westerly three miles, thence southerly to a point three miles west of the southern boundary of the state park at Cambria in San Luis Obispo County, thence easterly to the southwest point of the state park at Cambria.

All of the provisions relating to District 18 shall apply to District 118.

HISTORY:
Enacted 1957. Amended Stats 1984 ch 1014 § 10.

§ 11039. District 118.5

The following constitutes Fish and Game District 118.5:

The ocean and tidelands to high–water mark, not included in other districts, excluding all rivers, streams, sloughs, and lagoons, bounded by a line beginning at the intersection of the common boundary of Monterey and San Luis Obispo Counties with the mean high–water mark, thence due west two miles to a point, thence by a line following the coast line and parallel to it southerly to a point two miles south of the intersection of the common boundary of Santa Barbara and Ventura Counties with the mean high–water mark, thence north to the intersection of the common boundary of Santa Barbara and Ventura Counties with the mean high–water mark.

Except as otherwise provided, all of the provisions relating to District 18 shall apply to District 118.5.

HISTORY:
Enacted 1957.

DIVISION 9. FINES AND PENALTIES

CHAPTER 1. GENERAL PROVISIONS

§ 12000. Violation as misdemeanor generally; Certain violations as infractions

(a) Except as expressly provided otherwise in this code, any violation of this code, or of any rule, regulation, or order made or adopted under this code, is a misdemeanor.

(b) Notwithstanding subdivision (a), a person who violates any of the following statutes or regulations is guilty of an infraction punishable by a fine of not less than one hundred dollars ($100) and not to exceed one thousand dollars ($1,000), or of a misdemeanor:

(1) Section 2009.

(2) Subdivision (a) of Section 6596.1.

(3) Section 7149.8.

(4) Sections 1.14, 1.17, 1.62, 1.63, and 1.74 of Title 14 of the California Code of Regulations.

(5) Sections 2.00 to 5.95, inclusive, and 7.00 to 8.00, inclusive, of Title 14 of the California Code of Regulations.

(6) Sections 27.56 to 30.10, inclusive, of Title 14 of the California Code of Regulations.

(7) Sections 40 to 43, inclusive, of Title 14 of the California Code of Regulations.

(8) Section 251.7 of Title 14 of the California Code of Regulations.

(9) Sections 307, 308, and 311 to 313, inclusive, of Title 14 of the California Code of Regulations.

(10) Sections 505, 507 to 510, inclusive, and 550 to 552, inclusive, of Title 14 of the California Code of Regulations.

(11) Section 630 of Title 14 of the California Code of Regulations.

(12) Section 632 of Title 14 of the California Code of Regulations, except if either of the following apply:

(A) The person who violates the regulation holds a commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6 or the person who violates the regulation is operating a boat or vessel licensed pursuant to Article 5 (commencing with Section 7920) of Chapter 1 of Part 3 of Division 6 at the time of the violation. Except as provided in Section 12012.5, a person described in this subparagraph who violates Section 632 of Title 14 of the California Code of Regulations is guilty of a misdemeanor punishable pursuant to Section 12002.

(B) The violation of the regulation occurred within two years of a prior violation of the regulation that resulted in a conviction.

HISTORY:

Enacted 1957. Amended Stats 1961 ch 1815 § 2; Stats 1984 ch 1215 § 1; Stats 2003 ch 291 § 5 (AB 1420); Stats 2007 ch 285 § 132 (AB 1729), effective January 1, 2008; Stats 2009 ch 394 § 11 (AB 1423), effective January 1, 2010; Stats 2013 ch 346 § 2 (SB 392), effective January 1, 2014; Stats 2015 ch 31 § 1 (AB 298), effective January 1, 2016; Stats 2018 ch 189 § 3 (AB 2369), effective January 1, 2019.

§ 12001. Taking bird or mammal in violation of order issued under § 12150 a felony

Any person who takes any bird or mammal in violation of an order issued pursuant to Section 12150 of this code, is guilty of a felony.

HISTORY:

Enacted 1957. Amended Stats 1961 ch 2210 § 1.

§ 12001.5. Attendance at hunter education course as condition of probation

(a) In addition to any other penalty or fine imposed pursuant to this code, if a person has been convicted of one or more offenses that was a violation of a section listed in subdivision (b) separate from the offense before the court, the court may order as a condition of probation upon conviction of the offense before the court that is also a violation of a section listed in subdivision (b), that the person attend the hunter education course designated in Section 3051 and perform community service, preferably relating to natural resources if that type of community service is available, as follows:

(1) If the person has one separate conviction, not more than 200 hours of community service.

(2) If the person has two or more separate convictions, not more than 300 hours of community service.

(b) This section applies to violations relating to a taking in Sections 3007, 3700, 4330, and 4750, and a sale or purchase of parts of a bear in Section 4758.

HISTORY:

Added Stats 1994 ch 267 § 1 (AB 2933). Amended Stats 2007 ch 285 § 133 (AB 1729), effective January 1, 2008.

§ 12002. Punishment for violation constituting misdemeanor; Other violations; License and specified entitlements or privileges suspended or revoked pending appearance or payment of fine; Application of section

(a) Unless otherwise provided, the punishment for a violation of this code that is a misdemeanor is a fine of not more than one thousand dollars ($1,000), imprisonment in a county jail for not more than six months, or by both that fine and imprisonment.

(b) The punishment for a violation of any of the following provisions is a fine of not more than two thousand dollars ($2,000), imprisonment in a county jail for not more than one year, or both the fine and imprisonment:

(1) Section 1059.
(2) Subdivision ****(b)* of Section 4004.
(3) Section 4600.
(4) Paragraph (1) or (2) of subdivision (a) of Section 5650.
(5) A first violation of Section 8670.
(6) Section 10500.
(7) Unless a greater punishment is otherwise provided, a violation subject to subdivision (a) of Section 12003.1.

(c) Except as specified in Sections 12001 and 12010, the punishment for violation of Section 3503, 3503.5, 3513, or 3800 is a fine of not more than five thousand dollars ($5,000), imprisonment in the county jail for not more than six months, or by both that fine and imprisonment.

(d)(1) A license, tag, stamp, reservation, permit, or other entitlement or privilege issued pursuant to this code to a defendant who fails to appear at a court hearing for a violation of this code, or who fails to pay a fine imposed pursuant to this code, shall be immediately suspended or revoked. The license, tag, stamp, reservation, permit, or other entitlement or privilege shall not be reinstated or renewed, and no other license, tag, stamp, reservation, permit, or other entitlement or privilege shall be issued to that person pursuant to this code, until the court proceeding is completed or the fine is paid.

(2) This subdivision does not apply to any violation of Section 1052, 1059, 1170, 5650, 5653.9, 6454, 6650, or 6653.5.

HISTORY:
Added Stats 1974 ch 770 § 2. Amended Stats 1978 ch 1153 § 8; Stats 1979 ch 877 § 5, effective September 22, 1979; Stats 1982 ch 1486 § 24, ch 1534 § 6; Stats 1983 ch 1092 § 102 (ch 703 prevails), ch 703 § 3, effective September 11, 1983; Stats 1984 ch 216 § 2, ch 1215 § 2; Stats 1997 ch 771 § 2 (AB 739); Stats 2000 ch 374 § 1 (AB 1178); Stats 2007 ch 285 § 134 (AB 1729), effective January 1, 2008; Stats 2014 ch 54 § 3 (SB 1461), effective January 1, 2015 (ch 54 prevails), ch 71 § 57 (SB 1304), effective January 1, 2015; Stats 2015 ch 303 § 169 (AB 731), effective January 1, 2016; Stats 2019 ch 216 § 13 (AB 273), effective January 1, 2020.

§ 12002.1. Fine for taking game mammal or bird without required license tag or stamp

(a) Notwithstanding Section 12002, the punishment for taking a mammal or bird for which a hunting license issued pursuant to Section 3031 is required or a tag, seal, or stamp is required, including a deer tag issued pursuant to Section 3407, without having in one's possession the required valid license, or without having in one's possession any required tag, seal, or stamp, or when the taking of that mammal or bird is prohibited by allowable season, limit, time, or area, is punishable by a fine of not less than two hundred fifty dollars ($250) or more than two thousand dollars ($2,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment, or by any greater punishment prescribed by this code.

(b) If a person is charged with an offense described in subdivision (a) and produces in court a license, tag, seal, or stamp, issued to the person and valid at the time of the person's arrest and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the charge to an infraction punishable by a fine of not less than fifty dollars ($50) and not more than two hundred fifty dollars ($250).

HISTORY:
Added Stats 1985 ch 1478 § 1. Amended Stats 1989 ch 826 § 3; Stats 1990 ch 1633 § 5 (AB 3703); Stats 1992 ch 818 § 8 (SB 1964); Stats 2007 ch 285 § 135 (AB 1729), effective January 1, 2008; Stats 2009 ch 294 § 27 (AB 1442), effective January 1, 2010.

§ 12002.2. Penalties for violation of Section 7145 or of regulation requiring display of license; Dismissal of charge

(a) Notwithstanding any other provision of law, a violation of Section 7145 or of a regulation requiring a license to be displayed is an infraction, punishable by a fine of not

less than one hundred dollars ($100) or more than one thousand dollars ($1,000) for a first offense. If a person is convicted of a violation of Section 7145 or of a regulation requiring a license to be displayed within five years of a separate offense resulting in a conviction of a violation of Section 7145 or of a regulation requiring a license to be displayed, that person shall be punished by a fine of not less than two hundred fifty dollars ($250) or more than one thousand dollars ($1,000).

(b) If a person is convicted of a violation of Section 7145 or of a regulation requiring a license to be displayed and produces in court a license issued pursuant to Section 7145 and valid at the time of the person's arrest, and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the fine imposed for the violation of Section 7145 or of the regulation requiring a license to be displayed to twenty-five dollars ($25).

(c) If a person is charged with a violation of Section 7145 or of a regulation requiring a license to be displayed, and produces in court a lifetime sport fishing license issued in his or her name pursuant to Section 7149.2, and if the taking was otherwise lawful, in terms of season, limit, time, and area, the court may dismiss the charge.

(d) A person shall not be charged or convicted for both a violation of Section 7145 and a regulation requiring a license to be displayed for the same act.

HISTORY:

Added Stats 1987 ch 772 § 3. Amended Stats 1989 ch 826 § 4; Stats 1990 ch 1633 § 5 (AB 3703); Stats 1994 ch 935 § 15 (SB 492); Stats 2003 ch 291 § 6 (AB 1420); Stats 2017 ch 26 § 33 (SB 92), effective June 27, 2017.

§ 12002.2.1. Penalty for violation of specified sport fishing provisions

(a) Notwithstanding any other provision of law, a violation of any of the following is an infraction, punishable by a fine of not less than fifty dollars ($50), or more than two hundred fifty dollars ($250), for a first offense:

(1) Subdivision (a) of Section 6596.1.

(2) Subdivision (a) of Section 7149.45.

(3) Subdivision (a) of Section 7149.4.

(4) Subdivision (a) of Section 7149.45.

(5) Subdivision (b) of Section 7180.

(7) Subdivision (a) of Section 7360.

(b) If a person is convicted of a violation of any of the sections listed in subdivision (a) within five years of a separate offense resulting in a conviction of a violation of any of those sections, that person shall be punished by a fine of not less than one hundred dollars ($100) or more than five hundred dollars ($500).

(c) If a person convicted of a violation of any of the sections listed in subdivision (a) produces in court the applicable sport fishing ocean enhancement stamp, sport fishing ocean enhancement validation, second rod sport fishing stamp, second rod sport fishing validation, Colorado River special use stamp, Colorado River special use validation, Bay-Delta Sport Fishing Enhancement Stamp or Bay-Delta Sport Fishing Enhancement validation issued pursuant to this code and valid at the time of the person's arrest, and if the taking was otherwise lawful with respect to season, limit, time, and area, the court may reduce the fine imposed for the violation to twenty-five dollars ($25).

HISTORY:

Added Stats 2007 ch 285 § 137 (AB 1729), effective January 1, 2008. Amended Stats 2015 ch 683 § 32 (SB 798), effective January 1, 2016.

§ 12002.3. Penalty for sale, purchase or receipt of fish

(a) Notwithstanding any other provision of law, a violation of Section 7121 for the sale, purchase, or receipt of fish taken by a person required to be licensed pursuant to Section 7145 is punishable by a fine of not less than two thousand dollars ($2,000) or more than seven thousand five hundred dollars ($7,500), except as provided in subdivisions (b) and (c).

(b) If the violation in question involved the illegal sale or purchase of abalone taken by a person required to be licensed pursuant to Section 7145, the violation is punishable by a fine of not less than fifteen thousand dollars ($15,000) or more than forty thousand dollars ($40,000).

(c) If the violation in question involved a person who knowingly purchased or received for commercial purposes, fish taken by a person required to be licensed pursuant to Section 7145, the violation is punishable by a fine of not less than seven thousand five hundred dollars ($7,500) or more than fifteen thousand dollars ($15,000).

HISTORY:
Added Stats 1990 ch 1706 § 15 (AB 3158). Amended Stats 2000 ch 388 § 21 (AB 2941).

§ 12002.4. Revocation or suspension of boat registration

(a) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of the registrant, or the registrant's agent, servant, employee, or any other person acting under the registrant's direction or control, for a violation of Section 7121 or the regulations adopted pursuant thereto, if the violation in question involved a vessel licensed pursuant to Section 7920.

(b) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration of a vessel licensed pursuant to Section 7920 may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of any other person for a violation of Section 7121, if the fish or amphibia involved in the violation were taken from the vessel and that person committed a prior violation of Section 7121 within three years on the vessel.

(c) The commercial boat registration shall not be revoked under this section for a violation which is unrelated to the vessel for which the commercial boat registration is to be revoked. Any violation committed without the knowledge of the master, or an agent or employee of the registrant, is unrelated to the vessel.

HISTORY:
Added Stats 1988 ch 379 § 1 as § 12002.5. Renumbered § 12002.3 Stats 1989 ch 1360 § 45. Amended and renumbered Stats 1991 ch 485 § 6 (AB 1376), effective October 3, 1991.

§ 12002.5. Violation of pass requirements; Penalties; Fines

(a) Notwithstanding Section 12002, a violation of Section 1764 is an infraction, not a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) and not more than five hundred dollars ($500). If a person convicted of a violation of Section 1764 is granted probation, the court shall impose as a condition of probation that the person pay at least the minimum fine prescribed in this subdivision.

(b) If a person is convicted of a violation of Section 1764 and produces in court a valid wildlife area pass, the court may reduce the fine imposed for the violation of Section 1764 to fifty dollars ($50).

HISTORY:
Added Stats 1988 ch 1539 § 12. Amended Stats 2001 ch 398 § 6 (AB 1671).

§ 12002.6. Revocation or suspension of registration for specific violations

(a) Notwithstanding Sections 12000, 12001, and 12002, a commercial boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the registrant, or the registrant's agent, servant, employee, or any other person acting under the registrant's direction or control, for a violation of any of the following provisions or regulations adopted pursuant thereto:

(1) Section 5521 or 5521.5.

(2) Article 2 (commencing with Section 8150), Article 3 (commencing with Section 8180), Article 4 (commencing with Section 8210), Article 5 (commencing with Section 8250), Article 6 (commencing with Section 8275), Article 9 (commencing with Section 8370), Article 13 (commencing with Section 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6.

(3) Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8620), Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8685), Article 6 (commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8 (commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

(4) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.

(b) The commercial boat registration shall not be revoked unless both the first and second convictions are related to the boat for which the commercial boat registration is to be revoked, and are for violations which occurred when the person convicted was the registrant or the registrant's agent, servant, employee, or acting under the registrant's direction or control.

HISTORY:
Added Stats 1988 ch 379 § 2. Amended Stats 1991 ch 485 § 7 (AB 1376), effective October 3, 1991; Stats 1997 ch 787 § 35 (SB 463).

§ 12002.7. Revocation or suspension of license of master of commercial passenger fishing boat

Notwithstanding Sections 12000, 12001, and 12002, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of the master or his agent, servant, employee, or person acting under his direction or control, for a violation of Section 7121 or the regulations adopted pursuant thereto, if the fish in question were taken from a vessel licensed pursuant to Section 7920.

However, a master's license shall not be revoked for the conviction of a violation occurring when the person convicted was not acting as the master's agent, servant, employee, or acting under his direction or control.

The master of a vessel is the person on board the vessel who is in charge of the vessel.

HISTORY:
Added Stats 1980 ch 1052 § 8, operative January 1, 1982.

§ 12002.8. Permanent revocation of commercial fishing license and permits; Revocation or suspension of master's license

(a) The court shall order the department to permanently revoke and the department shall permanently revoke, the commercial fishing license and any commercial fishing permits of any person convicted of either of the following:

(1) Taking or possessing abalone out of season.

(2) Taking or possessing abalone taken illegally from any area north of Point Sur.

(b) The court shall order the department to permanently revoke and the department shall permanently revoke the commercial fishing license and any commercial fishing permits of any person convicted of either of the following two offenses, if the person possessed more than 12 abalone at the time of the offense:

(1) Removing abalone from the shell or possessing abalone illegally removed from the shell.

(2) Taking or possessing abalone that are less than the minimum size.

(c) Any person sentenced pursuant to subdivision (a) or (b) shall not thereafter be eligible for any license or permit to take or possess fish for sport or commercial purposes.

(d) Notwithstanding Sections 12000, 12001, and 12002, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when

requested by the department, for a period not to exceed one year, upon the second conviction in three years of the master or the master's agent, servant, employee, or any other person acting under the master's direction or control, for a violation of any of the following provisions or regulations adopted pursuant thereto:

(1) Article 2 (commencing with Section 8150.5), Article 3 (commencing with Section 8180), Article 4 (commencing with Section 8210), Article 5 (commencing with Section 8250), Article 6 (commencing with Section 8275), Article 9 (commencing with Section 8370), Article 13 (commencing with Section 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6.

(2) Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8623), Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8680), Article 6 (commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8 (commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

(3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.

(e) A master's license shall not be revoked unless both the first and second convictions are for a violation by the master or a violation occurring when the person convicted was acting as the master's agent, servant, employee, or acting under the master's direction or control.

(f) The master of a vessel is the person on board the vessel who is in charge of the vessel.

HISTORY:

Added Stats 1988 ch 379 § 3. Amended Stats 1991 ch 485 § 8 (AB 1376), effective October 3, 1991; Stats 1997 ch 787 § 36 (SB 463); Stats 2001 ch 753 § 25 (AB 1673).

§ 12002.9. Suspension of license upon conviction of specified violations

In addition to any other penalty prescribed in this code, the license issued pursuant to Sections 8032 to 8036, inclusive, to a person who is convicted of a violation of Section 7121, 7364, 7370, 8372, or 8373 shall be suspended for not less than seven days nor more than 30 days. Each day a fish of the species designated in any of those sections is unlawfully possessed and each unlawful transaction involving the purchase or sale of a fish of those species by a wholesale fish dealer is a separate violation.

HISTORY:

Added Stats 1985 ch 1403 § 11. Amended Stats 1988 ch 246 § 9; Stats 2015 ch 154 § 105 (AB 1527), effective January 1, 2016.

§ 12002.10. Complaint charging commercial license or permit holder with violation; Notice; Suspension

(a) When a complaint has been filed in a court of competent jurisdiction charging a person with a violation that may result in suspension or revocation of any license or permit to take abalone for commercial purposes, and no disposition of the complaint has occurred within 90 days after it has been filed in the court, the department may suspend the license or permit of that person.

(b) Whenever the department proposes to suspend a license or permit under this section, notice and an opportunity to be heard shall be given before taking the action. The notice shall contain a statement setting forth the proposed action and the grounds therefor, and notify the person of his or her right to a hearing as provided in this section. Within 10 days after the receipt of the notice from the department, the permitholder may request a hearing. The hearing shall be held by the commission at the next regularly scheduled hearing of the commission held more than 30 days after the notice of intent to suspend the permit was sent. The person shall be given 10 days' notice of the time and place of the hearing.

(c) A decision shall be made within a reasonable time on whether the license or permit shall be suspended until the disposition of the complaint by the court. In determining

whether to order the suspension, the commission shall consider whether or not the violation could have a detrimental effect on the resources and whether or not a suspension is in the best public interest, and shall find whether there is sufficient evidence that a violation has occurred. A failure to make a finding that there is sufficient evidence that a violation has occurred, or a finding there is insufficient evidence, shall terminate the proceedings under this section.

(d) If the person is acquitted of the charges or the charges are dismissed, any suspension under this section is thereby terminated.

(e) No complaint shall be filed in a court charging a commercial abalone violation, unless evidence supporting the charge has been reviewed by the appropriate county or city prosecuting agency and a criminal complaint has been issued by that agency.

HISTORY:
Added Stats 1972 ch 1296 § 1, as F & G C § 8306.7. Amended Stats 1986 ch 1244 § 10; § 8306.7 Amended Stats 1990 ch 1288 § 15 (AB 3705); Stats 1992 ch 1216 § 8 (AB 3197); Amended and Renumbered by Stats 1997 ch 787 § 26 (SB 463).

§ 12002.11. Penalty for second violation of taxidermist's records provisions

Upon the second conviction of any person of a violation of Section 3087 or any regulation adopted pursuant thereto, in any five-year period, and upon any conviction subsequent to the two convictions during a five-year period, it shall be unlawful for that person to conduct any of the activities described in paragraph (1) of subdivision (a) of Section 3087 for three years from the date of the last conviction.

HISTORY:
Added Stats 2007 ch 285 § 136 (AB 1729), effective January 1, 2008.

§ 12003. Punishment for subsequent violation of § 8670

Notwithstanding Section 12002, a second or subsequent violation of Section 8670 is punishable by a fine of not less than two thousand dollars ($2,000) nor more than four thousand dollars ($4,000) or imprisonment in the county jail for one year, or by both such fine and imprisonment.

HISTORY:
Added Stats 1979 ch 877 § 6, effective September 22, 1979. Amended Stats 1983 ch 1092 § 103, effective September 27, 1983, operative January 1, 1984.

§ 12003.1. Minimum punishment for unlawful taking of animal; Community service as condition of probation; Hunter safety course

(a) Unless a minimum punishment is otherwise provided, the punishment for the knowing and intentional taking of a mammal, bird, or fish in excess of the quantity permitted by other provisions of this code or regulations adopted pursuant thereto, not in compliance with size or sex limitations in other provisions of this code or regulations adopted pursuant thereto, or from which only external body parts, including, but not limited to, antlers, horns, hides, feathers, or fins, are removed for use in violation of this code or regulations adopted pursuant thereto, shall be not less than two hundred fifty dollars ($250) for a first violation and not less than five hundred dollars ($500) and imprisonment in the county jail for not less than 30 days for a second or subsequent violation. The court shall apply not less than the minimum punishment as specified in this subdivision except in those cases where the court determines that, as to the imprisonment sentence only, the interests of justice would best be served by granting probation or suspending the imposition or execution of imprisonment sentence.

(b) If the court grants probation to any person punished under subdivision (a), in addition to any other terms or conditions imposed by the court, the court may impose as a condition of that probation that the person perform not more than 100 hours of community service in the county in which the violation occurred. To the extent

practicable, the service shall involve work relating to natural resources. The service shall be performed during a time that does not interfere with the person's school attendance or employment. If the court requires a person to perform community service under this subdivision, that person shall also be required to attend a hunter safety course as described in Section 3051. The person, and not the court, shall be responsible for paying all fees and costs related to the course.

HISTORY:
Added Stats 1997 ch 771 § 3 (AB 739).

§ 12003.2. Additional penalties for unlawful taking of mammals

Notwithstanding Section 12002 or 12008, the punishment for any violation of Section 4500 or 4700 is a fine of not more than twenty-five thousand dollars ($25,000) for each unlawful taking, imprisonment in a county jail for the period prescribed in Section 12002 or 12008, or both the fine and imprisonment.

HISTORY:
Added Stats 2006 ch 296 § 4 (AB 2485), effective January 1, 2007. Amended Stats 2007 ch 130 § 97 (AB 299), effective January 1, 2008.

§ 12003.5. Penalty for violation of provisions; Condition of probation

(a) The penalty for a first violation of Section 8610.3 or 8610.4 is a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) and a mandatory suspension of any license, permit, or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for six months. The penalty for a second or subsequent violation of Section 8610.3 or 8610.4 is a fine of not less than two thousand five hundred dollars ($2,500) and not more than ten thousand dollars ($10,000) and a mandatory suspension of any license, permit, or stamp to take, receive, transport, purchase, sell, barter, or process fish for commercial purposes for one year.

(b) If a person convicted of a violation of Section 8610.3 or 8610.4, is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, a requirement that the person pay at least the minimum fine prescribed in this section.

HISTORY:
Added Stats 1992 ch 94 § 15 (AB 1). Amended Stats 2007 ch 263 § 24 (AB 310), effective January 1, 2008.

§ 12004. Penalties for unlawful use of gill nets

(a) The punishment for a first conviction of a violation of Section 8685.5, 8685.6, 8685.7, or 8688 is a fine of not more than five thousand dollars ($5,000), or imprisonment in a county jail for a period not to exceed six months, or the revocation of any license issued pursuant to Sections 8032 to 8036, inclusive, or any combination of these penalties.

(b) The punishment for a second or subsequent conviction of a violation of Section 8685.5, 8685.6, 8685.7, or 8688, which offense occurred within five years of another offense which resulted in a conviction of Section 8685.5, 8685.6, 8685.7, or 8688 is a fine of not more than ten thousand dollars ($10,000), or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or imprisonment in a county jail for a period not to exceed one year, or the revocation of any license issued pursuant to Sections 8032 to 8036, inclusive, or any combination of these penalties.

HISTORY:
Added Stats 1980 ch 393 § 4, effective July 11, 1980. Amended Stats 1982 ch 1079 § 2; Stats 1983 ch 1092 § 104, effective September 27, 1983, operative January 1, 1984; Stats 1984 ch 457 § 1; 1985 ch 1442 § 22; Stats 1988 ch 246 § 10; Stats 2011 ch 15 § 116 (AB 109), effective April 4, 2011, operative October 1, 2011.

§ 12005. Maximum punishment for each violation of Section 4758

(a) Notwithstanding Section 12000, and except as otherwise provided in subdivision (c), the punishment for each violation of Section 4758 shall include both of the following:

(1) A fine of two hundred fifty dollars ($250) for each bear part. As used in this paragraph, "bear part" means an individual part or group of like parts of any bear that the defendant knowingly and unlawfully sells, purchases, or possesses for sale. For the purposes of this paragraph, claws, paws, or teeth from a single bear that are knowingly purchased, sold, or possessed for sale with the intent that they be delivered to a single end user shall be considered a single part.

(2) An additional fine of not more than five thousand dollars ($5,000), imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail for not more than one year, or both that fine and imprisonment.

(b) If the conviction is for the possession of two bear gallbladders and probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that a minimum term of 30 days shall be served in a county jail.

(c)(1) The possession of three or more bear gallbladders is punishable by both of the following:

(A) The fine specified in paragraph (1) of subdivision (a).

(B) An additional fine of not more than ten thousand dollars ($10,000), imprisonment in a county jail for not more than one year, or both that fine and imprisonment.

(2) If probation is granted, or the execution or imposition of sentence is suspended, it shall be a condition thereof that a minimum term of three months shall be served in a county jail.

(d) Consecutive sentences shall be imposed for separate violations of this section.

HISTORY:

Added Stats 1982 ch 1592 § 1, effective September 30, 1982. Amended Stats 1994 ch 745 § 1 (SB 1597); Stats 1998 ch 46 § 1 (SB 1143); Stats 2011 ch 15 § 117 (AB 109), effective April 4, 2011, operative October 1, 2011.

§ 12005.5. Penalties for violation of Sections 3003.1 or 3003.2

Notwithstanding Sections 12000 and 12002, a violation of Section 3003.1 or 3003.2, or any rule or regulation adopted pursuant thereto, is punishable by a fine of not less than three hundred dollars ($300) or more than two thousand dollars ($2,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment. The Legislature may increase, but may not decrease, these penalties.

HISTORY:

Addition adopted by voters, Prop 4 § 3, effective November 4, 1998.

§ 12006. Punishment for violation of provisions relating to sturgeon and lobster

(a) Notwithstanding Section 12002:

(1) The punishment for a violation of Section 7370 is a fine of not less than five thousand dollars ($5,000), or more than ten thousand dollars ($10,000), imprisonment in a county jail not to exceed one year, or both the fine and imprisonment.

(2) The punishment for a violation of Section 8254 is a fine of not less than five thousand dollars ($5,000), or more than ten thousand dollars ($10,000), imprisonment in a county jail not to exceed six months, or both the fine and imprisonment.

(b) The court shall permanently revoke any commercial fishing license or commercial fishing permit, and may permanently revoke any sport fishing license issued to the violator by the department. Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense subject to this section may be seized and may be ordered forfeited by the court pursuant to subdivision (c) of Section 12157. Fifty percent of the revenue deposited in the Fish and Game Preservation Fund from fines and

forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the department, and used for law enforcement purposes.

HISTORY:
Added Stats 1983 ch 310 § 2. Amended Stats 2007 ch 328 § 6 (AB 1187), effective January 1, 2008.

§ 12006.6. Punishment for violations relating to abalone

Notwithstanding Section 12000 or 12002.8, and in addition to Section 12009, and notwithstanding the type of fishing license or permit held, if any person is convicted of a violation of Section 5521 or 5521.5, and the offense occurs in an area closed to the taking of abalone for commercial purposes, and the person takes or possesses more than 12 abalone at one time or takes abalone in excess of the annual bag limit, that person shall be punished by all of the following:

(a) A fine of not less than fifteen thousand dollars ($15,000) or more than forty thousand dollars ($40,000).

(b) The court shall order the department to permanently revoke, and the department shall permanently revoke, the commercial fishing license and any commercial fishing permits of that person. The person punished under this subdivision shall not, thereafter, be eligible for any license or permit to take or possess fish for sport or commercial purposes, including, but not limited to, a commercial fishing license or a sport fishing or sport ocean fishing license. Notwithstanding any other provision of law, the commercial license or permit of a person arrested for a violation punishable under this section may not be sold, transferred, loaned, leased, or used as security for any financial transaction until disposition of the charges is final.

(c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense punishable under this section shall be seized, and shall be ordered forfeited in the same manner prescribed for nets or traps used in violation of this code, as described in Article 3 (commencing with Section 8630) of Chapter 3 of Part 3 of Division 6, or in the manner prescribed in Section 12157.

(d) Not less than 50 percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the Wildlife Protection Division of the department and used for law enforcement purposes.

HISTORY:
Added Stats 1990 ch 1288 § 23 (AB 3705) as F & G C § 8312. Amended Stats 1992 ch 1216 § 13 (AB 3197). Renumbered by Stats 1996 ch 870 § 32.8 (AB 3245). Amended Stats 1997 ch 787 § 37 (SB 463); Stats 2000 ch 388 § 22 (AB 2941); Stats 2001 ch 753 § 26 (AB 1673).

§ 12007. Maximum punishment for specified violations

Notwithstanding Section 12002, the punishment for (1) a second or subsequent violation of Section 1601 or 1603 on the same project or streambed alteration agreement; (2) each violation of Section 2270, 2271, 6400, 6400.5, 15202, 15509, or 15600; or (3) each violation of any regulation adopted pursuant to Section 15510, is a fine of not more than five thousand dollars ($5,000) or imprisonment in the county jail for a period not to exceed one year, or both the fine and imprisonment.

HISTORY:
Added Stats 1984 ch 85 § 8, effective April 19, 1984. Amended Stats 1984 ch 1686 § 14, effective September 30, 1984; Stats 1986 ch 623 § 1; Stats 2005 ch 383 § 2 (SB 1110), effective January 1, 2006.

§ 12008. Punishment for violation of provisions relating to endangered species and fully protected animals

Except as otherwise provided in Section 597 of the Penal Code, the punishment for a violation of any of the following provisions is a fine of not more than five thousand dollars

($5,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment:

(a) Chapter 1.5 (commencing with Section 2050) of Division 3.

(b) Section 3511.

(c) Chapter 8 (commencing with Section 4700) of Part 3 of Division 4.

(d) Chapter 2 (commencing with Section 5050) of Division 5.

(e) Section 5515.

HISTORY:
Added Stats 1984 ch 1215 § 3. Amended Stats 1988 ch 127 § 1.

§ 12008.1. Punishment for violation of prohibition against taking endangered, threatened, or candidate species; Deposit of moneys collected

(a) Notwithstanding Section 12002 or 12008, the punishment for any violation of Section 2080 or 2085 is a fine of not less than twenty-five thousand dollars ($25,000) or more than fifty thousand dollars ($50,000) for each violation or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) Notwithstanding any other law, the moneys collected from any fine or forfeiture imposed or collected for violating Chapter 1.5 (commencing with Section 2050) of Division 3 shall be deposited as follows:

(1) One-half in the Endangered Species Permitting Account established pursuant to Section 2081.2.

(2) One-half in the county treasury of the county in which the violation occurred. The board of supervisors shall first use revenues pursuant to this subdivision to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation. Any excess revenues may be expended in accordance with Section 13103.

HISTORY:
Added Stats 2016 ch 340 § 9 (SB 839), effective September 13, 2016.

§ 12008.5. Penalty for unlawful taking of bighorn sheep

Notwithstanding Section 12000, the punishment for taking any bighorn sheep in violation of Chapter 11 (commencing with Section 4900) of Part 3 of Division 4, or any regulation adopted pursuant thereto, is a fine of not more than two thousand dollars ($2,000) or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.

HISTORY:
Added Stats 1986 ch 745 § 4.

§ 12009. Maximum punishment for violation of abalone provisions and regulations; Deposit of money collected

(a) Notwithstanding Section 12000, and except as provided in Section 12006.6, the punishment for a violation of any provision of Section 5521 or 5521.5, or any regulation adopted pursuant thereto, or of Section 7121 involving abalone, is a fine of not less than fifteen thousand dollars ($15,000) or more than forty thousand dollars ($40,000) and imprisonment in the county jail for a period not to exceed one year. The court shall permanently revoke any commercial fishing license, commercial fishing permit, or sport fishing license issued by the department. Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense punishable under this section, may be seized and may be ordered forfeited by the court pursuant to subdivision (c) of Section 12157. Notwithstanding any other provision of law, the commercial license of any person arrested for a violation punishable under this section may not be sold, transferred, loaned, or leased, or used as security for any financial transaction until disposition of the charges is final.

(b) Notwithstanding any other provision of law, the money collected from any fine or forfeiture imposed or collected for the taking of abalone for any purpose other than for profit in violation of this article or any other provision of law shall be deposited as follows:

(1) One–half in the Abalone Restoration and Preservation Account.

(2) One–half in the county treasury of the county in which the violation occurred.

HISTORY:

Added Stats 1983 ch 1300 § 17. Amended Stats 1990 ch 1288 § 26 (AB 3705); Stats 1997 ch 787 § 38 (SB 463); Stats 2000 ch 388 § 23 (AB 2941).

§ 12010. Punishment for violation of provisions related to birds–of–prey

(a) Notwithstanding Section 12002, the maximum punishment for each violation of Section 3503.5 relating to a bird–of–prey designated as endangered, threatened, or fully protected is a fine of five thousand dollars ($5,000) or imprisonment in the county jail for a period of not to exceed one year, or both the fine and imprisonment.

(b) Notwithstanding Section 12002, the maximum punishment for a violation of Section 3503.5 relating to any bird–of–prey that was taken from the wild and that is subsequently reported to the department as having been bred in captivity is a fine of five thousand dollars ($5,000) or imprisonment in the county jail for a period of not to exceed one year, or both the fine and imprisonment.

HISTORY:

Added Stats 1985 ch 1334 § 7.

§ 12011. Additional penalties for polluting water

(a) In addition to the penalty provided in paragraph (4) of subdivision (b) of Section 12002, any person convicted of a violation of subdivision (a) of Section 5650 is subject to an additional fine of all of the following:

(1) Not more than ten dollars ($10) for each gallon or pound of material discharged. The amount of the fine shall be reduced for every gallon or pound of the illegally discharged material that is recovered and properly disposed of by the responsible party.

(2) An amount equal to the reasonable costs incurred by the state or local agency for cleanup and abatement and to fully mitigate all actual damages to fish, plant, bird, or animal life and habitat.

(3) Where the state or local agency is required to undertake cleanup or remedial action because the responsible person refuses or is unable to fully clean up the discharge, an amount equal to the reasonable costs incurred by the state or local agency, in addition to the amount of funds, if any, expended by the responsible person, in cleaning up the illegally discharged material or abating its effects, or both cleaning up and abating those effects.

(b) Notwithstanding the jurisdiction of the department over illegal discharges and pollution as provided in Section 5650, the fines specified in this section do not apply to discharges in compliance with a national pollution discharge elimination system permit or a state or regional board waste discharge permit.

HISTORY:

Added Stats 1991 ch 1193 § 1 (SB 1081). Amended Stats 2004 ch 183 § 116 (AB 3082).

§ 12012. Punishment for violation of provisions relating to specified species

(a) A person who illegally takes, possesses, imports, exports, sells, purchases, barters, trades, or exchanges a bird, fish, mammal, reptile, amphibian, or part of any of those animals, for profit or personal gain, is guilty of a misdemeanor punishable by a fine of not less than five thousand dollars ($5,000) nor more than forty thousand dollars ($40,000),

or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) If a person is convicted of a second or subsequent violation of subdivision (a), that person shall be punished by a fine of not less than ten thousand dollars ($10,000) nor more than fifty thousand dollars ($50,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(c) If a second or subsequent violation of subdivision (a) also involves a violation of Section 8685.5, 8685.6, 8685.7, or 8688 that is punishable by subdivision (b) of Section 12004, the offense shall be punishable by a fine of not more than fifty thousand dollars ($50,000), or by imprisonment pursuant to subdivision (b) of Section 12004, or by both that fine and imprisonment.

(d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense punishable under this section shall be commenced within three years after commission of the offense.

(e) This section does not apply to fish taken pursuant to a commercial fishing license issued pursuant to Section 7852, or fish sold pursuant to a commercial fish business license issued in accordance with Article 7 (commencing with Section 8030) of Chapter 1 of Part 3 of Division 6.

(f) This section does not supersede Section 12005 or 12009.

(g)(1) Moneys equivalent to 50 percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the department, and used for law enforcement purposes.

(2) Moneys equivalent to 50 percent of the revenue from any fine collected pursuant to this section shall be paid to the county in which the offense was committed, pursuant to Section 13003. The board of supervisors shall first use revenues pursuant to this subdivision to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation. Any excess revenues may be expended in accordance with Section 13103.

HISTORY:

Added Stats 1995 ch 827 § 5 (SB 123), effective October 13, 1995, operative January 1, 1996. Amended Stats 1995 ch 828 § 2 (AB 704); Stats 2009 ch 290 § 2 (AB 708), effective January 1, 2010; Stats 2015 ch 154 § 106 (AB 1527), effective January 1, 2016.

§ 12012.5. Fishing activity within marine protected area; Person holding commercial fishing license or operating commercial passenger fishing boat; Penalty

(a) Notwithstanding Section 12000 or any other provision of this code, a person who holds a commercial fishing license issued pursuant to Article 3 (commencing with Section 7850) of Chapter 1 of Part 3 of Division 6, or is operating a commercial passenger fishing boat licensed pursuant to Article 5 (commencing with Section 7920) of Chapter 1 of Part 3 of Division 6, and, for commercial purposes, either unlawfully takes a fish, within any meaning provided in Section 86, within a marine protected area, as defined in Section 2852, or engages in, or knowingly facilitates another person's, fishing activity within the marine protected area, is guilty of a misdemeanor punishable by a fine of not less than five thousand dollars ($5,000) nor more than forty thousand dollars ($40,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(b) If a person is convicted of a second or subsequent violation that is punishable pursuant to subdivision (a) and the violation occurred within 10 years of a prior violation that is punishable pursuant to subdivision (a) that resulted in a conviction, the department may suspend that person's license described in subdivision (a), as applicable, or other privilege issued pursuant to this code, and that person shall be punished by a fine of not less than ten thousand dollars ($10,000) nor more than fifty thousand dollars

($50,000), or imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

(c) A person whose license or other privilege is suspended pursuant to this section may appeal the suspension to the commission. The commission shall initiate the appeal process within 12 months of the violator's appeal request. The commission shall consider at least the nature, circumstances, extent, and gravity of the person's violations, the person's culpability for the violations, and the injury to natural resources by the violations, and may restore a person's license or other privileges.

(d) Notwithstanding Section 802 of the Penal Code, prosecution of an offense punishable under this section shall be commenced within three years after commission of the offense.

HISTORY:
Added Stats 2018 ch 189 § 4 (AB 2369), effective January 1, 2019.

§ 12013. Penalty for exceeding bag and possession limits and for malicious and intentional maiming, mutilating or physically torturing fish, reptile, bird, amphibian or mammal

(a) Any person who illegally takes or possesses in the field more than three times the daily bag limit, or who illegally possesses more than three times the legal possession limit, of fish, reptiles, birds, amphibians, or mammals is guilty of a misdemeanor and shall be subject to a fine of not less than five thousand dollars ($5,000), nor more than forty thousand dollars ($40,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(b) If a person is convicted of a second or subsequent violation of subdivision (a), that person shall be punished by a fine of not less than ten thousand dollars ($10,000), nor more than fifty thousand dollars ($50,000), or imprisonment in a county jail for not more than one year, or by both that fine and imprisonment.

(c) Any person who maliciously and intentionally maims, mutilates, or physically tortures any fish, reptile, bird, amphibian, or mammal provided for in this code is guilty of a crime punishable in accordance with subdivision (a). Nothing in this subdivision affects any legal activity pursuant to this code, including, but not limited to, hunting, fishing, trapping, hunting dog training, hunting dog field trials, predation control, and efforts to dispatch a wounded mammal, bird, or fish taken legally.

(d) Nothing in this section prohibits a person from giving, receiving, or possessing the legal possession limit of lawfully taken fish, reptiles, birds, amphibians, or mammals.

(e) Nothing in this section prohibits a person from giving, receiving, or possessing, at the personal abode of the donor or donee, lawfully taken migratory game birds that are not required to be tagged pursuant to the federal Migratory Bird Treaty Act (16 U.S.C. Sec. 703 et seq.) or regulations adopted pursuant to that act.

(f) This section does not supersede Section 12005, 12006.6, or 12009.

(g) Moneys equivalent to 50 percent of the revenue from any fine collected pursuant to this section shall be paid to the county in which the offense was committed, pursuant to Section 13003. The board of supervisors shall first use revenues pursuant to this subdivision to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation. Any excess revenues may be expended in accordance with Section 13103.

HISTORY:
Added Stats 2009 ch 290 § 4 (AB 708), effective January 1, 2010. Amended Stats 2010 ch 328 § 70 (SB 1330), effective January 1, 2011.

§ 12013.3. Punishment for specified violations involving trophy deer, elk, antelope, or bighorn sheep; Regulations; Revenue from fines

(a) Notwithstanding Section 12002, 12003.2, 12008, or 12008.5, the punishment for a person who knowingly violated and has been convicted of the following provisions where

the violation involved a trophy deer, elk, antelope, or bighorn sheep shall be a fine of not less than five thousand dollars ($5,000) nor more than forty thousand dollars ($40,000), and where the violation involved a wild turkey, a fine of not less than two thousand dollars ($2,000) nor more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than one year, or both that fine and imprisonment:

(1) Section 2001, if the person took an animal outside the established season.

(2) Section 2005.

(3) Section 257.5 of Title 14 of the California Code of Regulations.

(4) Section 4304.

(5) Section 4330.

(6) Section 1054.2, if the person failed to procure the required license or tag prior to taking a deer, elk, antelope, or bighorn sheep.

(b) The commission shall adopt regulations to implement this section, including establishing a trophy designation and monetary value based on the size or related characteristics of deer, elk, antelope, bighorn sheep, and wild turkeys.

(c) All revenue from fines imposed pursuant to this section for deer, elk, antelope, and bighorn sheep violations shall be deposited in the Big Game Management Account established in Section 3953 and shall be used for the big game management purposes described in that section.

(d) All revenue from fines imposed pursuant to this section for wild turkey violations shall be deposited in the Upland Game Bird Account established in Section 3684 and shall be used for the upland game bird conservation purposes described in that section.

(e) Moneys equivalent to 50 percent of the revenue from any fine collected pursuant to this section shall be paid to the county in which the offense was committed, pursuant to Section 13003. The county board of supervisors shall first use revenues pursuant to this subdivision to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation. Any excess revenues may be expended in accordance with Section 13103.

HISTORY:

Added Stats 2012 ch 590 § 3 (AB 1162), effective January 1, 2013. Amended Stats 2015 ch 154 § 107 (AB 1527), effective January 1, 2016.

§ 12013.5. Punishment for specified violations while using signal-emitting device with take of bear for purpose of selling or trafficking in bear parts; Revenue from fines

(a) In addition to any other penalties provided in this code, any person convicted of violating this code or any regulation adopted pursuant thereto while using a signal-emitting device in conjunction with the take of bear for the purpose of selling or trafficking in bear parts shall be subject to a fine of ten thousand dollars ($10,000) per bear part. For purposes of this section, a “signal-emitting device” means any device capable of generating radio, cellular, satellite, or other signal transmission for purposes of providing communication or location information.

(b) All revenue from fines imposed pursuant to this section shall be deposited in the Big Game Management Account established in Section 3953 and shall be used for the big game management purposes described in that section.

(c) Moneys equivalent to 50 percent of the revenue from any fine collected pursuant to this section shall be paid to the county in which the offense was committed, pursuant to Section 13003. The county board of supervisors shall first use revenues pursuant to this subdivision to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation. Any excess revenues may be expended in accordance with Section 13103.

HISTORY:

Added Stats 2012 ch 590 § 4 (AB 1162), effective January 1, 2013.

§ 12014. Application for judgment to collect administrative civil penalty

After the expiration of the time period to appeal an administrative penalty imposed pursuant to Section 2301, 2302, 2582, or 2583, or any other provision of this code, the department may apply to the clerk of the appropriate court for a judgment to collect the administrative civil penalty. The application, including a certified copy of the order imposing the civil penalty, a hearing officer's decision, if any, or a settlement agreement, if any, shall constitute a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

HISTORY:

Added Stats 2009 ch 294 § 28 (AB 1442), effective January 1, 2010.

§ 12015. Removal of substances placed in waters to detriment of fish, plant, bird or animal life; Costs

(a) It is the intent of the Legislature that expeditious cleanup is the primary interest of the people of the State of California in order to protect the people and the environment of the state.

(b) In addition to any other penalty, anyone responsible for polluting, contaminating, or obstructing waters of this state, or depositing or discharging materials threatening to pollute, contaminate, or obstruct waters of this state, to the detriment of fish, plant, bird, or animal life in those waters, shall be required to remove any substance placed in the waters, or to remove any material threatening to pollute, contaminate, or obstruct waters of this state, which can be removed, that caused the prohibited condition, or to pay the costs of the removal by the department.

(c) Prior to taking any action committing the use of state funds pursuant to this section or Section 5655, the department shall first make a reasonable effort to have the person responsible, when that person is known and readily available, remove, or agree to pay for the removal of, the substance causing the prohibited condition, if the responsible person acts expeditiously and does not cause the prohibited condition to be prolonged to the detriment of fish, plant, animal, or bird life in the affected waters. When the responsible party is unknown or is not providing adequate and timely cleanup, the emergency reserve account of the Toxic Substances Control Account in the General Fund shall be used to provide funding for the cleanup pursuant to Section 25354 of the Health and Safety Code. When those or other funds are not available, moneys in the Fish and Wildlife Pollution Account shall be available, in accordance with subdivision (b) of Section 12017, for funding the cleanup expenses.

HISTORY:

Added Stats 1957 ch 2039 § 4. Amended Stats 1985 ch 864 § 2; Stats 1995 ch 720 § 4 (AB 902); Stats 2006 ch 77 § 3 (AB 1803), effective July 18, 2006.

§ 12016. Civil liability for deposit or discharge of deleterious substance or material

(a) In addition to any other provision of law, any person who discharges or deposits any substance or material deleterious to fish, plant, bird, or animal life or their habitat into, or which threatens to enter, the waters of this state is liable civilly to the department for all actual damages to fish, plant, bird, or animal life or their habitat and, in addition, for the reasonable costs incurred in cleaning up the deleterious substance or material or abating its effects, or both.

(b) For the purposes of this section, "deleterious substance or material" does not include substances or materials otherwise expressly permitted or authorized to be deposited or discharged into waters of the state by law.

HISTORY:
Added Stats 1985 ch 864 § 3.

§ 12017. Fish and Wildlife Pollution Account

(a) Notwithstanding Section 13001, any recovery or settlement of money received pursuant to the following sections shall be deposited in the Fish and Wildlife Pollution Account:

(1) Section 2014.

(2) Article 1 (commencing with Section 5650) of Chapter 2 of Part 1 of Division 6.

(3) Section 12015 or 12016.

(4) Chapter 4 (commencing with Section 151) of Division 1.5 of the Harbors and Navigation Code.

(5) Section 13442 of the Water Code.

(6) Proceeds or recoveries from pollution and abatement actions.

(b) Moneys in the account are continuously appropriated to the department, except as provided in Section 13230.

(c) Funds in the account shall be expended for the following purposes:

(1) Abatement, cleanup, and removal of pollutants from the environment.

(2) Response coordination, planning, and program management.

(3) Resource injury determination.

(4) Resource damage assessment.

(5) Economic valuation of resources.

(6) Restoration or rehabilitation at sites damaged by pollution.

(d) Notwithstanding subdivision (c), funds in the account in excess of one million dollars ($1,000,000) as of July 1 of each year may also be expended for the preservation of California plants, wildlife, and fisheries.

(e) Funds in the account may be expended for cleanup and abatement if a reasonable effort has been made to have the responsible party pay cleanup and abatement costs and funds are not available for disbursement from the emergency reserve account of the Toxic Substances Control Account in the General Fund pursuant to Section 25354 of the Health and Safety Code.

(f) The department may use funds in the account to pay the costs of consultant contracts for resource injury determination or damage assessment during hazardous material or oil spill emergencies. These contracts are not subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

HISTORY:
Added Stats 1985 ch 864 § 4. Amended Stats 1986 ch 977 § 3; Stats 1989 ch 1084 § 2; Stats 1995 ch 720 § 5 (AB 902); Stats 2007 ch 373 § 1 (AB 1220), effective October 10, 2007.

§ 12020. Violation of promise to appear in court or before person authorized to receive deposit of bail as misdemeanor

Any person willfully violating his written promise to appear in court or before a person authorized to receive a deposit of bail is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

HISTORY:
Added Stats 1974 ch 770 § 17.

§ 12021. Additional penalty for violation of code

(a) In addition to any assessment, fine, penalty, or forfeiture imposed pursuant to any other provision of law, an additional penalty of fifteen dollars ($15) shall be added to any fine, penalty, or forfeiture imposed under this code for a violation of this code or a regulation adopted pursuant thereto. However, no more than one such additional penalty may be imposed in a single proceeding. The revenue from this penalty shall be

transferred to, and deposited in, the Fish and Game Preservation Fund and used exclusively for the purposes of Section 13006.

(b) Subdivision (a) does not apply to a violation punishable pursuant to subdivision (b) of Section 12002.1, subdivision (b) of Section 12002.2, or any regulation relating to the wearing or display of a fishing license.

HISTORY:
Added Stats 1994 ch 1215 § 1 (AB 3424). Amended Stats 1995 ch 576 § 9 (AB 1225).

§ 12023. Violations for aquatic nuisance species

(a) Notwithstanding Section 12002, any person who violates Section 6400 through the use of an aquatic nuisance species, as defined in Section 6431, is guilty of a misdemeanor, punishable by all of the following:

(1) Imprisonment in the county jail for not less than six months or more than one year, a fine of not more than fifty thousand dollars ($50,000) for each violation, or both that imprisonment and fine.

(2) Revocation of all of the defendant's licenses and permits issued pursuant to this code.

(b) A person who personally or through another violates Section 6400, through the use of an aquatic nuisance species, is liable to the owner of any privately or publicly owned property for any damages to that property caused by the violation. A person who violates Section 6400 through the use of an aquatic nuisance species shall also be liable for all monetary damages directly, indirectly, and proximately caused thereby, including, but not limited to, damages to any commercial fishery, sport fishery, or to the public communities which depend upon those fisheries for a portion of their annual income. The Attorney General may file a civil action on behalf of the fisheries or communities that are damaged as a result of the violation. In addition, a private citizen who suffers damages as a result of the violation may file a civil action against the violator.

(c) A person who allows an aquatic nuisance species to escape from his or her property to the property of another, whether privately or publicly owned, is liable to the owner of the intruded upon property for any damages caused by the species.

(d) This section shall not apply to the placement of any live fish, any fresh or salt water animal, or any aquatic plant from the discharge or exchange of ballast water from any vessel as defined by Section 21 of the Harbors and Navigation Code.

(e) This section does not apply to the placement of an aquatic plant by a person who was unaware that he or she was in possession of the plant. This exception includes circumstances in which a plant becomes unknowingly and temporarily attached or affixed to a boat, boat trailer, or boat motor.

HISTORY:
Added Stats 1998 ch 431 § 2 (AB 1625).

§ 12024. Liability for aquatic nuisance species

(a) In addition to Section 12023, a person who violates Section 6400 through the use of an aquatic nuisance species is liable for all public and private response, treatment, and remediation efforts resulting from the violation. The cost of these efforts shall constitute a debt of that person, and shall be collectible by the federal, state, county, public agency, or private individual or individuals, incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied.

(b) Public agencies participating in a response to a violation of Section 6400 through the use of an aquatic nuisance species may designate one or more of the participating agencies to bring an action to recover costs incurred by all of the participating agencies.

(c) The costs relating to an accounting for a violation of Section 6400 through the use of an aquatic nuisance species and the collection of any funds, including, but not limited to, the administrative, legal, and public relations costs of operating a response and

remediation program may also be the subject of an action to recover costs which are charged against the responsible person.

HISTORY:
Added Stats 1998 ch 431 § 3 (AB 1625).

§ 12025. Civil penalties

(a) In addition to any penalties imposed by any other law, a person found to have violated the code sections described in paragraphs (1) to (11), inclusive, in connection with the production or cultivation of a controlled substance on land under the management of the Department of Parks and Recreation, the Department of Fish and Wildlife, the Department of Forestry and Fire Protection, the State Lands Commission, a regional park district, the United States Forest Service, or the United States Bureau of Land Management, or within the respective ownership of a timberland production zone, as defined in Chapter 6.7 (commencing with Section 51100) of Part 1 of Division 1 of Title 5 of the Government Code, of more than 50,000 acres, or while trespassing on other public or private land in connection with the production or cultivation of a controlled substance, shall be liable for a civil penalty as follows:

(1) A person who violates Section 1602 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(2) A person who violates Section 5650 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(3) A person who violates Section 5652 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(4) A person who violates subdivision (a) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(5) A person who violates paragraph (1) of subdivision (h) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(6) A person who violates subdivision (b) of Section 374.8 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than forty thousand dollars ($40,000) for each violation.

(7) A person who violates Section 384a of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(8) A person who violates subdivision (a) of Section 4571 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(9) A person who violates Section 4581 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(10) A person who violates Section 2000 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(11) A person who violates Section 2002 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(b)(1) In addition to any penalties imposed by any other law, a person found to have violated the code sections described in this subdivision in connection with the

production or cultivation of a controlled substance on land that the person owns, leases, or otherwise uses or occupies with the consent of the landowner shall be liable for a civil penalty as follows:

(A) A person who violates Section 1602 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(B) A person who violates Section 5650 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(C) A person who violates Section 5652 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(D) A person who violates subdivision (a) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(E) A person who violates paragraph (1) of subdivision (h) of Section 374.3 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(F) A person who violates subdivision (b) of Section 374.8 of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(G) A person who violates Section 384a of the Penal Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(H) A person who violates subdivision (a) of Section 4571 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(I) A person who violates Section 4581 of the Public Resources Code in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(J) A person who violates Section 2000 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(K) A person who violates Section 2002 in connection with the production or cultivation of a controlled substance is subject to a civil penalty of not more than eight thousand dollars ($8,000) for each violation.

(2) Each day that a violation of a code section described in this subdivision occurs or continues to occur shall constitute a separate violation.

(c) The civil penalty imposed for each separate violation pursuant to this section is in addition to any other civil penalty imposed for another violation of this section, or any violation of any other law.

(d) All civil penalties imposed or collected by a court for a separate violation pursuant to this section shall not be considered to be fines or forfeitures, as described in Section 13003, and shall be apportioned in the following manner:

(1) Thirty percent shall be distributed to the county in which the violation was committed pursuant to Section 13003. The county board of supervisors shall first use any revenues from those penalties to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation.

(2)(A) Thirty percent shall be distributed to the investigating agency to be used to reimburse the cost of any investigation directly related to the violations described in this section.

(B) If the department receives reimbursement pursuant to this paragraph for activities funded pursuant to subdivision (f) of Section 4629.6 of the Public

Resources Code, the reimbursement funds shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, if there is an unpaid balance for a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources Code.

(3) Forty percent shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, and used for grants authorized pursuant to Section 4629.6 of the Public Resources Code that improve forest health by remediating former marijuana growing operations.

(e) Civil penalties authorized pursuant to this section may be imposed administratively by the department if all of the following occur:

(1) The chief deputy director or law enforcement division assistant chief in charge of marijuana-related enforcement issues a complaint to any person or entity on which an administrative civil penalty may be imposed pursuant to this section. The complaint shall allege the act or failure to act that constitutes a violation, any facts related to natural resources impacts, the provision of law authorizing the civil penalty to be imposed, and the proposed penalty amount.

(2) The complaint and order is served by personal notice or certified mail and informs the party served that the party may request a hearing not later than 20 days from the date of service. If a hearing is requested, it shall be scheduled before the director or his or her designee, which designee shall not be the chief deputy or assistant chief issuing the complaint and order. A request for a hearing shall contain a brief statement of the material facts the party claims support his or her contention that no administrative penalty should be imposed or that an administrative penalty of a lesser amount is warranted. A party served with a complaint pursuant to this subdivision waives his or her right to a hearing if a hearing is not requested within 20 days of service of the complaint, in which case the order imposing the administrative penalty shall become final.

(3) The director, or his or her designee, shall control the nature and order of hearing proceedings. Hearings shall be informal in nature, and need not be conducted according to the technical rules relating to evidence. The director or his or her designee shall issue a final order within 45 days of the close of the hearing. A copy of the final order shall be served by certified mail upon the party served with the complaint.

(4) A party may obtain review of the final order by filing a petition for a writ of mandate with the superior court within 30 days of the date of service of the final order. The administrative penalty shall be due and payable to the department within 60 days after the time to seek judicial review has expired, or, where the party did not request a hearing of the order, within 20 days after the order imposing an administrative penalty becomes final.

(5) The department may adopt regulations to implement this subdivision.

(f) All administrative penalties imposed or collected by the department for a separate violation pursuant to this section shall not be considered to be fines or forfeitures, as described in Section 13003, and shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, to repay any unpaid balance of a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources Code. Any remaining funds from administrative penalties collected pursuant to this section shall be apportioned in the following manner:

(1) Fifty percent shall be deposited into the Timber Regulation and Forest Restoration Fund for grants authorized pursuant to subdivision (h) of Section 4629.6 of the Public Resources Code, with priority given to grants that improve forest health by remediating former marijuana growing operations.

(2) Fifty percent shall be deposited into the Fish and Game Preservation Fund.

(g) Any civil penalty imposed pursuant to this section for the violation of an offense described in paragraph (4), (5), or (6) of subdivision (a) or subparagraph (D), (E), or (F) of paragraph (1) of subdivision (b) for which the person was convicted shall be offset by the amount of any restitution ordered by a criminal court.

(h) For purposes of this section, "controlled substance" has the same meaning as defined in Section 11007 of the Health and Safety Code.

HISTORY:
Added Stats 2012 ch 390 § 2 (AB 2284), effective January 1, 2013. Amended Stats 2013 ch 472 § 2 (SB 814), effective January 1, 2014; Stats 2014 ch 35 § 1 (SB 861), effective June 20, 2014; Stats 2015 ch 139 § 1 (SB 165), effective January 1, 2016.

§ 12025.1. Civil penalty for device impeding fish in certain districts

(a) In addition to any penalties imposed by any other law, a person found to have violated Section 5901 shall be liable for a civil penalty of not more than eight thousand dollars ($8,000) for each violation. Each day that a violation of Section 5901 occurs or continues without a good faith effort by the person to cure the violation after receiving notice from the department shall constitute a separate violation.

(b) All civil penalties imposed or collected by a court for a separate violation pursuant to this section in connection with the production or cultivation of a controlled substance shall not be considered to be fines or forfeitures, as described in Section 13003, and shall be apportioned in the manner described in subdivision (d) of Section 12025.

(c) All civil penalties imposed or collected by a court for a separate violation pursuant to this section not in connection with the production or cultivation of a controlled substance shall not be considered to be fines or forfeitures, as described in Section 13003, and shall be apportioned in the following manner:

(1) Thirty percent shall be distributed to the county in which the violation was committed pursuant to Section 13003. The county board of supervisors shall first use any revenues from those penalties to reimburse the costs incurred by the district attorney or city attorney in investigating and prosecuting the violation.

(2)(A) Thirty percent shall be distributed to the investigating agency to be used to reimburse the cost of any investigation directly related to the violations described in this section.

(B) If the department receives reimbursement pursuant to this paragraph for activities funded pursuant to subdivision (f) of Section 4629.6 of the Public Resources Code, the reimbursement funds shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, if there is an unpaid balance for a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources Code.

(3) Forty percent shall be deposited into the Fish and Game Preservation Fund.

(d)(1) Civil penalties authorized pursuant to subdivision (a) may be imposed administratively by the department according to the procedures described in paragraphs (1) through (4), inclusive, of subdivision (e) of Section 12025.

(2) The department shall adopt emergency regulations to implement this subdivision in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of these regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(e) All administrative penalties imposed or collected by the department for a separate violation pursuant to this section in connection with the production or cultivation of a controlled substance shall not be considered to be fines or forfeitures, as described in Section 13003, and shall be deposited according the provisions of subdivision (f) of Section 12025.

(f) All administrative penalties imposed or collected by the department for a separate violation pursuant to this section not in connection with the production or cultivation of a controlled substance shall not be considered to be fines or forfeitures, as described in Section 13003, and shall be deposited into the Timber Regulation and Forest Restoration Fund, created by Section 4629.3 of the Public Resources Code, to repay any unpaid balance of a loan authorized by subdivision (f) of Section 4629.6 of the Public Resources

Code. Any remaining funds from administrative penalties collected pursuant to this subdivision shall be apportioned in the following manner:

(1) Fifty percent shall be deposited into the Fish and Game Preservation Fund.

(2) Fifty percent shall be deposited into the Timber Regulation and Forest Restoration Fund for grants authorized pursuant to subdivision (h) of Section 4629.6 of the Public Resources Code.

(g) For purposes of this section, "controlled substance" has the same meaning as defined in Section 11007 of the Health and Safety Code.

HISTORY:
Added Stats 2015 ch 2 § 2 (AB 92), effective March 27, 2015.

§ 12025.2. Complaint for unauthorized diversion or use of water that harms fish and wildlife resources

The director or his or her designee may issue a complaint to any person or entity in accordance with Section 1055 of the Water Code alleging a violation for which liability may be imposed under Section 1052 or 1847 of the Water Code that harms fish and wildlife resources. The complaint is subject to the substantive and procedural requirements set forth in Section 1055 of the Water Code, and the department shall be designated a party to any proceeding before the State Water Resources Control Board regarding a complaint filed pursuant to this section.

HISTORY:
Added Stats 2015 ch 2 § 3 (AB 92), effective March 27, 2015. Amended Stats 2016 ch 32 § 60 (SB 837), effective June 27, 2016.

§ 12026. Reward for reporting violations through use of aquatic nuisance species

Any person whom the department determines has provided evidence or information leading to the arrest and conviction of a person or persons found guilty of violating Section 6400 through the use of an aquatic nuisance species, is eligible to obtain a reward of up to fifty thousand dollars ($50,000) pursuant to Section 2586.

HISTORY:
Added Stats 1998 ch 431 § 4 (AB 1625).

§ 12028. Legislative findings and declarations regarding illegal poaching and other violations adversely impacting fish and wildlife; Environmental crimes task force

The Legislature finds and declares that:

(a) Poaching violations and other violations of the Fish and Game Code have been increasing, and these violations have a detrimental impact on fish and wildlife and their habitats, which are held in trust by the state for the benefit of the people of the state.

(b) In order to deter illegal poaching and other violations that adversely impact fish and wildlife, it is important that the department coordinate with other law enforcement entities and the courts to facilitate effective enforcement and prosecution of these offenses.

(c) The department, to the extent feasible and subject to available resources, shall establish and coordinate an environmental crimes task force. The task force should involve the participation of the department's Office of General Counsel working with each of the department's law enforcement districts. The task force may include coordination with representatives from the California District Attorneys' Association, the Judicial Council, the Attorney General's office, and the University of California. Objectives of the task force may include, but are not limited to, providing training, education, and outreach to prosecutors and the courts on Fish and Game Code

violations and providing other assistance as appropriate in the prosecution of environmental crimes.

HISTORY:
Added Stats 2012 ch 559 § 25 (AB 2402), effective January 1, 2013.

§ 12029. Legislative findings and declarations

(a) The Legislature finds and declares all of the following:

(1) The environmental impacts associated with cannabis cultivation have increased, and unlawful water diversions for cannabis irrigation have a detrimental effect on fish and wildlife and their habitat, which are held in trust by the state for the benefit of the people of the state.

(2) The remediation of existing cannabis cultivation sites is often complex and the permitting of these sites requires greater department staff time and personnel expenditures. The potential for cannabis cultivation sites to significantly impact the state's fish and wildlife resources requires immediate action on the part of the department's lake and streambed alteration permitting staff.

(b) In order to address unlawful water diversions and other violations of the Fish and Game Code associated with cannabis cultivation, the department shall establish the watershed enforcement program to facilitate the investigation, enforcement, and prosecution of these offenses.

(c) The department, in coordination with the State Water Resources Control Board and the Department of Food and Agriculture, shall establish a permanent multiagency task force to address the environmental impacts of cannabis cultivation. The multiagency task force, to the extent feasible and subject to available resources, shall expand its enforcement efforts on a statewide level to ensure the reduction of adverse impacts of cannabis cultivation on fish and wildlife and their habitats throughout the state.

(d) In order to facilitate the remediation and permitting of cannabis cultivation sites, the department may adopt regulations to enhance the fees on any entity subject to Section 1602 for cannabis cultivation sites that require remediation. The fee schedule established pursuant to this subdivision shall not exceed the fee limits in Section 1609.

HISTORY:
Added Stats 2015 ch 688 § 4 (AB 243), effective January 1, 2016. Amended Stats 2016 ch 32 § 61 (SB 837), effective June 27, 2016; Stats 2016 ch 86 § 138 (SB 1171), effective January 1, 2017 (ch 32 prevails).

CHAPTER 2. FORFEITURES, REVOCATIONS, AND SEIZURES

§ 12150. Killing or wounding human being while taking bird or mammal; Action and procedure; Permanent or temporary prohibition

Whenever any person, while taking a bird or mammal, kills or wounds any human being and that fact is ascertained by the department, the department shall notify the district attorney of the county in which the act occurred. The district attorney may thereupon bring an action in the superior court of the county in which the act occurred for the purpose of determining the cause of the killing or the wounding. These proceedings shall be conducted in the same manner as an action to try a misdemeanor and the defendant may request that all findings of fact shall be made by a jury. The court shall inform the defendant of the nature of the proceedings and of the defendant's right to have a jury.

If it is found that the defendant did the killing or wounding, but that it was not intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it is found that the defendant did the killing or wounding intentionally, by an act of gross negligence, or while under the influence of alcohol, the court shall issue an order permanently prohibiting the defendant from taking any bird or mammal.

If it is found that the defendant was negligent, but not grossly negligent, the court shall issue an order prohibiting the defendant from taking any bird or mammal for a period specified at the discretion of the court but not less than five years.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 2210 § 2; Stats 1998 ch 931 § 159 (SB 2139), effective September 28, 1998; Stats 2003 ch 449 § 17 (AB 1712).

§ 12150.5. Petition for new trial; Review and redetermination; Authorization of issuance of permit

Any person whose license has heretofore been revoked pursuant to Section 12150 may, upon petition, obtain a new trial in the court which originally revoked his license. Such trial shall be with a jury if requested as provided in Section 12150, and shall be to determine if the revocation was based on an intentional or grossly negligent act or an act committed while under the influence of alcohol, in which case the petition shall be denied. If however, it was based on a negligent act not amounting to gross negligence the court may review and redetermine the length of time for which no license should be issued such person. The court may authorize the issuance of a license to the person after such time as the court shall determine to be proper in light of the circumstances.

HISTORY:
Added Stats 1961 ch 2210 § 5.

§ 12150.6. Proof of ability to respond in damages; Certificate of insurance; Bond

(a) Any person who has been prohibited from taking any bird or mammal pursuant to Section 12150 or 12151 shall not apply for a hunting license or take any bird or mammal unless the person has filed with the department proof of ability to respond in damages in an amount of at least ten thousand dollars ($10,000) for personal injury or death of any person, subject to a maximum of twenty thousand dollars ($20,000) for such injury or the death of two or more persons in any one accident and at least five thousand dollars ($5,000) for property damage resulting from any one accident.

(b) Proof of ability to respond in damages may be given by any of the following:

(1) The written certificate of any insurance carrier duly authorized to do business within the state that it has issued to or for the benefit of the person named a public liability insurance policy which is, at the date of the certificate, in full force and effect. The certificate shall certify that the policy therein cited shall not be canceled except upon 10 days' prior written notice to the department.

(2) A bond in the amount of twenty–five thousand dollars ($25,000) approved by a judge of a court of record. The bond shall be conditioned for the payment of the amounts specified in this section and shall provide for the entry of judgment on motion of the state in favor of any holder of any final judgment on account of damages to property or injury to any person caused while the licensee is taking any bird or mammal.

HISTORY:
Added Stats 1961 ch 2210 § 6. Amended Stats 1982 ch 517 § 232.

§ 12150.7. Cancellation of bond or return of money or securities deposited

The department shall, upon request, cancel any bond or shall direct the return to the person entitled thereto of any money or securities deposited pursuant to this code as proof of ability to respond in damages:

(a) On the filing of an affidavit with the department that the person will not thereafter engage in the taking of any bird or mammal.

(b) In the event of the permanent incapacity of such person to engage in the taking of any bird or mammal.

(c) Upon the death of the person on whose behalf such proof was filed.

HISTORY:
Added Stats 1961 ch 2210 § 7.

§ 12150.8. Filing additional proof of ability to respond in damages

Whenever any claim is made against any such person or judgment is rendered against any such person required to file proof of ability to respond in damages, such person shall not apply for a hunting license or take any bird or mammal until additional proof of ability to respond in damages has been filed with the department in an amount sufficient to provide proof of ability to respond in damages in the amount specified in Section 12150.6 over and above all claims made against previously filed proof of ability to respond in damages.

HISTORY:
Added Stats 1961 ch 2210 § 8.

§ 12151. Killing or wounding domestic animal while taking bird or mammal; Action for determining cause of killing or wounding; Findings and orders

Whenever any person, while taking a bird or mammal, kills or wounds any domestic animal belonging to another and that fact is ascertained by the department, the department shall notify the district attorney of the county in which the act occurred. The district attorney may thereupon bring an action in the superior court of the county in which the act occurred for the purpose of determining the cause of the killing or wounding. These proceedings shall be conducted in the same manner as an action to try a misdemeanor and the defendant may request that all findings of fact shall be made by a jury. The court shall inform the defendant of the nature of the proceedings and of the defendant's right to have a jury.

If it is found that the defendant did the killing or wounding but that it was not intentional or negligent, the court shall dismiss the proceeding. Otherwise, if it is found that the defendant did the killing or wounding intentionally or negligently, the court shall issue an order prohibiting the defendant from taking any bird or mammal for a period of five years.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 2210 § 3; Stats 1998 ch 931 § 160 (SB 2139), effective September 28, 1998; Stats 2003 ch 449 § 18 (AB 1712).

§ 12151.5. Required report where person or domestic animal killed or wounded by hunter

A person who, while hunting, kills or wounds or witnesses the killing or wounding of a human being, or domestic animal belonging to another, shall, within 48 hours after the incident, forward a complete written report to the Department of Fish and Wildlife, 1416 Ninth Street, Sacramento, California 95814, providing the reporter's full name and address and all facts relating to the incident.

HISTORY:
Added Stats 1959 ch 472 § 1. Amended Stats 1968 ch 64 § 2; Stats 2015 ch 154 § 108 (AB 1527), effective January 1, 2016.

§ 12152. Report by court where person prohibited from taking of bird or mammal; Transmission to specified persons

Whenever a person has been prohibited from taking any bird or mammal pursuant to Section 12150 or Section 12151, the court in which the proceeding for such action was had shall report the facts to the department at its Sacramento headquarters office. The report shall show the date and place of the occurrence, the name and address of the

person who did the killing or wounding, the name and address of the person who was killed or wounded or the name and address of the owner of the animal, as the case may be, and such other information as the department may require.

The department shall maintain a record of all orders, issued under Section 12150 and Section 12151. The record shall show the name and address of the person involved, the date of such action, and the date of expiration of such order. The department shall periodically transmit copies of such records to each person authorized to issue a hunting license and to each district attorney in the State.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 2210 § 4.

§ 12153. Commercial fishing license; Forfeiture; Grounds

A commercial fishing license is forfeited for the violation of Sections 1050.1 to 1060, inclusive, or Section 2012, or of any of the provisions of this code relating to the use of nets.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 88 § 3; Stats 2015 ch 683 § 33 (SB 798), effective January 1, 2016.

§ 12154. Suspension or revocation of hunting or sport fishing license permit privileges; Seizure or forfeiture of device or apparatus

(a) Upon a conviction of a violation of this code or any regulation adopted pursuant thereto that is punishable pursuant to Section 12012, 12013, 12013.3, or 12013.5, the department may suspend or permanently revoke a person's hunting or sport fishing license or permit privileges.

(b)(1) Any person whose privileges are suspended or revoked pursuant to this section may appeal the suspension or revocation to the commission. The commission shall initiate the appeal process within 12 months of the violator's appeal request. The commission shall consider at least the nature, circumstances, extent, and gravity of the person's violations, the person's culpability for the violations, and the injury to natural resources by the violations, and may restore a person's hunting or sport fishing license or permit privileges.

(2) The department may adopt regulations to implement this subdivision.

(c) Pursuant to subdivision (c) of Section 12157, a judge may order the seizure or forfeiture of any device or apparatus, including a vessel, vehicle, or hunting or fishing gear, that is used in committing an offense punishable under Section 12012, 12013, 12013.3, or 12013.5.

HISTORY:
Added Stats 2009 ch 290 § 6 (AB 708), effective January 1, 2010. Amended Stats 2012 ch 590 § 5 (AB 1162), effective January 1, 2013.

§ 12155. Penalties for third conviction relating to taking or possession of birds or mammals; Revocation of license

(a) Upon the third conviction of a person of a violation of any provision of this code or regulation adopted pursuant to this code relating to the taking or possession of a bird or mammal in a five-year period, and upon a conviction subsequent to the three convictions during a five-year period, that person shall be prohibited from taking a bird or mammal in the state for three years from the date of the last conviction. The commission shall revoke a hunting license of a person prohibited from taking a bird or mammal in this state for the period of prohibition.

(b) It shall be unlawful for a person to obtain, or attempt to obtain, a hunting license during a period of prohibition.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 967 § 2; Stats 1963 ch 517 § 2; Stats 1968 ch 358 § 2; Stats 1977 ch 1208 § 16; Stats 1984 ch 472 § 3; Stats 2015 ch 154 § 109 (AB 1527), effective January 1, 2016.

§ 12155.5. Procedures governing suspension and revocation of hunting or sport fishing privileges; Appeal; Unlawful to obtain or attempt to obtain license during suspension or revocation period; Penalty

(a) The commission shall adopt regulations and procedures governing the revocation or suspension of hunting or sport fishing privileges. The regulations shall provide for notice and opportunity for a hearing.

(b) Any person, whose license was revoked pursuant to Section 12154, 12155, or 12156, may appeal to the commission for reissuance of the license and termination of the prohibition against the taking of fish, reptiles, amphibia, or birds or mammals.

(c) After a public hearing at which the person has appeared in person, the commission may terminate the prohibition and authorize the issuance of a license if it finds that there are sufficient mitigating circumstances to warrant that action.

(d) It is unlawful for a person whose hunting or sport fishing privileges have been revoked or suspended to obtain or attempt to obtain, or to possess a hunting or sport fishing license, permit, or tag during that suspension or revocation period.

(e) Any person who violates subdivision (d) is guilty of an infraction punishable by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000), or of a misdemeanor.

HISTORY:
Added Stats 1984 ch 472 § 4. Amended Stats 1985 ch 127 § 1; Stats 2003 ch 291 § 7 (AB 1420).

§ 12156. Prohibition against trapping by person convicted of violating specified provisions; Revocation of license

No person who is licensed or required to be licensed pursuant to Section 4005 and who is convicted of a violation of any provision of Article 1 (commencing with Section 4000) of Chapter 2 of Part 3 of Division 4 or of Section 4150 shall take any fur–bearing or nongame mammal in the state for three years from the date of the next regularly scheduled meeting of the commission held at least 30 days after the date of that conviction. The commission shall revoke the trapping license of the person who is prohibited from taking fur–bearing and nongame mammals in the state, if the person has one, for the period of prohibition.

No person shall obtain, or attempt to obtain, a trapping license during a period of prohibition.

HISTORY:
Added Stats 1985 ch 127 § 3.

§ 12156.5. Revocation of guide license upon conviction

(a) The judge before whom any guide, as defined in Section 2535, is arraigned for a violation of this code, or regulation adopted pursuant thereto, may, upon the conviction of the person, order the revocation of the person's privilege to hunt, fish, or guide for a period not to exceed three years from the date of the conviction.

(b) For purposes of this section, a plea of nolo contendere or no contest or a forfeiture of bail is a conviction.

(c) It shall be unlawful for any person to obtain, or attempt to obtain a guide license, sportfishing license, or hunting license during a period of revocation imposed under this section.

(d) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order revocation upon conviction impairs the right of the department to commence proceedings to order revocation of the guide license pursuant to Section 2546.

HISTORY:
Added Stats 1986 ch 750 § 16.

§ 12157. Device, apparatus or vehicle used in committing offense; Forfeiture; Criteria; Proceeds; Applicability

(a) Except as provided in subdivision (b), the judge before whom any person is tried for a violation of any provision of this code, or regulation adopted pursuant thereto, may, upon the conviction of the person tried, order the forfeiture of any device or apparatus that is designed to be, or is capable of being, used to take birds, mammals, fish, reptiles, or amphibia and that was used in committing the offense charged.

(b) The judge shall, if the offense is punishable under Section 12008 or 12008.1 of this code or under subdivision (c) of Section 597 of the Penal Code, order the forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle that is used or intended for use in delivering, importing, or exporting any unlawfully taken, imported, or purchased species.

(c)(1) The judge may, for conviction of a violation of any of the following offenses, order forfeiture of any device or apparatus that is used in committing the offense, including, but not limited to, any vehicle used or intended for use in committing the offense:

(A) Section 2000 relating to deer, elk, antelope, feral pigs, European wild boars, black bears, and brown or cinnamon bears.

(B) Any offense that involves the sale, purchase, or possession of abalone for commercial purposes.

(C) Any offense that involves the sale, purchase, or possession of sturgeon or lobster, pursuant to Section 7370 or 8254.

(D) Any offense that involves a violation of Section 12012.

(E) A violation of subdivision (b) of Section 12013.

(2) In considering an order of forfeiture under this subdivision, the court shall take into consideration the nature, circumstances, extent, and gravity of the prohibited act committed, the degree of culpability of the violator, the property proposed for forfeiture, and other criminal or civil penalties imposed on the violator under other provisions of law for that offense. The court shall impose lesser forfeiture penalties under this subdivision for those acts that have little significant effect upon natural resources or the property of another and greater forfeiture penalties for those acts that may cause serious injury to natural resources or the property of another, as determined by the court. In determining whether or not to order forfeiture of a vehicle, the court shall, in addition to any other relevant factor, consider whether the defendant is the owner of the vehicle and whether the owner of the vehicle had knowledge of the violation.

(3) It is the intent of the Legislature that forfeiture not be ordered pursuant to this subdivision for minor or inadvertent violations, as determined by the court.

(d) A judge shall not order the forfeiture of a vehicle under this section if there is a community property interest in the vehicle that is owned by a person other than the defendant and the vehicle is the only vehicle available to the defendant's immediate family that may be operated on the highway with a class A, class B, or class C driver's license.

(e) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by the department.

(f)(1) The proceeds from all sales under this section, after payment of any valid liens on the forfeited property, shall be paid into the Fish and Game Preservation Fund.

(2) A lien in which the lienholder is a conspirator is not a valid lien for purposes of this subdivision.

(g) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus also apply to the judge, referee, or juvenile hearing officer in a juvenile court action brought under Section 258 of the Welfare and Institutions Code.

(h) For purposes of this section, a plea of nolo contendere or no contest, or forfeiture of bail, constitutes a conviction.

(i) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 8630.

HISTORY:
Enacted 1957. Amended Stats 1963 ch 517 § 3; Stats 1974 ch 605 § 10; Stats 1981 ch 692 § 10; Stats 1982 ch 672 § 1; Stats 1984 ch 1215 § 4; Stats 1988 ch 1059 § 5; Stats 1993 ch 772 § 1 (SB 332); Stats 1994 ch 146 § 46 (AB 3601); Stats 2000 ch 388 § 24 (AB 2941); Stats 2003 ch 149 § 13 (SB 79); Stats 2007 ch 328 § 7 (AB 1187), effective January 1, 2008; Stats 2009 ch 290 § 7 (AB 708), effective January 1, 2010; Stats 2016 ch 340 § 10 (SB 839), effective September 13, 2016.

§ 12157.5. Forfeiture of motor vehicle or snowmobile

The judge before whom any person is tried and convicted of violating Sections 2004 and 2016 and, at the same proceeding, is also tried and convicted of violating Section 2001 or 2005 may, in his discretion, order the forfeiture of any motor vehicle or snowmobile used in committing one or more of the offenses charged. Any vehicle so forfeited shall be sold or destroyed by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund, except that any valid liens on the forfeited property shall first be paid from proceeds of the sale unless the lienholder is a conspirator. For purposes of this section, forfeiture of bail or a plea of nolo contendere shall constitute a conviction.

HISTORY:
Added Stats 1980 ch 1006 § 2.

§ 12158. Sport fishing or hunting license; Suspension or revocation; Obtaining license during period of suspension as misdemeanor

The sport fishing or hunting license of any person to whom such a license has been issued, may, in the discretion of the court, be suspended or revoked upon his conviction of a violation of any provision of this code or regulation made pursuant thereto relating to hunting or fishing for purposes other than profit, in addition to any fine or other punishment imposed.

Any person who obtains another hunting or fishing license during the period his license has been suspended or revoked is guilty of a misdemeanor.

HISTORY:
Enacted 1957.

§ 12158.5. Nolo contendere plea or forfeiture of bail as conviction

For the purpose of invoking any provision of this code, or any rule, regulation, or order made or adopted under this code, relating to the suspension, revocation, or forfeiture of any license or permit, a plea of nolo contendere or "no contest" to, or forfeiture of bail from, a charge of a violation of any provision of this code, or any rule, regulation, or order made or adopted under this code, is a conviction of a violation thereof.

HISTORY:
Added Stats 1978 ch 1151 § 1. Amended Stats 1984 ch 472 § 5.

§ 12159. Seizure of game, aquaculture animals and products, and plants unlawfully taken, sold or transported; Notice

All birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians, or any part thereof, which have been taken, possessed, sold, imported, or transported contrary to any of the laws of this state shall be seized by the department, and, in accordance with the commission's regulations, notice of seizure shall be given to the person who had possession of the birds, mammals, fish, reptiles, aquaculture

animals and products, plants, or amphibians, or any part thereof, at the time of the seizure if that person is known.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 11; Amended Stats 1984 ch 1403 § 12; Stats 2009 ch 294 § 29 (AB 1442), effective January 1, 2010.

§ 12159.5. Conviction for taking of endangered species, threatened species, or fully protected bird, mammal, reptile, amphibian, or fish; Forfeiture of proceeds

The judge before whom any person is tried for a violation of a provision of this code that prohibits the taking of any endangered species, threatened species, or fully protected bird, mammal, reptile, amphibian, or fish, as specified by Sections 12008 and 12008.1, may, in the court's discretion and upon the conviction of that person, order the forfeiture of any proceeds resulting from the taking of the endangered species, threatened species, or fully protected bird, mammal, reptile, amphibian, or fish.

HISTORY:
Added Stats 1984 ch 1215 § 6. Amended Stats 2016 ch 340 § 11 (SB 839), effective September 13, 2016.

§ 12160. Disposition of game, aquaculture animals and products, and plants seized; Restrictions and limitations

All birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians, or any part thereof, seized in accordance with Section 12159, the sale of which is not prohibited and which have a current market value of one hundred dollars ($100) or more, shall be packed, preserved, sold for bait, used for fish food in state-owned fish hatcheries, or otherwise put to economical use immediately upon seizure, at the prevailing market price for legal birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians in effect on the date of seizure. Any proceeds thereof shall be placed in the Fish and Game Preservation Fund. If the person from whom such birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians were seized is not convicted in a court of competent jurisdiction for the offense out of which the seizure arose, then and in that event the proceeds shall be returned to that person.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 12; Stats 2009 ch 294 § 30 (AB 1442), effective January 1, 2010.

§ 12161. Order forfeiting or disposing of game, aquaculture animals and products, and plants unlawfully taken; Destruction or donation to charitable institution

The judge before whom any person is tried for taking, possessing, selling, importing, or transporting birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians or parts thereof contrary to the laws of this state shall upon the conviction of the accused make an order forfeiting and disposing of the birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians, or parts thereof, in accordance with the provisions of Section 12160. However, if the birds, mammals, fish, reptiles, aquaculture animals and products, plants, or amphibians, or parts thereof may not be sold lawfully or have a current market value of less than one hundred dollars ($100), the judge may at his or her discretion order that they be donated to a state, county, city, or any charitable institution, or that they be destroyed.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 13; Stats 1977 ch 1208 § 18; Stats 1985 ch 1403 § 13; Stats 2009 ch 294 § 31 (AB 1442), effective January 1, 2010.

§ 12162. Sale or donation of seized game to charitable institutions when person in violation cannot be determined

A bird, mammal, fish, reptile, or amphibian seized under circumstances in which it cannot be determined who took, possessed, sold, imported, or transported the bird, mammal, fish, reptile, or amphibian contrary to law may be sold or donated to a state, county, city, city and county, or charitable institution.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 14; Stats 1977 ch 1208 § 19; Stats 1985 ch 1403 § 14; Stats 2015 ch 154 § 110 (AB 1527), effective January 1, 2016.

§ 12163. Payment on purchase of game seized and sold

A person who purchases birds, mammals, fish, reptiles, or amphibians from the department pursuant to the preceding sections shall, upon delivery, pay to the department, for deposit in the Fish and Game Preservation Fund, the prevailing market price for legal birds, mammals, fish, reptiles, or amphibians in effect on the date of seizure.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 15; Stats 2015 ch 154 § 111 (AB 1527), effective January 1, 2016.

§ 12164. Confiscation of game from convicted trespasser; Disposition

The court before whom a person has been convicted of trespassing under Section 602 of the Penal Code shall, in addition to any other fine or forfeiture imposed, confiscate any bird or mammal taken while trespassing, and shall dispose of the bird or mammal to a charitable institution or cause it to be destroyed if unfit for human consumption.

HISTORY:
Enacted 1957. Amended Stats 1977 ch 1208 § 20; Stats 2015 ch 154 § 112 (AB 1527), effective January 1, 2016.

§ 12165. Guide license; Revocation on conviction of violation; Obtaining another license within two years a misdemeanor

When any person licensed as a guide under Section 2536 is adjudged guilty by a court of competent jurisdiction of violating or permitting the violation of any provision of this code or regulation made pursuant thereto, in addition to any fine or other punishment imposed, the court may revoke his guide license.

Any person who obtains another guide license within two years after a guide license issued to him has been revoked or forfeited, is guilty of a misdemeanor.

HISTORY:
Enacted 1957.

§ 12166. Effect of termination of probation and dismissal of charges

A termination of probation and dismissal of charges pursuant to Section 1203.4 of the Penal Code or a dismissal of charges pursuant to Section 1203.4a of the Penal Code does not affect either a past revocation or suspension of any license or permit to take fish or game or the authority of the commission or a court to revoke or suspend a license or permit to take fish and game.

HISTORY:
Added Stats 1983 ch 1048 § 20, effective September 26, 1983.

CHAPTER 3. CALIFORNIA INDIANS

§ 12300. Application of code to California Indians; Limitations and condition

(a) Notwithstanding any other provision of law, the provisions of this code are not applicable to California Indians whose names are inscribed upon the tribal rolls, while

on the reservation of that tribe and under those circumstances in this state where the code was not applicable to them immediately before the effective date of Public Law 280, Chapter 505, First Session, 1953, 83d Congress of the United States.

(b) No Indian described in subdivision (a) shall be prosecuted for the violation of any provision of this code occurring in the places and under the circumstances described in subdivision (a). Nothing in this section, however, prohibits or restricts the prosecution of an Indian for the violation of a provision of this code prohibiting the sale of a bird, mammal, fish, amphibian, or reptile.

HISTORY:
Enacted 1957. Amended Stats 1961 ch 963 § 1; Stats 2015 ch 154 § 113 (AB 1527), effective January 1, 2016.

DIVISION 10. REVENUE

CHAPTER 1. STATE

§ 13000. Continuation of Fish and Game Preservation Fund

The Fish and Game Preservation Fund in the State Treasury is continued in existence.

HISTORY:
Enacted 1957.

§ 13001. Disposition of money collected

(a) Unless otherwise provided, all money collected under the provisions of this code and of any other law relating to the protection and preservation of birds, mammals, fish, reptiles, or amphibia shall be paid into the State Treasury to the credit of the Fish and Game Preservation Fund.

(b) Notwithstanding any other provision of law, the Controller may use the Fish and Game Preservation Fund for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 16; Stats 2008 ch 751 § 18 (AB 1389), effective September 30, 2008.

§ 13001.5. Fund condition statement for Fish and Game Preservation Fund

(a) The department shall prepare annually, for inclusion in the Governor's Budget, a fund condition statement for the Fish and Game Preservation Fund that displays both of the following:

(1) Information relating to the total amounts of revenues and expenditures with regard to the moneys in the fund that are deposited in an account or subaccount in the fund.

(2) Information relating to revenues and expenditures with regard to all moneys in the fund that are not deposited in an account or subaccount in the fund.

(b) For the purposes of subdivision (a), the department shall prepare the fund condition statement in a manner that is similar to the fund condition statement relating to the Fish and Game Preservation Fund included in the 2003 –04 Governor's Budget.

(c) The department shall prepare, for posting on its Internet Web site on or before January 10, of each year, a fund condition statement for each account or subaccount in the fund.

HISTORY:
Added Stats 2006 ch 77 § 4 (AB 1803), effective July 18, 2006.

§ 13002. Monthly payment of license money into treasury

The department shall pay into the State Treasury at least once a month the money received by it from the sale of licenses issued under the provisions of this code.

HISTORY:
Enacted 1957.

§ 13003. Disposition of fines and forfeitures

Unless otherwise provided by law, all fines and forfeitures imposed or collected in any court of this state for violations of any of the provisions of this code or regulation made pursuant thereto, or any other law providing for the protection or preservation of birds, mammals, fish, reptiles, or amphibia, shall be deposited as soon as practicable after the receipt thereof with the county treasurer of the county in which the court is situated. Amounts so deposited shall be paid at least once a month as follows:

(a) One–half to the Treasurer, by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court, for deposit in the Fish and Game Preservation Fund in the State Treasury on order of the Controller. At the time of such transmittal, the county auditor shall forward to the Controller, on such form or forms as the Controller may prescribe, a record of the imposition, collection, and payment of the fines or forfeitures. The department may employ legal counsel and may expend these funds to pay the costs of legal actions brought in the name of the people relating to the enforcement of this code by a district attorney, city attorney, or the department, as appropriate.

(b) One–half to the county in which the offense was committed.

HISTORY:
Enacted 1957. Amended Stats 1974 ch 605 § 17; Stats 1991 ch 1193 § 2 (SB 1081).

§ 13005. Deposit and disposition of fees from lifetime hunting and lifetime sport fishing licenses and privileges

Notwithstanding Section 13001, the department shall deposit funds from the sale of lifetime hunting licenses and lifetime hunting privileges issued pursuant to Section 3031.2, and lifetime sport fishing licenses and lifetime privileges issued pursuant to Section 7149.2 as follows:

(a) For each lifetime fishing license issued pursuant to Section 7149.2, the collected fee shall be deposited as follows:

(1) Of those funds, 66.67 percent shall be deposited into the Fish and Game Preservation Fund.

(2) Of those funds, 33.33 percent shall be deposited into the Hatchery and Inland Fisheries Fund.

(b) For each lifetime hunting license issued pursuant to Section 3031.2, 100 percent of the collected fee shall be deposited into the Fish and Game Preservation Fund pursuant to Section 13001.

(c) For each lifetime sport fishing privilege package issued pursuant to subdivision (e) of Section 7149.2, the collected fee shall be deposited as follows:

(1) Of those funds, 48.37 percent shall be deposited into the Fish and Game Preservation Fund.

(2) Of those funds, 14.75 percent shall be deposited into the Hatchery and Inland Fisheries Fund.

(3) Of those funds, 21.31 percent shall be deposited into the Steelhead Trout account in the Fish and Game Preservation Fund.

(4) Of those funds, 15.57 percent shall be deposited into the California Ocean Resources Enhancement and Hatchery Program account in the Fish and Game Preservation Fund.

(d) The collected fee for each big game privilege package purchased pursuant to subdivision (c) of Section 3031.2 shall be deposited as follows:

(1) Of those funds, 91.92 percent shall be deposited into the Big Game Management Account in the Fish and Game Preservation Fund.

(2) Of those funds, 8.08 percent shall be deposited into the Fish and Game Preservation Fund.

(e) The collected fee for each lifetime bird hunting privilege package issued pursuant to subdivision (d) of Section 3031.2 shall be deposited as follows:

(1) Of those funds, 68.47 percent shall be deposited into the State Duck Stamp Account in the Fish and Game Preservation Fund.

(2) Of those funds, 31.53 percent shall be deposited into the Upland Game Bird Account in the Fish and Game Preservation Fund.

HISTORY:
Added Stats 2017 ch 26 § 35 (SB 92), effective June 27, 2017.

§ 13006. Use of additional fines to pay costs of secret witness program

Notwithstanding Section 13001, the money collected from the penalties on fines, penalties, or forfeitures levied pursuant to Section 12021 shall be used only to pay the department's costs of support for the department's secret witness program. The purpose of the secret witness program is to facilitate the enforcement of this code and regulations adopted pursuant to this code. Contributions to the secret witness program may also be made pursuant to subdivision (k) of Section 13103.

HISTORY:
Added Stats 1994 ch 1215 § 2 (AB 3424).

§ 13007. Hatchery and Inland Fisheries Fund; Percentage of fees deposited into fund; Uses of fund; Appropriation to improve state hatchery facility

(a) Notwithstanding Section 13001, 33⅓ percent of all sport fishing license fees collected pursuant to Article 3 (commencing with Section 7145) of Chapter 1 of Part 2 of Division 6, except license fees collected pursuant to Section 7149.8, shall be deposited into the Hatchery and Inland Fisheries Fund, which is hereby established in the State Treasury. Moneys in the fund may be expended, consistent with the Strategic Plan for Trout Management and Chapter 7.2 (commencing with Section 1725) of Division 2, and, upon appropriation by the Legislature, to support programs of the department related to management, maintenance, and capital improvement of California's fish hatcheries, the Heritage and Wild Trout program, and enforcement activities related thereto, and to support other activities eligible to be funded from revenue generated by sport fishing license fees.

(b) The department shall use sport fishing license fees collected and subject to appropriation pursuant to subdivision (a) for the following purposes:

(1) For the department's attainment of a state hatchery production goal of 2.75 pounds of released trout per sport fishing license sold in the calendar year ending two and one-half years earlier, based on the sales of the following types of sport fishing licenses: resident; lifetime; nonresident year; nonresident, 10-day; 2-day; 1-day; and reduced fee. The predominant number of released fish shall be of catchable size or larger. The department shall attain this goal in compliance with Fish and Game Commission trout policies concerning catchable-sized trout stocking, the Strategic Plan for Trout Management, and Chapter 7.2 (commencing with Section 1725) of Division 2.

(2) To the Heritage and Wild Trout Program, at least two million dollars ($2,000,000), for the following purposes:

(A) At least seven new permanent positions for the Heritage and Wild Trout Program.

(B) Permanent positions and seasonal aides in each region of the state as necessary to contribute to the objectives of this section, the objectives of the Strategic Plan for Trout Management pursuant to Section 1728, and other activities necessary to the program.

(C) The development of trout management plans pursuant to Chapter 7.2 (commencing with Section 1725) of Division 2.

(D) The department may expend up to 25 percent of the funds made available to the Heritage and Wild Trout Program for watershed restoration projects, resource assessment, or scientific inquiry. The department may enter into contracts with qualified entities including local governments, special districts, tribes, and nonprofit organizations for the purposes of this subparagraph.

(3) For the development of the department's Strategic Plan for Trout Management pursuant to Section 1728.

(4) The department shall ensure that the numbers of native California trout, as defined in Section 7261, produced are sufficient to equal or exceed 25 percent of the numbers of trout produced by the state fish hatcheries to comply with paragraph (1). The native trout produced in accordance with this paragraph shall support department efforts to protect and restore cold water ecosystems, maintain biological diversity, and provide diverse angling opportunities. Coastal rainbow trout/steelhead produced for anadromous mitigation purposes shall be excluded from contributing to the native trout production goals required by this paragraph. Coastal rainbow trout/steelhead propagated for purposes other than anadromous mitigation and released into their source watersheds may be counted toward the 25 percent native trout production goal. Native trout produced shall be naturally indigenous stocks from their original source watersheds. The department may release native trout produced into watersheds other than their original source watershed only if the released trout will cause no harm to other native trout or other biota in their original watersheds.

(5) The department may hire additional staff for state fish hatcheries, in order to comply with this subdivision.

(c) The department may allocate any funds under this section, not necessary to maintain the minimums specified in paragraphs (1) and (4) of subdivision (b), and after the expenditure in paragraph (2) of subdivision (b), to the Fish and Game Preservation Fund.

(d) The department may utilize federal funds to meet the funding formula specified in subdivision (a) if those funds are otherwise legally available for this purpose.

(e) A portion of the moneys subject to appropriation pursuant to subdivision (a) may be used for the purpose of obtaining scientifically valid genetic determinations of California native trout stocks, consistent with the department's Strategic Plan for Trout Management.

(f) On an annual basis, the department shall invest in hatchery facility improvements and rehabilitation to ensure progress towards achievement of the hatchery fish production targets established pursuant to this section.

(g) Beginning January 1, 2015, the department may obtain hatchery-produced fish from any California-based hatchery if all of the following criteria are satisfied:

(1) The goal specified in subdivision (b) is unmet.

(2) The department, following an inspection, determines that the California hatchery is in compliance with operations, management, and monitoring standards that are as stringent as those in effect at state hatcheries, in order to minimize the risk of the spread of disease or invasive species into inland state waters and fisheries.

(3) The cost per fish or per pound of fish provided by the California hatchery shall not exceed the cost to the department of state hatchery fish calculated equivalently and including transportation costs.

HISTORY:

Added Stats 2005 ch 689 § 1 (AB 7), effective January 1, 2006. Amended Stats 2006 ch 77 § 5 (AB 1803), effective July 18, 2006, ch 422 § 1 (AB 2685), effective January 1, 2007 (ch 422 prevails), ch 538 § 194 (SB 1852), effective January 1, 2007; Stats 2007 ch 130 § 98 (AB 299), effective January 1, 2008; Stats 2008 ch 350 § 1 (SB 1262), effective January 1, 2009; Stats 2012 ch 565 § 26 (SB 1148), effective January 1, 2013; Stats 2017 ch 26 § 36 (SB 92), effective June 27, 2017.

§ 13010. Fish and Wildlife Pollution Account

There is a Fish and Wildlife Pollution Account in the Fish and Game Preservation Fund. The Fish and Wildlife Pollution Account is the successor to the Fish and Wildlife Pollution Cleanup and Abatement Account in the Fish and Game Preservation Fund which is hereby abolished. All references in any law to the Fish and Wildlife Pollution Cleanup and Abatement Account shall be deemed to refer to the Fish and Wildlife Pollution Account. All money in the Fish and Wildlife Pollution Cleanup and Abatement Account on January 1, 1996, shall be transferred to the Fish and Wildlife Pollution Account. The following subaccounts are created within the Fish and Wildlife Pollution Account:

(a) The Oil Pollution Administration Subaccount.

(b) The Oil Pollution Response and Restoration Subaccount.

(c) The Hazardous Materials Administration Subaccount.

(d) The Hazardous Materials Response and Restoration Subaccount.

HISTORY:

Added Stats 1995 ch 720 § 7 (AB 902).

§ 13011. Deposit of recovery or settlement of money damages received pursuant to specified provisions

The state portion of any recovery or settlement of money damages received pursuant to any citation or charges brought under the following sections by the people by or through any state or local public entity shall be deposited in the following subaccounts:

(a) Administrative and judicially imposed fines, penalties, or punitive damages resulting from either civil or criminal action or administrative civil liability for violations of the oil and petroleum product control and discharge provisions of this code, including, but not limited to, Sections 2014, 12011, and 12016, Chapter 6.5 (commencing with Section 2580) of Division 3, and Chapter 2 (commencing with Section 5600) of Part 1 of Division 6 shall be deposited in the Oil Pollution Administration Subaccount or the Oil Pollution Response and Restoration Subaccount as determined by administrative or judicial settlement, or as provided by law.

(b) Administrative and judicially imposed fines, penalties, or punitive damages resulting from either criminal or administrative civil liability for violations of hazardous materials and other pollution laws including, but not limited to, Sections 2014 and 12016, and Chapter 6.5 (commencing with Section 2580) of Division 3 and Part 1 (commencing with Section 5500) of Division 6 shall be deposited in the Hazardous Materials Administration Subaccount or the Hazardous Materials Response and Restoration Subaccount as determined by administrative or judicial settlement or as provided by law.

HISTORY:

Added Stats 1995 ch 720 § 8 (AB 902).

§ 13012. Maximum amount of funds on deposit in subaccounts

Funds on deposit in the subaccounts shall not exceed the amounts prescribed below, adjusted in accordance with Section 2212 of the Revenue and Taxation Code to equal 1995 dollars:

(a) The Oil Pollution Administration Subaccount shall not exceed five million dollars ($5,000,000).

(b) The Oil Pollution Response and Restoration Subaccount shall not exceed ten million dollars ($10,000,000).

(c) The Hazardous Materials Administration Subaccount shall not exceed five million dollars ($5,000,000).

(d) The Hazardous Material Response and Restoration Subaccount shall not exceed ten million dollars ($10,000,000).

All funds in the Fish and Wildlife Pollution Account in excess of the amounts listed above, on June 30 of each fiscal year, shall be used by the department in succeeding fiscal years for projects that preserve California plants, wildlife, and fisheries.

HISTORY:
Added Stats 1995 ch 720 § 9 (AB 902).

§ 13013. Maximum appropriations from specified subaccounts

(a) Appropriations from either the Oil Pollution Administration Subaccount or the Hazardous Materials Administration Subaccount shall not exceed one third of the maximum fund level established under Section 13012 in order to maintain a prudent reserve for future appropriations.

(b) If the director or his or her designee expends funds from the prudent reserve established pursuant to subdivision (a) for activities authorized under subdivision (b) of Section 13230, the director or the director's designee shall ensure that there are adequate funds remaining in those subaccounts to carry out their purposes. Expenditures from the prudent reserve shall be repaid in part, or in full, from any funds received pursuant to Section 13011 until those reserves are fully reimbursed.

(c) The director or his or her designee, shall recover from the spiller, responsible party, or, in the absence of those responsible parties, from a particular pollution abatement or remediation account, all expenditures paid from the accounts established pursuant to subdivisions (b) and (d) of Section 13230, and all costs incurred by the department arising from the administration and enforcement of applicable pollution laws. The director or his or her designee may request, and a district attorney, city attorney, or other prosecuting agency, as part of a prosecution or negotiation, may allege a claim for, these costs and expenditures and shall deposit any recoveries into the fund from which they were expended.

(d) The director or his or her designee shall ensure that there are adequate funds in the accounts and subaccounts specified in this section to carry out their purposes.

HISTORY:
Added Stats 1995 ch 720 § 10 (AB 902). Amended Stats 2007 ch 373 § 2 (AB 1220), effective October 10, 2007.

§ 13014. Fish and Game Mitigation and Protection Endowment Principal Account and Fish and Game Mitigation and Protection Expendable Funds Account established

(a) There are hereby established, initially in the Special Deposit Fund, continued in existence by Section 16370 of the Government Code, both of the following accounts:

(1) The Fish and Game Mitigation and Protection Endowment Principal Account. The department shall deposit in this account the endowment funds received by the department pursuant to an agreement described in subdivision (b) and all earnings generated thereon. The earnings shall be available to the department, upon appropriation by the Legislature, to fund long-term management, enhancement, monitoring, and enforcement activities on habitat lands in a manner consistent with the terms of the underlying agreement.

(2) The Fish and Game Mitigation and Protection Expendable Funds Account. The department shall deposit in this account moneys received pursuant to an agreement described in subdivision (b) that are not endowment funds and that are designated for expenditure for the purposes described in paragraph (2) of that subdivision. Notwithstanding Section 13340 of the Government Code, the moneys in the account established by this paragraph are hereby continuously appropriated to the department for expenditure without regard to fiscal year, for the purposes described in this section.

(b)(1) The department may deposit moneys into the accounts established pursuant to subdivision (a) that it receives pursuant to any of the following, if those moneys are received for the purposes described in paragraph (2):

(A) Agreements or permits pursuant to the Natural Communities Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3).

(B) Conservation bank agreements.

(C) Habitat conservation implementation agreements.

(D) Incidental take permits.

(E) Legal or other written settlements.

(F) Mitigation agreements.

(G) Streambed or lakebed alteration agreements.

(H) Trust agreements.

(2) The department may deposit the moneys received pursuant to an agreement described in paragraph (1) in an account established by this section only if it receives those moneys for at least one of the following purposes:

(A) Mitigating the adverse biological impacts of a specific project, activity, spill, or release.

(B) Protecting, conserving, restoring, enhancing, managing, and maintaining fish, wildlife, native plants, or their habitats.

(c) While the Fish and Game Mitigation and Protection Endowment Principal Account and the Fish and Game Mitigation and Protection Expendable Funds Account are initially established in the Special Deposit Fund within the Pooled Money Investment Account, the Treasurer's office shall, at the department's request, transfer these funds from the Pooled Money Investment Account to another account within the State Treasury system to increase earnings over time while providing adequate liquidity. If either or both of these accounts are transferred from the Pooled Money Investment Account, assets in the transferred account or accounts may be held and invested in any of the investments identified in Section 16430 of the Government Code, except that the maturity date of commercial paper may exceed the limits set forth in Section 16430 of the Government Code. These investments shall be made as determined and directed by the department.

(d) To develop and maintain the investment strategy for these accounts, the department may retain investment advisers deemed acceptable to the Treasurer.

HISTORY:

Added Stats 2004 ch 427 § 1 (AB 2517). Amended Stats 2008 ch 411 § 7 (SB 1538), effective January 1, 2009.

CHAPTER 2. COUNTY

§ 13100. Deposits into county fish and wildlife propagation fund; Expenditures

(a) The amounts paid to and retained in the county treasury pursuant to Sections 12009 and 13003 shall be deposited in a county fish and wildlife propagation fund and expended for the protection, conservation, propagation, and preservation of fish and wildlife, under the direction of the board of supervisors, pursuant to this chapter.

(b) All proposed expenditures from a county fish and wildlife propagation fund shall be reviewed first at a regular meeting of the county board of supervisors or its designated county fish and game commission to ensure compliance with Section 13103.

HISTORY:

Enacted 1957. Amended Stats 1965 ch 1367 § 1; Stats 1976 ch 153 § 1; Stats 1984 ch 531 § 1; Stats 1985 ch 106 § 38; Stats 1990 ch 764 § 1 (AB 4039); Stats 1997 ch 787 § 39 (SB 463); Stats 2012 ch 597 § 2 (SB 1249), effective January 1, 2013.

§ 13101. Agreements by counties for expenditure of funds for propagation and conservation purposes; Agreements between county board and department

(a) The board of supervisors of any county may enter into a written agreement with the board of supervisors of one or more counties for the expenditure of any funds

deposited in its fish and wildlife propagation fund pursuant to Section 13100 for any purpose authorized by Section 13103 in either, or any, of the counties for the joint benefit of both, or all, of the counties as the judgment of the boards of supervisors may direct. The purchase of real property necessary for that purpose is lawful and title thereto shall be taken in the joint names of each county which contributes funds therefor. The property may be deeded to the state upon the express condition that it shall be employed for the purposes of this chapter within the counties.

(b) The board of supervisors of one or more counties may enter into a written agreement with the department for the expenditure of any funds deposited in its fish and wildlife propagation fund pursuant to Section 13100 for any purpose authorized by Section 13103.

HISTORY:
Enacted 1957. Amended Stats 1990 ch 764 § 2 (AB 4039); Stats 1991 ch 561 § 1 (AB 722).

§ 13102. Expenditures subject to provisions of Government Code

Expenditures from the fish and game propagation fund of any county shall be subject to the provisions of Division 3 (commencing with Section 29000) of Title 3 of the Government Code.

HISTORY:
Enacted 1957.

§ 13103. Permissible expenditures

Expenditures from the fish and wildlife propagation fund of any county may be made only for the following purposes:

(a) Public education relating to the scientific principles of fish and wildlife conservation, consisting of supervised formal instruction carried out pursuant to a planned curriculum and aids to education such as literature, audio and video recordings, training models, and nature study facilities.

(b) Temporary emergency treatment and care of injured or orphaned wildlife.

(c) Temporary treatment and care of wildlife confiscated by the department as evidence.

(d) Breeding, raising, purchasing, or releasing fish or wildlife which are to be released upon approval of the department pursuant to Sections 6400 and 6401 onto land or into waters of local, state, or federal agencies or onto land or into waters open to the public.

(e) Improvement of fish and wildlife habitat, including, but not limited to, construction of fish screens, weirs, and ladders; drainage or other watershed improvements; gravel and rock removal or placement; construction of irrigation and water distribution systems; earthwork and grading; fencing; planting trees and other vegetation management; and removal of barriers to the migration of fish and wildlife.

(f) Construction, maintenance, and operation of public hatchery facilities.

(g) Purchase and maintain materials, supplies, or equipment for either the department's ownership and use or the department's use in the normal performance of the department's responsibilities.

(h) Predator control actions for the benefit of fish or wildlife following certification in writing by the department that the proposed actions will significantly benefit a particular wildlife species.

(i) Scientific fish and wildlife research conducted by institutions of higher learning, qualified researchers, or governmental agencies, if approved by the department.

(j) Reasonable administrative costs, excluding the costs of audits required by Section 13104, for secretarial service, travel, and postage by the county fish and wildlife commission when authorized by the county board of supervisors. For purposes of this subdivision, "reasonable cost" means an amount which does not exceed 15

percent of the average amount received by the fund during the previous three-year period, or ten thousand dollars ($10,000) annually, whichever is greater, excluding any funds carried over from a previous fiscal year.

(k) Contributions to a secret witness program for the purpose of facilitating enforcement of this code and regulations adopted pursuant to this code.

(*l*) Costs incurred by the district attorney or city attorney in investigating and prosecuting civil and criminal actions for violations of this code, as approved by the department.

(m) Other expenditures, approved by the department, for the purpose of protecting, conserving, propagating, and preserving fish and wildlife.

HISTORY:
Added Stats 1959 ch 131 § 1. Amended Stats 1990 ch 764 § 3 (AB 4039); Stats 1991 ch 561 § 2 (AB 722); Stats 2012 ch 546 § 6 (AB 2363), effective September 25, 2012.

§ 13104. Audit of expenditures

The department may audit, or require the county to audit, expenditures by the county from its fish and wildlife propagation fund in order to determine compliance with this chapter. If, after reviewing the audit, the department determines that expenditures are not in compliance with this chapter, the department may require that all expenditures from the fund be temporarily suspended, or it may seek reimbursement of funds that the department determines, based on the audit, were expended improperly, or both.

HISTORY:
Added Stats 1990 ch 764 § 4 (AB 4039). Amended Stats 2010 ch 419 § 3 (AB 1254), effective January 1, 2011.

CHAPTER 3. ACCOUNTING

§ 13200. Accounting for revenues and expenditures

The department shall account for revenues and expenditures of the money in the Fish and Game Preservation Fund in a manner consistent with the laws and applicable policies governing state departments generally for each activity or program in which the department is engaged.

HISTORY:
Added Stats 1959 ch 1453 § 1; Stats 1984 ch 48 § 13; Amended Stats 1990 ch 1706 § 16 (AB 3158); Stats 2015 ch 154 § 114 (AB 1527), effective January 1, 2016.

§ 13201. Programs or activities included

In establishing the appropriate programs or activities for this system, the department shall consider the following programs or activities:

(a) Freshwater fisheries activities.
(b) Marine fisheries activities.
(c) Wildlife management activities.
(d) Planning and environmental review.
(e) Law enforcement.
(f) Nongame and endangered species.
(g) General administration.

HISTORY:
Added Stats 1959 ch 1453 § 1. Amended Stats 1985 ch 1442 § 23.

§ 13202. Allocation of payroll and other costs

Payroll and other costs that are directly identifiable with specific programs or activities shall be charged directly to accounts maintained for the appropriate programs or activities.

Payroll and other costs that are not identifiable with specific programs or activities shall be allocated on an equitable basis to program or activity cost accounts.

HISTORY:
Added Stats 1959 ch 1453 § 1.

§ 13203. Basic principle of system

The basic principle of this cost accounting system shall be that the total cost of operation of the department shall be accounted for by accounting for the cost of each activity or program in which it is engaged.

HISTORY:
Added Stats 1959 ch 1453 § 1.

§ 13205. Consolidation of accounts into Big Game Management Account; Additional consolidation

The Augmented Deer Tags Account, Bighorn Sheep Permit Account, and Wild Pig Account, within the Fish and Game Preservation Fund, shall be consolidated and any remaining funds in these accounts transferred to the Big Game Management Account, consistent with Section 3953. The department, after consultation with the Department of Finance and the Legislative Analyst's Office, shall provide recommendations to the Legislature for consolidation of additional dedicated accounts within the Fish and Game Preservation Fund if, in the determination of the department, consolidation would serve to reduce administrative costs to the department and enhance its ability to meet current needs, while still preserving the generally stated purpose of the dedicated accounts.

HISTORY:
Added Stats 2012 ch 559 § 26 (AB 2402), effective January 1, 2013.

DIVISION 10.5. EXPENDITURES

§ 13220. Funds in Fish and Game Preservation Fund available for expenditure upon appropriation; Purposes

Except as provided in Section 13230, the money in the Fish and Game Preservation Fund, commencing with the 2005-06 fiscal year, is available for expenditure, upon appropriation by the Legislature, for all of the following purposes:

(a) To the department for payment of refunds of sums determined by it to have been erroneously deposited in the fund, including, but not limited to, money received or collected in payment of fees, licenses, permits, taxes, fines, forfeitures, or services.

(b) To the department for expenditure in accordance with law for the payment of all necessary expenses incurred in carrying out this code and any other laws for the protection and preservation of birds, mammals, reptiles, amphibians, and fish.

(c) To the commission for expenditure in accordance with law for the payment of the compensation and expenses of the commissioners and employees of the commission.

HISTORY:
Added Stats 1995 ch 720 § 11 (AB 902). Amended Stats 2004 ch 230 § 1 (SB 1107), effective August 16, 2004, ch 480 § 3 (SB 1153); Stats 2015 ch 154 § 115 (AB 1527), effective January 1, 2016.

§ 13230. Expenditure of funds deposited in Oil Pollution Administration Subaccount

(a) Funds deposited in the Oil Pollution Administration Subaccount created pursuant to subdivision (a) of Section 13010 shall, upon appropriation by the Legislature, only be expended by the director, his or her deputy, or designee, for the costs of administering the pollution response, abatement, and habitat restoration activities not otherwise authorized by the Lempert–Keene–Seastrand Oil Spill Prevention and Response Act.

(b) Notwithstanding Section 13340 of the Government Code, funds deposited in the Oil Pollution Response and Restoration Subaccount created pursuant to subdivision (b) of Section 13010 are continuously appropriated to the department for expenditure by the director, his or her deputy, or designee, without regard to fiscal years for response and restoration activity related to oil spills not otherwise authorized by the Lempert–Keene–Seastrand Oil Spill Prevention and Response Act.

(c) Funds deposited in the Hazardous Materials Administration Subaccount created pursuant to subdivision (c) of Section 13010 shall, upon appropriation by the Legislature, only be expended by the director, his or her deputy, or designee, for the reasonable cost of administering the hazardous materials response and restoration activities of the department.

(1) These activities shall include the cross training and staffing of existing department and interagency personnel necessary to achieve efficiency in the use of existing funds and resources in response to hazardous materials and restoration activities of the department.

(2) The department may appoint and contract with technical experts to assist in the response and remediation of toxic material discharges.

(d) Notwithstanding Section 13340 of the Government Code, funds deposited in the Hazardous Materials Response and Restoration Subaccount are continuously appropriated to the director, his or her deputy, or designee, for expenditure without regard to fiscal years for the response and abatement of hazardous materials that are spilled or discharged on the lands and in the waters of the state, and for the protection, preservation, and restoration of fish and wildlife impacted by discharges of hazardous materials into the environment of the state. No funds appropriated from this subaccount shall be expended to establish personnel positions nor shall any personnel positions be created with contract funds from this subaccount.

HISTORY:
Added Stats 1995 ch 720 § 11 (AB 902).

§ 13231. Cost accounting

Consistent with Section 13203, the department shall maintain a cost accounting system that accounts for the costs of each activity or program engaged in pursuant to Section 13230 using funds from the subaccounts listed in that section.

HISTORY:
Added Stats 1996 ch 251 § 1 (AB 2215).

DIVISION 11. PACIFIC MARINE FISHERIES COMPACT

CHAPTER 1. THE COMPACT

§ 14000. Execution by Governor; Purpose

The Governor is hereby authorized and directed to execute a compact on behalf of this state with any or all of the States of Alaska, Idaho, Oregon and Washington for the purpose of cooperating with those states in the formation of a Pacific States Marine Fisheries Commission.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 1316 § 1; Stats 1961 ch 1052 § 1; Stats 1969 ch 361 § 1; Stats 1996 ch 870 § 53 (AB 3245).

§ 14001. Form and contents; Interpretation; Administration

The form and contents of the Pacific Marine Fisheries Compact shall be substantially as provided in this section and the effect of its provisions shall be interpreted and administered in conformity with the provisions of this division:

PACIFIC MARINE FISHERIES COMPACT

The contracting states do hereby agree as follows:

ARTICLE I

The purposes of this compact are and shall be to promote the better utilization of fisheries, marine, shell and anadromous, which are of mutual concern, and to develop a joint program of protection and prevention of physical waste of such fisheries in all of those areas of the Pacific Ocean over which the compacting states jointly or separately now have or may hereafter acquire jurisdiction.

Nothing herein contained shall be construed so as to authorize the compacting states or any of them to limit the production of fish or fish products for the purpose of establishing or fixing the prices thereof or creating and perpetuating a monopoly.

ARTICLE II

This agreement shall become operative immediately as to those states executing it in the form that is in accordance with the laws of the executing state and when the Congress has given its consent.

ARTICLE III

Each state joining herein shall appoint, as determined by state statutes, one or more representatives to a commission hereby constituted and designated as the Pacific States Marine Fisheries Commission, of whom one shall be the administrative or other officer of the agency of such state charged with the conservation of the fisheries resources to which this compact pertains. This commission shall be invested with the powers and duties set forth herein.

The term of each commissioner of the Pacific States Marine Fisheries Commission shall be four years. A commissioner shall hold office until his successor shall be appointed and qualified but such successor's term shall expire four years from legal date of expiration of the term of his predecessor. Vacancies occurring in the office of such commissioner from any reason or cause shall be filled for the unexpired term, or a commissioner may be removed from office, as provided by the statutes of the state concerned. Each commissioner may delegate in writing from time to time, to a deputy, the power to be present and participate, including voting as his representative or substitute, at any meeting of or hearing by or other proceeding of the commission.

Voting powers under this compact shall be limited to one vote for each state regardless of the number of representatives.

ARTICLE IV

The duty of the said commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell, and anadromous in all of those areas of the Pacific Ocean over which the states signatory to this compact jointly or separately now have or may hereafter acquire jurisdiction. The commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions and said conservation zones to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the signatory parties hereto.

To that end the commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislative branches of the various signatory states hereto legislation dealing with the conservation of the marine, shell, and anadromous fisheries in all of those areas of the Pacific Ocean over which the states signatory to this compact jointly or separately now have or may hereafter acquire jurisdiction. The commission shall, more than one month prior to any regular meeting of the legislative branch in any state signatory hereto, present to the governor of such state its recommendations relating to enactments by the legislative branch of that state in furthering the intents and purposes of this compact.

The commission shall consult with and advise the pertinent administrative agencies in the signatory states with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable and which lie within the jurisdiction of such agencies.

The commission shall have power to recommend to the states signatory hereto the stocking of the waters of such states with marine, shell or anadromous fish and fish eggs or joint stocking by some or all of such states and when two or more of the said states shall jointly stock waters the commission shall act as the coordinating agency for such stocking.

ARTICLE V

The commission shall elect from its number a chairman and a vice chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this compact into effect and shall fix and determine their duties, qualifications and compensation. Said commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place within the territorial limits of the signatory states but must meet at least once a year.

ARTICLE VI

No action shall be taken by the commission except by the affirmative vote of a majority of the whole number of compacting states represented at any meeting. No recommendation shall be made by the commission in regard to any species of fish except by the vote of a majority of the compacting states which have an interest in such species.

ARTICLE VII

The fisheries research agencies of the signatory states shall act in collaboration as the official research agency of the Pacific States Marine Fisheries Commission.

An advisory committee to be representative of the commercial fishermen, commercial fishing industry and such other interests of each state as the commission deems advisable shall be established by the commission as soon as practicable for the purpose of advising the commission upon such recommendations as it may desire to make.

ARTICLE VIII

Nothing in this compact shall be construed to limit the powers of any state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any state imposing additional conditions and restrictions to conserve its fisheries.

ARTICLE IX

Continued absence of representation or of any representative on the commission from any state party hereto, shall be brought to the attention of the governor thereof.

ARTICLE X

The states agree to make available annual funds for the support of the commission on the following basis:

Eighty percent of the annual budget shall be shared equally by those member states having as a boundary the Pacific Ocean. Not less than 5 percent of the annual budget shall be contributed by any other member state. The balance of the annual budget shall be shared by those member states having as a boundary the Pacific Ocean, in proportion to the primary market value of the products of their commercial fisheries on the basis of the latest five–year catch records.

The annual contribution of each member state shall be figured to the nearest one hundred dollars ($100).

ARTICLE XI

This compact shall continue in force and remain binding upon each state until renounced by it. Renunciation of this compact must be preceded by sending six months' notice in writing of intention to withdraw from the compact to the other parties hereto.

ARTICLE XII

Hawaii or any other state having rivers or streams tributary to the Pacific Ocean may become a contracting state by enactment of the Pacific Marine Fisheries Compact. Upon admission of any new state to the compact, the purposes of the compact and the duties of the commission shall extend to the development of joint programs for the conservation, protection and prevention of physical waste of fisheries in which the contracting states are mutually concerned and to all waters of the newly admitted state necessary to develop such programs.

This compact shall become effective upon its enactment by the states signatory to this compact and upon ratification by Congress by virtue of the authority vested in it under Article 1, Section 10, of the Constitution of the United States.

HISTORY:
Enacted 1957. Amended Stats 1959 ch 1316 § 2; Stats 1961 ch 1052 § 2; Stats 1969 ch 361 § 2; Stats 1996 ch 870 § 54.

§ 14002. Duration of participation in compact by State; Notice of intention to withdraw

Participation by this State in this compact shall continue until the Legislature otherwise provides by law. Notice of intention to withdraw from such compact shall be executed and transmitted by the Governor after the Legislature provides by law for discontinuance of participation therein by this State.

HISTORY:
Enacted 1957.

CHAPTER 2. THE COMMISSION

§ 14100. Members; Number and appointment; Qualifications

In furtherance of the provisions contained in the compact there shall be three members of the Pacific States Marine Fisheries Commission from the State of California, appointed by the Governor by and with the advice and consent of the Senate. One such commissioner shall be the administrative or other officer of the department or agency of this state charged with the conservation of its marine fisheries resources; another commissioner shall be a Member of the Legislature of this state who is a member of a

committee on interstate cooperation of the said Legislature, and another member shall be a citizen of this state who shall have wide knowledge of and interest in the marine fisheries problem.

HISTORY:
Enacted 1957. Amended Stats 1996 ch 870 § 55 (AB 3245).

§ 14101. Term of office; Procedure for removal; Filling of vacancies

The term of each commissioner shall be four years. A commissioner shall hold office until his successor shall be appointed and qualified but such successor's term shall expire four years from the legal date of expiration of the term of his predecessor. Any commissioner may be removed from office by the Governor upon charges and after a hearing. The term of any commissioner who ceases to hold the qualifications required shall terminate when a successor may be duly appointed. Vacancies occurring in the office of a commissioner from any reason or cause shall be filled for the unexpired term in the same manner as for a full term appointment.

HISTORY:
Enacted 1957.

§ 14102. Compensation and traveling expenses

Each commissioner who is not also a state officer shall receive one hundred dollars ($100) for each day performing official duties pursuant to the direction of the commission, and each commissioner shall receive actual and necessary travel expenses incurred in performing official duties on behalf of the commission.

HISTORY:
Enacted 1957. Amended Stats 2015 ch 154 § 116 (AB 1527), effective January 1, 2016.

§ 14103. Duty of state officers with respect to compact; Policy of state; Furnishing of information

All officers of the State are authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of the compact in every particular. The policy of this State is to perform and carry out the compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the State Government or administration of the State are hereby authorized and directed at convenient times and upon request of the commission to furnish the commission with information and data possessed by them and to aid the commission by any means lying within their legal rights.

HISTORY:
Enacted 1957.

§ 14104. Accounts of activities to be kept; Annual report to Governor and Legislature; Recommendation of legislative action

The commission shall keep accurate accounts of its activities and shall report to the Governor and the Legislature on or before the thirty–first day of December in each year, setting forth in detail the transactions conducted by it during that calendar year and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes which may be necessary to carry out the intent and purposes of the compact between the signatory states.

HISTORY:
Enacted 1957.

§ 14105. Required recital in compact

When the Governor on behalf of the State executes the compact, he shall attach his signature thereto under a recital that such compact is executed pursuant to the

provisions thereof, subject to the limitations and qualifications contained in the sections of this division in aid and furtherance thereof.

HISTORY:
Enacted 1957.

DIVISION 12. AQUACULTURE

CHAPTER 1. GENERAL PROVISIONS

§ 15000. Governance of aquaculture business; Conflict resolution; Costs

(a) The business of aquaculture is governed by this division and is exempt from Part 3 (commencing with Section 7600) of Division 6 and any other provision of this code relating to commercial fishing, harvesting, processing, and marketing.

(b) Except as provided in Sections 15005, 15200, 15201, and 15202, the business of aquaculture processing, distribution, and marketing is administered by the Secretary of Food and Agriculture.

(c) The director may enter into an agreement with the Secretary of Food and Agriculture for the resolution of any conflict that arises under subdivision (b).

(d) Any costs incurred by the department in implementing Sections 15005, 15200, 15201, and 15202 shall be recovered pursuant to this division.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1995 ch 810 § 4 (AB 1636).

§ 15001. Cultured progeny of plants and animals as exclusive property

The cultured progeny of wild plants and animals lawfully obtained under Section 15300 are the exclusive property of that person who cultured them or that person's successor in interest.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15002. Unlawful taking of aquaculture products as theft

Any person who takes aquaculture products without lawful entitlement is subject to prosecution for theft.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15003. Fee on aquaculture products grown on public lands and in public waters

(a) The department may assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold. The fees, if imposed, shall be set at amounts necessary to defray the costs of the commission and the department in administering this division. However, the fees, if any, may not exceed the rates as provided in Section 8051.

(b) The price per pound shall be based on the whole product weight or its equivalent as taken by the lessee.

(c) The fee imposed by this section shall be paid monthly to the department within 30 days after the close of each month. If not paid within 60 days after the close of the month in which it is due, a 10 percent penalty shall be paid.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1987 ch 1065 § 1; Stats 2017 ch 26 § 37 (SB 92), effective June 27, 2017.

§ 15004. Payment of inspection costs by aquaculturists

(a) Commencing in 1992, the department shall, at least once every five years, analyze the fees and taxes authorized by this division to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the aquaculture program.

(b) The department shall, as appropriate, recommend fee or tax changes to the Legislature or the commission.

(c) Aquaculturists operating under this division shall pay all costs incurred by the department when conducting any inspections of plants, animals, facilities, or culture areas required by this division, or by regulations adopted pursuant to this division, when requested by the aquaculturists.

HISTORY:

Added Stats 1990 ch 1703 § 69 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 44 (SB 1565), effective September 14, 1992.

§ 15005. Regulation of specific products; Identification of products as aquaculture produced; Exceptions

(a) When necessary for the protection of native wildlife, the commission may regulate the transportation, purchase, possession, and sale of specific aquaculture products as provided for in this section.

(b) The commission may determine that aquaculture products shall be accompanied by a document containing any of the following information:

(1) The name, address, and registration number of the aquaculture producer.
(2) The species.
(3) The weight, volume or count within the container.
(4) The date of the shipment.
(5) The name and address of the intended receiver.

(c) The commission may require that certain aquaculture products shall be additionally identified as being aquaculture produced, except for the following:

(1) Trout.
(2) Catfish.
(3) Kelp and aquatic plants.
(4) Frogs and amphibia.
(5) All bivalve mollusks (except little neck clams).
(6) All members of the family Centrarchidae.
(7) Crayfish.
(8) Sea urchins.
(9) Shrimp and fresh water prawns.
(10) Crab.

HISTORY:

Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 1300 § 19.

§ 15006. Plants and animals used for pet or hobby purposes

Nothing in this division applies to authorized species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes.

HISTORY:

Added Stats 1983 ch 131 § 20, effective June 27, 1983.

§ 15007. Spawning, incubation, or cultivation of certain fish in waters of Pacific Ocean prohibited; Exemptions; Permits

(a) In the waters of the Pacific Ocean that are regulated by this state, it is unlawful to spawn, incubate, or cultivate any species of finfish belonging to the family Salmonidae, transgenic fish species, or any exotic species of finfish. Except as authorized pursuant to

subdivision (d), it is unlawful to spawn, incubate, or cultivate any transgenic species of finfish belonging to the family Salmonidae in this state. This section does not apply to salmon or steelhead trout reared from native California stocks that are propagated and cultured for either of the following:

(1) Research conducted by, or on behalf of, the department.

(2) Release into ocean waters for the purpose of recovery, restoration, or enhancement of California's native salmon and steelhead trout populations pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(b) Nothing in this section authorizes artificial propagation, rearing, or stocking of transgenic freshwater and marine fishes, invertebrates, crustaceans, or mollusks.

(c) Research or experimentation for the commercial production of transgenic salmonids is prohibited.

(d)(1) Medical or scientific research conducted on transgenic finfish species by accredited California academic institutions or private entities for research only and not for commercial production may be authorized pursuant to a permit issued by the department pursuant to Section 671 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

(2) At a minimum, research activities conducted pursuant to this subdivision shall be conducted in a closed system that has eliminated the risk of escape of transgenic finfish species and any potential disease they may transmit.

(3) A permit application applied for pursuant to this subdivision shall include a research plan specifying the objectives and goals of the proposed research.

(4) Nothing in this subdivision shall be construed to require the disclosure of proprietary information.

(e) The department shall notify the Joint Committee on Fisheries and Aquaculture and the commission upon receipt of a permit application applied for pursuant to subdivision (d) at least 30 days prior to the approval or disapproval of the permit.

(f) As used in this section, the following definitions shall apply:

(1) "Exotic species" means a fish that is not native to California waters and that does not currently exist as a viable population in a wild condition in the state.

(2) "Transgenic" has the same meaning as in Section 1.92 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

HISTORY:

Added Stats 1984 ch 1301 § 10, effective September 20, 1984. Amended Stats 2003 ch 871 § 1 (SB 245); Stats 2014 ch 444 § 3 (AB 504), effective January 1, 2015.

§ 15008. Programmatic environmental impact report; Preparation

(a) The department shall, in consultation with the Aquaculture Development Committee, prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland areas of the state if both of the following conditions are met:

(1) Funds are appropriated to the department for this purpose.

(2) Matching funds are provided by the aquaculture industry. For the purpose of this section, "matching funds" include, but are not limited to, any funds expended by the aquaculture industry before January 1, 2006, for the preparation of a programmatic environmental impact report.

(b) If the final programmatic environmental impact report is prepared pursuant to subdivision (a) for coastal marine finfish aquaculture projects and approved by the commission under the California Environmental Quality Act set forth in Division 13 (commencing with Section 21000) of the Public Resources Code, the report shall provide a framework for managing marine finfish aquaculture in an environmentally sustainable manner that, at a minimum, adequately considers all of the following factors:

(1) Appropriate areas for siting marine finfish aquaculture operations to avoid adverse impacts, and minimize any unavoidable impacts, on user groups, public trust values, and the marine environment.

(2) The effects on sensitive ocean and coastal habitats.

(3) The effects on marine ecosystems, commercial and recreational fishing, and other important ocean uses.

(4) The effects on other plant and animal species, especially species protected or recovering under state and federal law.

(5) The effects of the use of chemical and biological products and pollutants and nutrient wastes on human health and the marine environment.

(6) The effects of interactions with marine mammals and birds.

(7) The cumulative effects of a number of similar finfish aquaculture projects on the ability of the marine environment to support ecologically significant flora and fauna.

(8) The effects of feed, fish meal, and fish oil on marine ecosystems.

(9) The effects of escaped fish on wild fish stocks and the marine environment.

(10) The design of facilities and farming practices so as to avoid adverse environmental impacts, and to minimize any unavoidable impacts.

HISTORY:
Added Stats 2006 ch 36 § 3 (SB 201), effective January 1, 2007.

CHAPTER 2. AQUACULTURE DEVELOPMENT SECTION

§ 15100. Aquaculture coordinator

There is within the department an aquaculture coordinator who shall perform all of the following duties as part of the department's aquaculture program:

(a) Promote understanding of aquaculture among public agencies and the general public.

(b) Propose methods of reducing the negative impact of public regulation at all levels of government on the aquaculture industry.

(c) Provide information on all aspects of regulatory compliance to the various sectors of the aquaculture industry.

(d) Provide advice to the owner of a registered aquaculture facility on project siting and facility design, as necessary, to comply with regulatory requirements.

(e) Coordinate with the Aquaculture Development Committee regarding the duties described in subdivisions (a) to (d), inclusive.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1987 ch 1065 § 2; Stats 2012 ch 301 § 1 (AB 1886), effective January 1, 2013; Stats 2013 ch 76 § 64 (AB 383), effective January 1, 2014.

§ 15101. Registration by owner of facilities [Operative January 1, 2023]

(a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

(1) The owner's name.

(2) The species grown.

(3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of five hundred forty-nine dollars ($549) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of two hundred seventy-five dollars ($275). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) This section shall become operative on January 1, 2023, at which time the registration fees specified in this section shall be adjusted pursuant to subdivision (b) as if this section had not been inoperative.

HISTORY:
Added Stats 1990 ch 1703 § 71 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 45 (SB 1565), effective September 14, 1992, operative January 1, 1993; Stats 1995 ch 810 § 5 (AB 1636); Stats 2003 ch 741 § 42 (SB 1049); Stats 2012 ch 301 § 2 (AB 1886), effective January 1, 2013, inoperative January 1, 2013, reoperative January 1, 2018; Stats 2017 ch 521 § 4 (SB 809), effective January 1, 2018, operative January 1, 2023.

§ 15101. Registration by owner of facilities [Repealed effective January 1, 2023]

(a) The owner of each aquaculture facility shall register all of the following information with the department by March 1 of each year:

(1) The owner's name.

(2) The species grown.

(3) The location or locations of each operation or operations.

(b) The department may provide registration forms for this purpose, may establish a procedure for the review of the information provided to ensure that the operation will not be detrimental to native wildlife, and shall impose a registration fee of eight hundred dollars ($800) to recover the cost of reviewing new registrations. For renewing registrations, the department shall impose a registration fee of five hundred dollars ($500). It is unlawful to conduct aquaculture operations or to culture approved species of aquatic plants and animals unless registered under this section. The registration fees specified in this section are applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(c) The annual registration of information required by subdivision (a) is not a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(d) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

HISTORY:
Added Stats 2012 ch 301 § 3 (AB 1886), effective January 1, 2013, repealed January 1, 2018. Amended Stats 2017 ch 521 § 3 (SB 809), effective January 1, 2018, repealed January 1, 2023.

§ 15102. Prohibition against operation of facility; Detriment to native wildlife

The department may prohibit an aquaculture operation or the culturing of any species at any location where it is determined it would be detrimental to adjacent native wildlife.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15103. Surcharge fee; Sales and production records [Operative January 1, 2023]

(a) In addition to the fees specified in Section 15101, a surcharge fee of four hundred twelve dollars ($412) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars ($25,000).

(b) Each owner of a registered aquaculture facility shall maintain sales and production records that shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2004 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(e) This section shall become operative on January 1, 2023, at which time the surcharge fee specified in this section shall be adjusted pursuant to subdivision (d) as if this section had not been inoperative.

HISTORY:

Added Stats 1990 ch 1703 § 73 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 46 (SB 1565), effective September 14, 1992, operative January 1, 1993; Stats 2003 ch 741 § 43 (SB 1049); Stats 2004 ch 431 § 30 (AB 2760); Stats 2012 ch 301 § 4 (AB 1886), effective January 1, 2013, inoperative January 1, 2013, reoperative January 1, 2018; Stats 2017 ch 521 § 6 (SB 809), effective January 1, 2018, operative January 1, 2023.

§ 15103. Surcharge fee; Sales and production records [Repealed effective January 1, 2023]

(a) In addition to the fees specified in Section 15101, a surcharge fee of six hundred dollars($600) shall be paid at the time of registration by the owner of an aquaculture facility if the gross annual sales of aquaculture products of the facility during the prior calendar year exceed twenty-five thousand dollars ($25,000).

(b) Each owner of a registered aquaculture facility shall maintain sales and production records that shall be made available upon request of the department to assist the department in the administration of this chapter.

(c) Any person who fails to pay the surcharge fee required in this section at the time of registration shall be assessed a delinquency penalty pursuant to Section 15104.

(d) The surcharge imposed pursuant to this section shall be applicable to the 2013 registration year and shall be adjusted annually thereafter pursuant to Section 713.

(e) This section shall remain in effect only until January 1, 2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2023, deletes or extends that date.

HISTORY:

Added Stats 2012 ch 301 § 5 (AB 1886), effective January 1, 2013, repealed January 1, 2018. Amended Stats 2017 ch 521 § 5 (SB 809), effective January 1, 2018, repealed January 1, 2023.

§ 15104. Penalty for delinquent fees [Operative January 1, 2023]

(a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of fifty dollars ($50).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2005 registration year, and shall be adjusted thereafter pursuant to Section 713.

(d) This section shall become operative on January 1, 2023, at which time the penalty specified in this section shall be adjusted pursuant to subdivision (c) as if this section had not been inoperative.

HISTORY:

Added Stats 1987 ch 1065 § 5. Amended Stats 2004 ch 431 § 31 (AB 2760); Stats 2012 ch 301 § 6 (AB 1886), effective January 1, 2013, reoperative January 1, 2018; Stats 2017 ch 521 § 8 (SB 809), effective January 1, 2018, operative January 1, 2023.

§ 15104. Penalty for delinquent fees [Repealed effective January 1, 2023]

(a) If any person engages in the business of aquaculture, as regulated under this division, without having paid the registration fee or surcharge fee within one calendar month of the commencement of business, or, for renewal of registration, on or before April 1 of the registration year, the fees are delinquent.

(b) A penalty shall be paid at the time of registration for any fees that are delinquent in the amount of one hundred fifty dollars ($150).

(c) The penalty imposed pursuant to subdivision (b) shall be applicable to the 2013 registration year, and shall be adjusted thereafter pursuant to Section 713.

(d) This section shall remain in effect only until January 1,2023, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1,2023, deletes or extends that date

HISTORY:
Added Stats 2012 ch 301 § 7 (AB 1886), effective January 1, 2013, repealed January 1, 2018. Amended Stats 2017 ch 521 § 7 (SB 809), effective January 1, 2018, repealed January 1, 2023.

§ 15105. Revenues expended on program; Report

(a) Notwithstanding Section 13001 or 13002, all moneys collected by the department pursuant to this division shall be deposited in the Fish and Game Preservation Fund and shall be expended solely on the department's aquaculture program pursuant to this division.

(b) Notwithstanding Section 13220, these moneys are available for appropriation by the Legislature in the annual Budget Act for purposes of this division.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of these funds are met and shall provide an accounting of the aquaculture program account balance and expenditures upon request of the Aquaculture Development Committee or the Joint Committee on Fisheries and Aquaculture.

(d) Revenues pursuant to this chapter may be used only to pay the costs incurred in the administration and enforcement of the department's aquaculture program.

(e) The department shall prepare and submit to the Legislature on or before February 1, 2022, a report regarding the aquaculture program undertaken using revenues derived pursuant to that program, the benefits derived, and its recommendations for revising the aquaculture program requirement, if any.

(f)(1) A report to be submitted pursuant to subdivision (e) shall be submitted in compliance with Section 9795 of the Government Code.

(2) The requirement for submitting a report imposed under subdivision (e) is inoperative on February 1, 2026, pursuant to Section 10231.5 of the Government Code.

HISTORY:
Added Stats 1987 ch 1065 § 6. Amended Stats 1988 ch 1455 § 3; Stats 2012 ch 301 § 8 (AB 1886), effective January 1, 2013; Stats 2017 ch 521 § 9 (SB 809), effective January 1, 2018.

CHAPTER 3. STOCKING AQUATIC ORGANISMS

§ 15200. Regulation of placing of plants and animals in state waters; When permit not required

The commission may regulate the placing of aquatic plants and animals in waters of the state. Movement of live fish between two registered aquaculturists who are registered for those species does not require a permit.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15201. When permit required to place fish; Denial of permit

A permit is required to place fish on public or private land or water in any watershed above an established public or private fish hatchery. The department shall deny the permit if there is evidence that water quality and potential disease transfers will be adverse to the established hatchery.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15202. Prohibition against placement of specific plant or animal species; Exception

The commission may prohibit the placement of specific species of aquatic plants or animals in designated waters of the state. The prohibition may not include species that are found to be native or that are stocked by the state in a location where prohibition is contemplated.

HISTORY:
Added Stats 1982 ch 1486 § 25.

CHAPTER 4. BROOD STOCK ACQUISITION

§ 15300. Permitted sources of brood stock

Aquatic plants or animals may be legally obtained for use as brood stock from all of the following sources:

(a) A holder of a commercial fishing license.
(b) A registered aquaculturist.
(c) The department.
(d) Imported sources authorized by Chapter 7 (commencing with Section 15600).

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15301. Sale of wild plants and animals by department; Collection by aquaculturist

(a) The department may sell wild aquatic plants or animals, except rare, endangered, or fully protected species, for aquaculture use at a price approximating the administrative cost to the department for the collection or sale of the plants or animals. The commission shall set this price.

(b) Aquatic plants and animals may be collected by a registered aquaculturist only with the written approval of the department. The department may specify the time, place, and manner of collection and may collect a fee from the aquaculturist in an amount sufficient to cover the cost of processing the approval.

(c) Notwithstanding subdivision (a), the fee for collecting sturgeon or striped bass broodstock shall be five hundred dollars ($500).

HISTORY:
Added Stats 1990 ch 1703 § 75 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 47 (SB 1565), effective September 14, 1992.

CHAPTER 5. LEASING OF STATE WATER BOTTOMS

§ 15400. Authority to lease state water bottoms and water columns; Public interest; Rules and regulations; Standards for issuance; Restrictions

(a) Except as prohibited by Section 15007, the commission may lease state water bottoms or the water column to any person for aquaculture, including, but not limited to, marine finfish aquaculture. Upon appropriation of funds for that purpose, or if funds are otherwise available, the commission shall adopt regulations governing the terms of the leases, after consulting with affected stakeholders in a public process. No state leases shall be issued, unless the commission determines that the lease is in the public interest in a public hearing conducted in a fair and transparent manner, with notice and

comment, in accordance with commission procedures. Leases issued, and regulations adopted, pursuant to this section shall not be construed to be fishery management plans.

(b) A person shall not engage in marine finfish aquaculture in ocean waters within the jurisdiction of the state without a lease from the commission. Leases and regulations adopted by the commission for marine finfish aquaculture shall meet, but are not limited to, all of the following standards:

(1) The lease site is considered appropriate for marine finfish aquaculture in the programmatic environmental impact report if prepared and approved by the commission pursuant to Section 15008.

(2) A lease shall not unreasonably interfere with fishing or other uses or public trust values, unreasonably disrupt wildlife and marine habitats, or unreasonably harm the ability of the marine environment to support ecologically significant flora and fauna. A lease shall not have significant adverse cumulative impacts.

(3) To reduce adverse effects on global ocean ecosystems, the use of fish meal and fish oil shall be minimized. Where feasible, alternatives to fish meal and fish oil, or fish meal and fish oil made from seafood harvesting byproducts, shall be utilized, taking into account factors that include, but need not be limited to, the nutritional needs of the fish being raised and the availability of alternative ingredients.

(4) Lessees shall establish best management practices, approved by the commission, for each lease site. Approved best management practices shall include a regular monitoring, reporting, and site inspection program that requires at least annual monitoring of lease sites to ensure that the operations are in compliance with best management practices related to fish disease, escapement, and environmental stewardship, and that operations are meeting the requirements of this section. The commission may remove fish stocks, close facilities, or terminate the lease if it finds that the lessee is not in compliance with best management practices, that the lessee's activities have damaged or are damaging the marine environment, or that the lessee is not in compliance with this section. The commission shall take immediate remedial action to avoid or eliminate significant damage, or the threat of significant damage, to the marine environment.

(5) Before issuance of the lease, the lessee shall provide baseline benthic habitat and community assessments of the proposed lease site to the applicable regional water quality control board or the State Water Resources Control Board, and shall monitor the benthic habitat and community during the operation of the lease in a manner determined by the regional board or the State Water Resources Control Board. The regional board and the State Water Resources Control Board may establish and impose reasonable permit fees to pay for the costs of administering and conducting the assessment and monitoring program.

(6) Finfish numbers and density shall be limited to what can be safely raised while protecting the marine environment, as specified by the terms of the lease, subject to review and amendment by the commission.

(7) The use of all drugs, chemicals, and antibiotics, and amounts used and applied, shall be minimized. All drugs, therapeutic substances, and antibiotics shall be used and applied only as approved by the United States Food and Drug Administration for marine finfish aquaculture. The lessee shall report that use and application to the commission on a regular schedule, as determined by the commission, but no less than annually, that shall be included in the terms of the lease. The commission shall review those reports on a regular basis and at least annually.

(8) The commission shall require all farmed fish to be marked, tagged, or otherwise identified as belonging to the lessee in a manner determined appropriate by the commission, unless the commission determines that identifying farmed fish is unnecessary for protecting wild fish stocks, the marine environment, or other ocean uses.

(9) All facilities and operations shall be designed to prevent the escape of farmed fish into the marine environment and to withstand severe weather conditions and marine accidents. The lessee shall maintain records on all escapes in a manner

determined by the commission. In the event of more than de minimis escapement, the number of escaped fish and the circumstances surrounding the incident shall be reported immediately to the commission, and the lessee shall be responsible for damages to the marine environment caused by those escaped fish, as determined by the commission.

(10) The lessee shall, at a minimum, meet all applicable requirements imposed by the State Water Resources Control Board and the regional water quality control boards, and shall prevent discharges to the maximum extent possible. Monitoring and testing of water quality shall be required on a regular basis as deemed appropriate by the State Water Resources Control Board or the regional water quality control boards. All inspection and monitoring reports and other records, and all data on the discharge of chemical and biological pollutants shall be kept on file and available for public review.

(c) If a restoration or enhancement plan is submitted to, and approved by, the commission, and that plan, among other things, provides for monitoring and protecting the benthic habitat, the prevention of pollution, and the prevention of adverse impacts on wild fish stocks from disease, parasites, and genetic alterations, subdivision (b) shall not apply to any of the following:

(1) Artificial propagation, rearing, and stocking projects for the purpose of recovery, restoration, or enhancement of native fish stocks carried out under either of the following:

(A) A scientific collecting or research permit issued by the department.

(B) The California Ocean Resources Enhancement and Hatchery Program, as set forth in Article 8 (commencing with Section 6590) of Chapter 5 of Part 1 of Division 6, for the enhancement of white sea bass.

(2) Nonprofit hatcheries and nonprofit artificial propagation projects operated by, or on behalf of, licensed commercial or sport fishermen and fisherwomen for the purpose of recovery, restoration, or enhancement of California's native marine fish populations, pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(d) Nothing in this section shall be construed to limit or expand the application of any other state law or regulation pertaining to marine finfish aquaculture conducted within the ocean waters under the jurisdiction of this state.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 2006 ch 36 § 4 (SB 201), effective January 1, 2007.

§ 15401. Prohibition against leasing designated areas

Areas used by the public for digging clams shall not be leased. The department shall designate those areas.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15402. Ownership of cultivated organisms; Exclusive right of lessee

A lessee of a state water bottom owns all lawfully cultivated organisms that are described in the application for the lease and produced in the area leased. The lessee has the exclusive right to cultivate and harvest the aquatic organisms in the area leased.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 131 § 21, effective June 27, 1983.

§ 15403. Application by prospective lessee; Contents; Fee; Infringement by lessee

Persons wishing to lease a state water bottom shall make a written application to the commission. An application shall contain all of the following information:

(a) A map showing the area to be leased, its general vicinity, and all ownership and boundary lines in the vicinity.

(b) A description of the organisms to be grown and the culture techniques to be used.

(c) An estimate of the acreage to be leased.

(d) A nonrefundable filing fee of five hundred dollars ($500).

The lessee shall assume responsibility for any infringement on privately owned water bottoms, or water bottoms owned by, or under the jurisdiction of any city, county, or district.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1990 ch 1706 § 18 (AB 3158).

§ 15404. Publication of notice of availability of area for lease

(a) If the commission finds that the area applied for is available for lease and that the lease would be in the public interest, it shall publish a notice that the area is being considered for leasing.

(b) The commission shall have legal notices published in a newspaper of general circulation in each county where the water bottom, or any part thereof, is located, describing the area to be leased and the type of operation to be conducted. The publication shall comply with Sections 6060 and 6066 of the Government Code.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15405. Maximum term of lease

(a) Except as specified in subdivision (b), no initial term of a state water bottom lease shall exceed 25 years.

(b) The initial term of a state water bottom lease for marine finfish aquaculture shall not exceed 10 years.

HISTORY:
Added Stats 1983 ch 131 § 23, effective June 27, 1983. Amended Stats 2006 ch 36 § 5 (SB 201), effective January 1, 2007.

§ 15406. Renewal of lease; Prior right to renew; Advertising for bids

(a) Each state water bottom lease shall specify a period prior to expiration when renewal of the lease may be requested by the lessee. If during this period the lessee is still actively engaged in aquaculture, as determined by the commission, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms are not agreed upon, the commission shall advertise for bids on the lease. If a request for renewal is not made by the lessee, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.

(b) Notwithstanding subdivision (a), with respect to any lease of state water bottoms in effect on January 1, 1983, the lessee shall have a prior right to renew the lease. If the lessee does not renew the lease, the commission shall advertise for bids on the lease. The commission shall consider bids only from aquaculturists registered pursuant to Section 15101.

(c) Except as specified in subdivision (d), a lease may be renewed for additional periods not to exceed 25 years each.

(d) A lease for marine finfish aquaculture may be renewed for additional periods not to exceed five years each.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 131 § 24, effective June 27, 1983; Stats 2006 ch 36 § 6 (SB 201), effective January 1, 2007.

§ 15406.5. Minimum annual rent for award to highest bidder

(a) Except as specified in subdivision (b), the commission shall award water bottom leases to the highest responsible bidder, if the bid meets or exceeds the minimum annual rent established by the commission, which shall not be less than two dollars ($2) per acre, for all species cultivated, unless the acreage applied for is 10 acres or less, in which case the minimum acceptable rent shall be ten dollars ($10) per acre. The annual rent for any lease in effect on January 1, 1983, for the cultivation of oysters shall be one dollar ($1) per acre until the expiration thereof. The commission may reject any or all bids for the lease of state water bottoms if it deems the rejection to be in the public interest.

(b) Fees for marine finfish aquaculture leases shall, at a minimum, be sufficient to pay for the costs of administering the marine finfish leasing program, and for monitoring and enforcing the terms of the leases.

HISTORY:

Added Stats 1983 ch 131 § 25, effective June 27, 1983. Amended Stats 2006 ch 36 § 7 (SB 201), effective January 1, 2007.

§ 15406.7. Oyster privilege tax

(a) In addition to the rent provided in Section 15406.5, every person operating under an oyster lease shall pay a privilege tax of four cents ($0.04) per packed gallon, or fraction thereof, of shucked oysters harvested by the lessee.

(b) If the oysters are marketed in the shell, the tax shall be based on the equivalent yield of shucked oyster meat. In determining the yield of oysters, it shall be deemed that 100 oysters are equivalent to one packed gallon of shucked oyster meat.

(c) The tax imposed by this section is the exclusive privilege tax that shall be imposed on lessees of state water bottoms for oyster cultivation, notwithstanding subdivision (a) of Section 15003.

HISTORY:

Added Stats 1990 ch 1703 § 77 (AB 2126), operative January 1, 1992. Amended Stats 1992 ch 701 § 48 (SB 1565), effective September 14, 1992, operative January 1, 1993.

§ 15407. Payment of annual rent

The annual rent shall be paid to the department within 30 days of the commencement of the lease and within 30 days of the anniversary thereof. The commission may establish penalty fees for late payment and may cancel the lease if rent is not paid within 90 days of the commencement of the lease or within 90 days of any anniversary thereof.

HISTORY:

Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 131 § 27, effective June 27, 1983.

§ 15408. Termination upon failure to pay or improper use of lease

The commission shall promulgate regulations governing the termination of leases due to failure to pay rent or improper use of the leasehold.

HISTORY:

Added Stats 1982 ch 1486 § 25.

§ 15409. Removal of structures upon termination; Assessment of costs; Financial assurances; Damages

(a) Upon termination of a lease, for any reason, all structures shall be removed at the lessee's expense from the leasehold, and the area shall be restored to its original condition. If the lessee fails to remove the structures, the state may remove them and the lessee shall pay the removal costs incurred.

(b) The commission shall require financial assurances of each marine finfish aquaculture lessee to ensure that restoration is performed to the satisfaction of the commission.

Financial assurances may take the form of surety bonds executed by an admitted surety insurer, irrevocable letters of credit, trust funds, or other forms of financial assurances specified by the commission, as it determines are available and adequate to ensure the lease site is restored pursuant to this section.

(c) Marine finfish aquaculture lessees shall be responsible for any damages caused by their operations, as determined by the commission, including, but not limited to, reimbursement for any costs for natural resource damage assessment.

(d) Nothing in this section limits the state in pursuing additional remedies authorized by law.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 2006 ch 36 § 8 (SB 201), effective January 1, 2007.

§ 15410. Legislature's power to alter charges

All leases shall be subject to the power of the Legislature to increase or decrease the rents, fees, taxes, and other charges relating to the lease, but no increase in rent shall be applicable to an existing lease until it is renewed.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 131 § 28, effective June 27, 1983.

§ 15411. Restriction of public access to leased area; Prohibition against recreational activity

Lessees under a state water bottom lease may not unreasonably impede public access to state waters for purpose of fishing, navigation, commerce, or recreation. The lessee may, however, limit public access to the extent necessary to avoid damage to the leasehold and the aquatic life culture therein.

The commission may prohibit any recreational activity in any aquaculture area subject to a state water bottom lease if it determines that the activity is detrimental to the enhancement of the resource.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15412. Assignment of lease

No water bottom lease may be assigned without the prior approval of the commission. Application for approval of a lease assignment shall comply with all of the requirements for an original lease.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15413. Unauthorized entry and acts upon leased area

No person may enter upon any area subject to a water bottom lease in which aquatic life is cultivated, or remove the aquatic life therefrom without the consent of the lessee, or willfully destroy the cultivated aquatic life or any markers intended to designate the boundaries and limits of the leased area.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15414. Periodic reports

A water bottom lease may require periodic reports that the commission deems necessary for the proper administration of the state's water bottoms.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15415. Information required to be transmitted to State Lands Commission

The department shall notify the State Lands Commission of all applications for water bottom leases.

The department shall inform the State Lands Commission of all leases executed, renewed, or assigned pursuant to this chapter, and shall furnish the State Lands Commission with such information concerning these leases that it may require.

HISTORY:
Added Stats 1982 ch 1486 § 25.

CHAPTER 6. DISEASE CONTROL

§ 15500. Compilation of list of diseases and parasites

Upon the recommendation of the department and after consultation with the Aquaculture Disease Committee created pursuant to this chapter, the commission shall compile a list of diseases and parasites and the aquatic plants and animals they are known to infect or parasitize. All government activities relating to aquaculture disease detection, control, and eradication that do not affect human health and safety are the responsibility of the department.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 1300 § 21.

§ 15501. Authorized entry pursuant to inspection warrant

The department may enter, under an inspection warrant issued pursuant to Title 5 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, at any time, any car, warehouse, depot, ship, or growing area where any aquatic plants or animals are held or stored, for the purpose of making an examination to ascertain whether the aquatic plants or animals are infected, diseased, or parasitized.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 1300 § 22.

§ 15502. Appointment of Aquaculture Disease Committee; Members; Expenses

The director, in consultation with the Aquaculture Industry Advisory Committee and the Interagency Committee for Aquaculture Development, shall appoint an 11–member Aquaculture Disease Committee consisting of at least six industry producers selected to represent geographic, specie, and other diverse aspects of the industry; two to represent the department; one to represent the Department of Food and Agriculture; an academic scientist who is an expert in aquatic diseases; and one representative of the University of California Cooperative Extension. Members of the committee shall serve without compensation, but shall be paid their necessary expenses.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15503. Recommendations of disease regulations

The Aquaculture Disease Committee may recommend regulations to the commission designed to safeguard wild and cultured organisms from the list of harmful organisms compiled pursuant to Section 15500.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 1300 § 23.

§ 15504. Specific disease regulations

Regulations recommended under Section 15503 and adopted by the commission may include all of the following:

(a) Routine monitoring procedures.

(b) Standardized diagnostic procedures.

(c) A requirement for the confirmation of the diagnosis by the state through at least one other independent and qualified laboratory.

(d) Criteria for ordering quarantine, condemnation, or destruction.

(e) A stated maximum time period between diagnosis and destruction.

(f) Methods to be employed in animal destruction and facility cleanup.

(g) Procedures for determining fair and rapid compensation.

(h) Any other related procedures that the commission may determine are necessary.

HISTORY:

Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 1300 § 24.

§ 15505. Permitted actions upon discovery of existence of disease

If any of the diseases or parasites listed pursuant to Section 15500 is found to exist which the director, in consultation with the Aquaculture Disease Committee and consistent with the regulations adopted under Section 15504, deems to be detrimental to the aquaculture industry or to wild stocks of aquatic plants and animals, the director may do any of the following:

(a) Establish the area to be quarantined and list the aquatic plants and animals affected by it.

(b) Post notices describing, as nearly as possible, the boundaries of an area within which specific disease or parasite infestations are found. Notices posted pursuant to this subdivision shall be published once a week for four successive weeks in a newspaper of general circulation in the county in which the infected area is located. If there is no newspaper of general circulation in that county, then the notice shall be published in a newspaper of general circulation published in an adjoining county.

(c) Hold and impound diseased or parasitized plants and animals.

(d) Forbid, prevent, or restrict the movement of all plants and animals subject to the disease or parasite from or into the area, or from place to place within it, during the existence of the quarantine.

(e) Order the destruction and disposal of diseased or parasitized plants and animals consistent with Section 15504.

HISTORY:

Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 1300 § 25.

§ 15506. Prerequisite to quarantine or destruction of infected plants or animals

Except for those diseases in the list compiled pursuant to Section 15500, infected plants or animals shall not be quarantined or destroyed, unless the director, in consultation with the Aquaculture Disease Committee, finds that an outbreak of aquatic disease among privately cultured plants or animals presents a threat to the aquaculture industry or to fish life or plant life.

HISTORY:

Added Stats 1982 ch 1486 § 25.

§ 15507. Infection in private facility and government facility or among wild stocks

If the director, in consultation with the Aquaculture Disease Committee, finds that a disease is present in a nearby government operated facility or in nearby wild stocks, infected plants or animals in a private aquaculture facility shall not be quarantined or

destroyed unless similar action is taken with respect to the government facility and wild stocks.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15508. Reports of diseases and parasites; Investigation

Reports of those diseases and parasites compiled pursuant to Section 15500 shall be immediately forwarded by the director to the Aquaculture Disease Committee and shall be promptly investigated by the department.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1983 ch 1300 § 26.

§ 15509. Authorization to move plants or animals subject to quarantine; Cleaning and disinfection required

No person may move, or allow to be moved, any of the aquatic plants or animals which are subject to a quarantine established pursuant to Section 15505 across the quarantine line which is established, unless the person has first obtained a permit from the director authorizing the movement.

The director may issue a permit after inspection, if the aquatic plants or animals, premises, transportation vehicles, and equipment which are subject to the quarantine established pursuant to Section 15505 are properly cleaned and disinfected.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15510. Restriction of or prohibition against importation of infected foreign organisms

If the director determines that any disease designated pursuant to Section 15500 exists among domestic aquatic plants and animals, or that aquatic plants and animals have been exposed, or may have been exposed, to the disease, or to the vectors of the disease, in any other state or territory in the United States or in any foreign country, and the importation of aquatic plants or animals from the state, territory, or foreign country may transmit, carry, or disseminate the disease to domestic plants and animals within this state, the director shall notify the commission which may, after consulting the State Department of Health Services and the Department of Food and Agriculture, issue a regulation restricting or prohibiting the importation of the diseased or infected aquatic plants or animals into this state from any other state, territory, or foreign country.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15512. Payment of portion of replacement value of destroyed plants or animals; Determination of replacement value; Arbitration

(a) If aquatic plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the owner shall be promptly paid from the General Fund an amount equal to 75 percent of the replacement value of the plants or animals, less the value determined by the department of any replacement stock provided by the department under subdivision (b) if the claim is submitted pursuant to Section 15513. If the replacement value is not settled between the owner and the department, the replacement value shall be determined by an appraiser appointed by the director and an appraiser appointed by the owner. Appraiser's fees shall be paid by the appointing party. Disputes between these two appraisers shall be submitted to arbitration under the Commercial Arbitration Rules of the American Arbitration Association.

(b) If the department provides replacement stock to an aquaculturist whose plants or animals are destroyed pursuant to subdivision (e) of Section 15505, the amount to be paid to the aquaculturist pursuant to this section shall be reduced by the value of the replacement stock, as determined by the department.

(c) The result of the arbitration or the amount settled between the owner and the department, reduced by the value determined by the department of any replacement stock provided under subdivision (b), may be submitted as a claim by the owner to the Department of General Services pursuant to Section 15513.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1984 ch 1337 § 2; Stats 2006 ch 538 § 195 (SB 1852), effective January 1, 2007; Stats 2016 ch 31 § 28 (SB 836), effective June 27, 2016.

§ 15513. Submission of claims

Claims against the department arising under this chapter may be submitted pursuant to Section 905.2 of the Government Code.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15514. Rejection of claims arising from claimant's negligence or wilful violations of orders

No claim arising under this chapter shall be paid where the director, in consultation with the Aquaculture Disease Committee, finds that the claimant's management practices were negligent or in violation of law, and that the negligence or violation was the proximate cause of the disease or infection prompting the order of destruction or finds the claimant willfully violated any provision of Section 15505.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15516. Owner's responsibility for failure to diligently pursue eradication of disease

The owner of an aquaculture product who does not diligently pursue the eradication of a disease from its facility when ordered to do so by the director shall be responsible for paying to the director the full costs of the department for all disease eradication efforts conducted by the department to eradicate the disease. Payment of the costs under this section shall not excuse compliance with the provisions of law, regulations of the commission, and orders of the director, nor be a defense in any criminal or civil proceedings.

HISTORY:
Added Stats 1984 ch 1337 § 3.

CHAPTER 7. IMPORTATION OF AQUATIC PLANTS AND ANIMALS

§ 15600. Written approval required for importation of live organisms; Importation of specified anadromous fish or roe

(a) No live aquatic plant or animal may be imported into this state by a registered aquaculturist without the prior written approval of the department pursuant to the regulations adopted by the commission.

(b) The department shall not approve the importation of, or renew a permit to import, any anadromous fish or roe thereof listed in Section 2118 or the regulations adopted under Section 2118 into the Smith River watershed by a person unless that person had

a permit or authorization approved before February 22, 1988. However, the department may issue or renew a permit for the importation of any anadromous fish or roe thereof specifically for research purposes conducted at any university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1984 ch 85 § 10, effective April 19, 1984; Stats 1988 ch 1467 § 2, effective September 27, 1988.

§ 15601. Application not rejected within specified time deemed approved

A written application for the importation submitted in conformance with the procedural requirements established by the commission is deemed to be approved where it has not been denied within 60 days.

HISTORY:
Added Stats 1982 ch 1486 § 25.

§ 15604. Application of environmental quality act to facility for anadromous fish

No facility constructed for the purpose of spawning, incubating, or raising of anadromous fish listed in Section 2118 in the Smith River watershed is exempt from any provision of the California Environmental Quality Act.

HISTORY:
Added Stats 1988 ch 1467 § 5, effective September 27, 1988.

§ 15605. Importation of Atlantic salmon

(a) Nothing in this chapter prohibits the importation of Atlantic Salmon or the roe thereof, or the continued possession of Atlantic salmon or the roe therefrom which were lawfully imported or possessed on or before February 22, 1988, in the Smith River watershed under a written approval of the department issued pursuant to Section 15600.

(b) Nothing in this chapter applies to the importation or possession of dead Atlantic salmon or nonviable roe therefrom imported for human consumption if the importer has the appropriate licenses issued by the department.

HISTORY:
Added Stats 1988 ch 1467 § 6, effective September 27, 1988.

CHAPTER 8. AQUACULTURE DEVELOPMENT COMMITTEE

§ 15700. Appointment; Members

The director shall appoint an Aquaculture Development Committee consisting of the following persons:

(a) At least 12 members representing all sectors of the fresh and salt water aquaculture industry.

(b) One member representing the department, two members from and chosen by the University of California, one with expertise in aquaculture science and one with expertise in outreach to the fisheries community, and one member each from and chosen by the Department of Food and Agriculture, the California Coastal Commission, the State Lands Commission, the State Water Resources Control Board, the State Department of Health Services, and the Joint Legislative Committee on Fisheries and Aquaculture. The member of the committee appointed by the Joint Legislative Committee on Fisheries and Aquaculture shall meet and, except as otherwise provided by the California Constitution, advise the committee to the extent that this advisory

participation is not incompatible with his or her position as a Member of the Legislature.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1995 ch 810 § 7 (AB 1636).

§ 15701. Term; Compensation

(a) The term of membership for members other than representatives of public agencies shall be three years. The representatives of public agencies shall serve at the pleasure of the agency that the member represents.

(b) Members of the committee shall serve without compensation.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1995 ch 810 § 8 (AB 1636).

§ 15702. Function of Committee; Advice and assistance

(a) The committee shall be advisory to the director on all matters pertaining to aquaculture and shall coordinate activities among public entities.

(b) The committee shall assist the director in developing and implementing a state aquaculture plan, identify the opportunities for regulatory relief, assist in development of research and development priorities, assist in the development of criteria to assure that publicly financed pilot programs are compatible with industry needs, and identify other opportunities for industrial development.

HISTORY:
Added Stats 1982 ch 1486 § 25. Amended Stats 1995 ch 810 § 9 (AB 1636); Stats 2004 ch 172 § 3 (SB 1265) (ch 172 prevails), ch 193 § 23; (SB 111).

§ 15703. Meetings

The committee shall meet on the call of the director, but not less than twice each year.

HISTORY:
Added Stats 1982 ch 1486 § 25.

DIVISION 13. STATE–TRIBAL AGREEMENTS GOVERNING INDIAN FISHING

CHAPTER 1. LEGISLATIVE FINDINGS

§ 16000. Legislative findings and declarations

The Legislature finds:

(a) Jurisdiction over the protection and development of natural resources, especially the fish resource, is of great importance to both the State of California and California Indian tribes.

(b) To California Indian tribes, control over their minerals, lands, water, wildlife, and other resources is crucial to their economic self–sufficiency and the preservation of their heritage. On the other hand, the State of California is concerned about protecting and developing its resources; protecting, restoring, and developing its commercial and recreational salmon fisheries; ensuring public access to its waterways; and protecting the environment within its borders.

(c) More than any other issue confronting the State of California and California Indian tribes, the regulation of natural resources, especially fish, transcends political boundaries.

(d) In many cases, the State of California and California Indian tribes have differed in their respective views of the nature and extent of state versus tribal jurisdiction in

areas where Indians have historically fished. Despite these frequent and often bitter disputes, both the state and the tribes seek, as their mutual goal, the protection and preservation of the fish resource. This division is an attempt to provide a legal mechanism, other than protracted and expensive litigation over unresolved legal issues, for achieving that mutual goal.

(e) This division creates a pilot project that will involve and encourage the efforts of the State of California and the Covelo Indian Community of the Round Valley Indian Reservation to reach a mutual agreement regarding the legal framework for the exercise of Indian subsistence fishing in the boundary streams of the historic 1873 Round Valley Indian Reservation. It is hoped that this pilot project, if successful, will provide the incentive for enactment of broader legislation that would authorize similar negotiated agreements with other California Indian tribes.

HISTORY:
Added Stats 1986 ch 691 § 1.

CHAPTER 2. GENERAL PROVISIONS

§ 16001. Construction of division

The definition in this chapter shall govern the construction of this division.

HISTORY:
Added Stats 1986 ch 691 § 1.

§ 16002. "Covelo Indian Community"

"Covelo Indian Community" means the confederated tribes of the Round Valley Indian Reservation located in Mendocino County, California, recognized as an Indian tribe by the Secretary of the Interior.

HISTORY:
Added Stats 1986 ch 691 § 1.

§ 16003. "Take"

"Take" means pursue, catch, capture, or kill, or attempt to pursue, catch, capture, or kill.

HISTORY:
Added Stats 1986 ch 691 § 1.

§ 16004. "Traditional Indian fishing practice"

"Traditional Indian fishing practice" means a mode, method, or way of taking fish that is recognized in the customs and traditions of the Covelo Indian Community.

HISTORY:
Added Stats 1986 ch 691 § 1.

§ 16005. "Historic 1873 Round Valley Indian Reservation"

"Historic 1873 Round Valley Indian Reservation" means the reservation described and set aside by Congress for the Covelo Indian Community in the Act of March 3, 1873 (17 Stat. 633).

HISTORY:
Added Stats 1986 ch 691 § 1.

CHAPTER 3. NEGOTIATION AND APPROVAL OF AGREEMENT

§ 16006. Agreement regarding jurisdiction and authority to regulate Indian fishing practices

Subject to the approval of the commission, the department may enter into a mutual agreement or compact with the Covelo Indian Community respecting jurisdiction and authority to regulate traditional Indian subsistence fishing practices in the boundary streams of the historic 1873 Round Valley Indian Reservation.

HISTORY:
Added Stats 1986 ch 691 § 1.

§ 16007. Review and approval of agreement

Any agreement or compact entered into pursuant to Section 16006 shall be submitted by the department to the commission for review and approval.

HISTORY:
Added Stats 1986 ch 691 § 1.

§ 16008. Approval by commission

Any agreement or compact entered into pursuant to Section 16006 shall not be effective until they are approved by the commission. The commission may consider and approve an agreement or compact at any of its regular or special meetings.

HISTORY:
Added Stats 1986 ch 691 § 1.

§ 16009. Notice of meeting at which approval of agreement will be considered

The commission shall give notice of the time and place of any meeting at which the approval of an agreement or compact entered into under this division will be considered by publishing prior notice in any publication issued by the Resources Agency or the department after determining the time and place of the meeting. The commission shall make copies of the proposed agreement or compact available to the public on request and the notice shall contain a statement to that effect. All meetings required by this section shall be open to the public.

HISTORY:
Added Stats 1986 ch 691 § 1.

CHAPTER 4. ENFORCEABILITY OF AN AGREEMENT OR COMPACT

§ 16010. Extent of enforceability

Any agreement or compact entered into pursuant to this division shall be enforceable by the parties only to the extent and in the forum or forums provided for under the terms of the agreement or compact.

HISTORY:
Added Stats 1986 ch 691 § 1.

§ 16011. Adoption of regulations; Application and enforcement

The department may promulgate regulations consistent with the provisions of any agreement or compact entered into pursuant to Section 16006. The application and

enforcement of those regulations shall be in accordance with the express provisions of the agreement or compact.

HISTORY:
Added Stats 1986 ch 691 § 1.

DIVISION 13.5. STATE–TRIBAL AGREEMENTS GOVERNING INDIAN FISHING ON THE KLAMATH RIVER

CHAPTER 1. LEGISLATIVE FINDINGS

§ 16500. Findings

The Legislature finds:

(a) Jurisdiction over the protection and development of natural resources, especially the fish resource, is of great importance to both the State of California and California Indian tribes.

(b) To California Indian tribes, control over their minerals, lands, water, wildlife, and other resources within Indian country is crucial to their economic self-sufficiency and the preservation of their heritage. On the other hand, the State of California is concerned about protecting and developing its resources; protecting, restoring, and developing its commercial and recreational salmon fisheries; ensuring public access to its waterways; and protecting the environment within its borders.

(c) More than any other issue confronting the State of California and California Indian tribes, the regulation of natural resources, especially fish, transcends political boundaries.

(d) In many cases, the State of California and California Indian tribes have differed in their respective views of the nature and extent of state versus tribal jurisdiction in areas where Indians have historically fished. Despite these frequent and often bitter disputes, both the state and the tribes seek, as their mutual goal, the protection and preservation of the fish resource. This division is an attempt to provide a legal mechanism, other than protracted and expensive litigation over unresolved legal issues, for achieving that mutual goal on the Klamath River.

(e) The department has exercised jurisdiction over the Klamath River from the mouth of the river through the Yurok Reservation and the Hoopa Valley Reservation, but the Bureau of Indian Affairs and the Indian tribes thereon have also asserted jurisdiction over that river. The river itself lies within a disputed area and proper management of the resource presents, therefore, unique and difficult problems in the exercise of fishing practices by all user groups.

(f) Although commercial fishing may not be a traditional practice of the tribes existing along the Klamath River within the boundaries of the land of the Yurok Reservation and the Hoopa Valley Reservation, nevertheless, the department has historically supported the concept of tribal fishing, including a tribal commercial fishing industry where the industry is consistent with the need to preserve the species, sound management, and where that usage would not adversely effect other user groups, including sportfishing and the ocean commercial fishery.

(g) A commercial fishery existed on the Klamath River in the late 19th century and early 20th century, in which the Indian tribes existing along the river participated, but commercial fishing was abolished in 1933 with the passage of the predecessor to Section 8434, and, further, that salmon resources have declined historically due to past water developmental policies and timber harvesting practices. With a reduced number of fish available, special laws are needed to protect those resources and allocate them fairly among the various user groups.

(h) This division is not only enacted to provide the legal mechanism described above, but is also intended to encourage cooperative agreements to allow protection of

the resource among all of the user groups. In so doing, the Legislature recognizes the unique status of the Klamath River and the fishing therein.

HISTORY:
Added Stats 1986 ch 1186 § 1. Amended Stats 1990 ch 1633 § 7 (AB 3703); Stats 2015 ch 154 § 117 (AB 1527), effective January 1, 2016.

CHAPTER 2. GENERAL PROVISIONS AND DEFINITIONS

§ 16510. Applicability of definitions

The definition in this chapter shall govern the construction of this division.

HISTORY:
Added Stats 1986 ch 1186 § 1.

§ 16511. "Klamath River Indian Tribes"

"Klamath River Indian Tribes" means those tribes existing within the boundaries of the Yurok Reservation and the Hoopa Valley Reservation, located in Humboldt and Del Norte Counties in California, which tribes are recognized as Indian tribes by the Secretary of the Interior.

HISTORY:
Added Stats 1986 ch 1186 § 1. Amended Stats 1990 ch 1633 § 8 (AB 3703).

§ 16512. "Take"

"Take" means pursue, catch, capture, or kill, or attempt to pursue, catch, capture, or kill.

HISTORY:
Added Stats 1986 ch 1186 § 1.

§ 16513. "Traditional Indian fishing practice"

"Traditional Indian fishing practice" means a mode, method, or way of taking fish that is recognized in the customs and traditions of the Klamath River Indian Tribes.

HISTORY:
Added Stats 1986 ch 1186 § 1.

§ 16514. "Yurok Reservation"

"Yurok Reservation" means the land extending one mile in width on each side of the Klamath River from the mouth of the Klamath River to the confluence of the Trinity and Klamath Rivers. "Hoopa Valley Reservations" means those lands lying within the Hoopa Square.

HISTORY:
Added Stats 1986 ch 1186 § 1. Amended Stats 1990 ch 1633 § 9 (AB 3703).

§ 16515. "Disputed area"

"Disputed area" means that part of the Klamath River or Trinity River where jurisdiction to regulate Indian fishing is asserted by both the State of California and by one or more of the Indian tribes in the Klamath River Indian Tribes or by the United States government acting as trustee therefor.

HISTORY:
Added Stats 1986 ch 1186 § 1.

§ 16516. "Subsistence purposes"

"Subsistence purposes" means fish or game taken by qualified Indian tribal members of the Klamath River Indian Tribes for personal consumption by the tribal members or their immediate families.

HISTORY:
Added Stats 1986 ch 1186 § 1.

§ 16517. "Ceremonial or religious purposes"

"Ceremonial or religious purposes" means fish taken by qualified Indian tribal members of the Klamath River Indian Tribes for recognized religious or ceremonial activities, which activities are consistent with the customs and traditions of the particular tribe in the Klamath River Indian Tribes.

HISTORY:
Added Stats 1986 ch 1186 § 1.

§ 16518. "Commercial fishing"

"Commercial fishing" means the taking of fish by qualified Indian tribal members of the Klamath River Indian Tribes, for sale or to be offered for sale within California.

HISTORY:
Added Stats 1986 ch 1186 § 1.

§ 16520. "Klamath Fishery Management Council"

"Klamath Fishery Management Council" means that council created pursuant to Section 460ss-2 of Title 16 of the United States Code that is composed of one representative each from the department, the Pacific Fishery Management Council, National Marine Fisheries Service, Department of the Interior, Oregon Department of Fish and Wildlife, the Hoopa Valley Business Council, non-Hoopa Indians, the California commercial salmon fishing industry, the Oregon commercial salmon fishing industry, the Klamath River in-river sportfishing community, and the California offshore recreational fishing industry.

HISTORY:
Added Stats 1986 ch 1186 § 1. Amended Stats 1987 ch 1422 § 6; Stats 2015 ch 154 § 118 (AB 1527), effective January 1, 2016.

CHAPTER 3. NEGOTIATION AND APPROVAL OF AGREEMENT

§ 16530. Authorization for agreement concerning taking of fish from reservation

The director may enter into a mutual agreement or compact with the Hoopa Valley Business Council regarding the taking of fish from the Trinity River within the exterior boundaries of the Hoopa Valley Reservation or with the Yurok Tribe, or the Bureau of Indian Affairs acting as trustee for the Yurok Indians, regarding the taking of fish from the Klamath River within the exterior boundaries of the Yurok Reservation.

HISTORY:
Added Stats 1986 ch 1186 § 1. Amended Stats 1987 ch 1422 § 8; Stats 1990 ch 1633 § 10 (AB 3703).

§ 16531. Negotiations concerning group salmon allocations

Negotiations shall take place following the completion each year of the salmon allocation agreement recommended by the Klamath Fishery Management Council, and subsequently adopted by the Pacific Fishery Management Council and the United States

Department of Commerce. Any agreement or compact under this division shall reflect those allocations.

HISTORY:
Added Stats 1986 ch 1186 § 1. Amended Stats 1987 ch 1422 § 9.

§ 16532. Traditional fishing methods; Gill nets

Notwithstanding Sections 8434, 8685.5, 8685.6, and 8685.7, the compact or agreement may include provisions for commercial sales of salmon allocated to qualified Indian members of the Klamath River Indian Tribes and that the salmon may be taken by traditional Indian methods, including, but not limited to, use of gill nets, if the agreement or compact includes provisions for all of the following:

(a) Separating the salmon taken for commercial purposes from the salmon taken for subsistence use, which may include tagging or marking of the salmon to be sold.

(b) Limiting the number of the salmon to be sold.

(c) A portion of the sales to benefit the members or programs of the Klamath River Indian Tribes in accordance with the wishes of the tribes or the Bureau of Indian Affairs acting on behalf of the tribes as trustee.

HISTORY:
Added Stats 1986 ch 1186 § 1. Amended Stats 1987 ch 1422 § 10.

CHAPTER 4. ENFORCEABILITY OF AN AGREEMENT OR COMPACT

§ 16540. Agreements as self–enforcing

Any agreement or compact entered into pursuant to this division shall be enforceable by the parties only to the extent and in the form or forms provided for under the terms of the agreement or compact.

HISTORY:
Added Stats 1986 ch 1186 § 1.

§ 16541. Regulations pursuant to agreement or compact

The department may adopt regulations consistent with the provisions of any agreement or compact entered into pursuant to Section 16530 or 16531. The application and enforcement of those regulations shall be in accordance with the express provisions of the agreement or compact.

HISTORY:
Added Stats 1986 ch 1186 § 1.

SELECTED PROVISIONS FROM OTHER CALIFORNIA CODES

Civil Code **745**
Food and Agriculture Code **746**
Government Code **746**
Harbors and Navigation Code **748**
Health and Safety Code **751**
Penal Code **755**
Public Resources Code **763**
Vehicle Code **768**
Water Code **769**

CIVIL CODE

§ 846. Duty of care or warning to persons entering property for recreation; Effect of permission to enter

(a) An owner of any estate or any other interest in real property, whether possessory or nonpossessory, owes no duty of care to keep the premises safe for entry or use by others for any recreational purpose or to give any warning of hazardous conditions, uses of, structures, or activities on those premises to persons entering for a recreational purpose, except as provided in this section.

(b) A "recreational purpose," as used in this section, includes activities such as fishing, hunting, camping, water sports, hiking, spelunking, sport parachuting, riding, including animal riding, snowmobiling, and all other types of vehicular riding, rock collecting, sightseeing, picnicking, nature study, nature contacting, recreational gardening, gleaning, hang gliding, private noncommercial aviation activities, winter sports, and viewing or enjoying historical, archaeological, scenic, natural, or scientific sites.

(c) An owner of any estate or any other interest in real property, whether possessory or nonpossessory, who gives permission to another for entry or use for the above purpose upon the premises does not thereby do any of the following:

(1) Extend any assurance that the premises are safe for that purpose.

(2) Constitute the person to whom permission has been granted the legal status of an invitee or licensee to whom a duty of care is owed.

(3) Assume responsibility for or incur liability for any injury to person or property caused by any act of the person to whom permission has been granted except as provided in this section.

(d) This section does not limit the liability which otherwise exists for any of the following:

(1) Willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity.

(2) Injury suffered in any case where permission to enter for the above purpose was granted for a consideration other than the consideration, if any, paid to said landowner by the state, or where consideration has been received from others for the same purpose.

(3) Any persons who are expressly invited rather than merely permitted to come upon the premises by the landowner.

(e) This section does not create a duty of care or ground of liability for injury to person or property.

HISTORY:

Added Stats 1963 ch 1759 § 1. Amended Stats 1970 ch 807 § 1; Stats 1971 ch 1028 § 1; Stats 1972 ch 1200 § 1; Stats 1976 ch 1303 § 1; Stats 1978 ch 86 § 1; Stats 1979 ch 150 § 1; Stats 1980 ch 408 § 1; Stats 1988 ch 129 § 1; Stats 2014 ch 52 § 1 (SB 1072), effective January 1, 2015; Stats 2018 ch 92 § 33 (SB 1289), effective January 1, 2019.

§ 996. Furbearing wild animals in captivity

Whenever fur bearing animals, which are by their nature known as wild animals, have been brought into, or born in, restraint or captivitiy upon any farm or ranch for the purpose of cultivating or pelting their furs, such animals, together with their offspring or increase, shall be the subjects of ownership, lien, and all kinds of absolute and other property rights, the same as purely domestic animals, in whatever situation, location, or condition such fur bearing animals may thereafter come or be, and regardless of their remaining in or escaping from such restraint or captivity. Such fur bearing animals shall receive the same protection of law, and in the same way and to the same extent shall be the subject of trespass or larceny as other personal property and shall be considered and classified as domestic animals for the purpose of and within the meaning of any statute or law relating generally to domestic animals, other than dogs and cats or other pets, or

relating to farming, to animal husbandry, or to the encouragement of agriculture, unless any such statute or law is impossible of application to such fur bearing animals.

HISTORY:
Added Stats 1941 ch 404 § 1.

FOOD AND AGRICULTURAL CODE

§ 23.5. Commercial production of aquatic life

The commercial production of aquatic plants and animals propagated and raised by a registered aquaculturist pursuant to Section 15101 of the Fish and Game Code in the state is a growing industry and provides a healthful and nutritious food product, and, as a commercial operation, utilizes management, land, water, and feed as do other agricultural enterprises. Therefore, the commercial production of that aquatic life shall be considered a branch of the agricultural industry of the state for the purpose of any law that provides for the benefit or protection of the agricultural industry of the state except those laws relating to plant quarantine or pest control.

HISTORY:
Added Stats 1972 ch 635 § 1. Amended Stats 1976 ch 674 § 1; Stats 1982 ch 1486 § 26; Stats 1983 ch 1300 § 28; Stats 1995 ch 810 § 11 (AB 1636).

§ 6306. Importation or transportation of Mediterranean fruit fly

Unless otherwise permitted by law, any person who willfully and knowingly imports into, or who willfully and knowingly transports or ships within, this state, a Mediterranean fruit fly is guilty of a felony.

HISTORY:
Added Stats 1990 ch 167 § 1 (SB 1754), effective June 22, 1990.

GOVERNMENT CODE

§ 170. Coastal boundary of State

To give greater precision to the boundary of the State of California as defined in Article XXI of the Constitution, it is hereby declared that the part of the boundary which is described as "running in a northwesterly direction and following the direction of the Pacific Coast to the forty–second degree of north latitude," and as "including all the islands, harbors, and bays along and adjacent to the coast," runs and has in the past run three English nautical miles oceanward of lines drawn along the outer sides of the outermost of the islands, reefs and rocks along and adjacent to the mainland and across intervening waters; and where there are harbors, but no such outlying islands, reefs and rocks, it runs and in the past has run three English nautical miles oceanward of lines drawn in front of the harbors along the outermost works and installations thereof, and, in the case of all bays (including inlets and estuaries) three English nautical miles from lines drawn from headland to headland across the mouth of each bay, inlet and estuary, regardless of the length of the lines.

Where there are no outlying islands, reefs or rocks and no harbors or bays or inlets or estuaries, the boundary runs and has in the past run three English nautical miles oceanward of the lowest low–water mark on the shore.

HISTORY:
Added Stats 1949 ch 65 § 1.

§ 171. Inland waters of State

All waters between the mainland and the outermost of the islands, reefs and rocks along and adjacent to the coast of the State of California from which the boundary of the

State is measured, and all waters between the islands, reefs and rocks themselves, are declared to be and to have been in the past inland waters of the State. Similarly, all waters within the lines around harbors and across bays, from which the boundary of the State is measured, are declared to be and to have been in the past inland waters of the State. These waters are "waters thereof" within the meaning of that phrase in Section 25 of Article I of the Constitution.

HISTORY:
Added Stats 1949 ch 65 § 2.

§ 172. Navigable waters of State

The reference in Section 1 of Article XV of the Constitution to "the navigable waters of this State," the reference in Section 2 of the same article to "a harbor, bay, inlet, estuary, or other navigable water in this State," and the reference in Section 3 of the same article to "the waters of any harbor, estuary, bay or inlet used for the purposes of navigation," are declared to include and to have included in the past all of the waters within lines drawn from headland to headland across the mouth of each of the bays, inlets and estuaries along the coast of the mainland and along the coast of and across the waters between the islands of the State, regardless of the length of such lines, such waters being inland waters of the State.

HISTORY:
Added Stats 1949 ch 65 § 3.

§ 186. Indian rights on State lands

(a) As used in succeeding subdivisions of this section "public domain" refers to such portion of the public domain of the State of California as is contiguous to the portion of the Klamath River between the mouth of the river and Katamin Rancheria and such portion of the public domain of the State of California as is contiguous to the portion of the Trinity River between the junction of the Klamath and Trinity Rivers and the junction of the Trinity and South Fork Rivers.

(b) As used in this section "Indians" refers to those persons listed on the California Indian Roll whose Indian ancestors originated in the area adjacent to the two stretches of river described in subdivision (a).

(c) Every Indian may, on the public domain, in the practice of Indian culture, engage in the following activities:

(i) Gather acorns, berries, mushrooms, fruits, insects, seaweed, fish, and other natural foods, materials for regalia and ceremonial purposes and for traditional Indian activities such as making baskets, boatmaking, stoneworking, woodworking, and making of nets, such as roots, reeds, bark, wood, skins, feathers, shells, seeds, nuts, grasses, stones, bones, dyestuffs, plants, sticks, and leaves;

(ii) Engage in traditional activities, including religious dances and ceremonies, and the making of baskets and woodworking, making of costumes, and other handicrafts.

(d) Transportation to or from any area of the public domain or between different areas of the public domain of material possession of which, pursuant to the foregoing provisions of this section, is permitted on the public domain, shall not be unlawful.

(e) Indians taking fish and game under this section shall do so in accordance with the rules and regulations of the Fish and Game Commission and under permit issued by the Department of Fish and Game. The commission may adopt rules and regulations and impose conditions on the issuance of such permits which shall limit the taking of fish and game to taking for ceremonial purposes in such manner as the commission deems proper.

HISTORY:
Added Stats 1963 ch 1498 § 1.

§ 25660. Declaration that stream, etc., is public highway

On the application of any person interested, the board of supervisors may by ordinance

declare all or any portion of any slough, river, or stream to be a public highway for the purpose of fishing therein, if it:

(a) Does not lie within or run through cultivated land lying within the county.

(b) Is stocked or supplied in whole or in part with fish by the state or counties.

(c) Has not been declared by law to be navigable and in fact is not navigable for commercial purposes.

From the time the ordinance becomes effective, the slough, river, or stream is a public highway for such purpose, subject only to the reservations contained in this article.

HISTORY:
Added Stats 1947 ch 424 § 1.

§ 25661. Purchase of right of passage

If any owner of land adjacent to or across which the slough, river, or stream declared to be a highway for fishing flows does not consent to its use for such purpose with the right to pass along the banks for the purpose of fishing and on application refuses to grant the right of passage to the county by suitable instrument in writing, the board may contract for and purchase any such rights.

HISTORY:
Added Stats 1947 ch 424 § 1.

§ 25662. Condemnation of right of passage

If the right of passage cannot be purchased at a satisfactory price, the board may authorize condemnation proceedings to be commenced to procure the right.

HISTORY:
Added Stats 1947 ch 424 § 1.

§ 25840. Prohibiting discharge of firearms

The board of supervisors may prohibit and prevent the unnecessary firing and discharge of firearms on or into the highways and other public places and may pass all necessary ordinances regulating or forbidding such acts.

HISTORY:
Added Stats 1947 ch 424 § 1.

HARBORS AND NAVIGATION CODE

§ 100. Waters constituting public ways

Navigable waters and all streams of sufficient capacity to transport the products of the country are public ways for the purposes of navigation and of such transportation. However, the floodwaters of any navigable river, stream, slough, or other watercourse while temporarily flowing above the normal high-water mark over public or private lands outside any established banks of such river, stream, slough, or other watercourse are not navigable waters and nothing in this section shall be construed as permitting trespass on any such lands. For the purposes of this section, “floodwaters” refers to that elevation of water which occurs at extraordinary times of flood and does not mean the water elevation of ordinary annual or recurring high waters resulting from normal runoff.

HISTORY:
Enacted Stats 1937 ch 368. Amended Stats 1972 ch 1072 § 1.

§ 101. Alphabetical enumeration of public ways; Albion River to Coyote River

The following streams and waters are declared navigable and are public ways:

Albion River, to a point three miles from its mouth.

Alviso Slough, sometimes called Steamboat Slough, lying between the bay of San Francisco and the place where it was crossed by the tracks of the Southern Pacific Railroad Company on June 10, 1913.

Big River to a point three miles from its mouth.

Channel Street, in the city of San Francisco, from the bay to the northeasterly line of Seventh Street, the width thereof to be one hundred forty feet.

Clear Lake, in Lake County; but this declaration shall not interfere with any rights of owners and claimants to reclaim swamp or overflowed land around the margin of Clear Lake.

Corte Madera Creek, in Marin County, from its mouth to a point as far as tidewater flows.

Coyote River between the bay of San Francisco and the place where it was crossed by the tracks of the Southern Pacific Railroad Company on June 10, 1913.

HISTORY:
Enacted Stats 1937 ch 368.

§ 102. Alphabetical enumeration of public ways; Deer Creek to Guadaloupe Slough

The following streams and waters are also navigable and are public ways:

Deer Creek, between its mouth and the house of Peter Lassen.

Devil's Slough, lying within the corporate limits of the city of San Jose, or of the town of Sunnyvale in Santa Clara County, and extending to San Francisco Bay.

Diablo Creek, from its junction with the Neuces, to a point opposite the warehouse of Frank Such, in Contra Costa County.

Feather River, between its mouth and a point fifty feet below the first bridge crossing Feather River above the mouth of the Yuba River.

Galinas, or Guyanas Slough or creek, in Marin County, from its mouth to the line of the Sonoma and Marin Railroad as it existed on March 18, 1907.

Guadalupe Slough, which is the outlet or mouth of the Guadalupe River, and lies between San Francisco Bay and its junction with Alviso Slough.

HISTORY:
Enacted Stats 1937 ch 368.

§ 103. Alphabetical enumeration of public ways; Johnson's Creek to Moro Cojo Slough

The following streams and waters are also navigable and are public ways:

Johnson's Creek, from its mouth at San Francisco Bay to Simpson's Landing.

Keys Creek, also known as the Arroyo de San Antonio, in Marin County, from its mouth at Tomales Bay to the warehouses on the point at Keys embarcadero.

Klamath River, from its mouth in Del Norte County to its confluence with the Shasta River in the county of Siskiyou; but this shall not abrogate or infringe upon mining rights or the rights of locating or operating mining claims on the Klamath River, existing on August 21, 1933, otherwise than by being made subject to the public rights of way herein declared.

Arroyo del Medo in the county of Santa Clara, from its mouth to the upper line of the town of New Haven.

Mission Creek, in the county of San Francisco.

Mokelumne River, between its mouth and the first falls.

Moro Cojo Slough, in Monterey County, from Salinas River to tidewater.

HISTORY:
Enacted Stats 1937 ch 368.

§ 104. Alphabetical enumeration of public ways; Napa River to Petaluma River

The following streams and waters are also navigable and are public ways:

Napa River, between its mouth and a point sixty feet below the westerly line of Lawrence Street in the city of Napa; First Napa Creek, Second Napa Creek, and Third Napa Creek, in Sonoma County, between Napa and Sonoma rivers.

Neuces Creek, from its mouth at Suisun Bay to a point one-half mile above the warehouse of George P. Loucks.

Newport Bay, in the county of Orange, and all its arms, and the sloughs connecting with the bay in which the tide ebbs and flows, including "The Rialto" and "The Rivo Alto" as shown upon a map of Canal Section, Newport Beach, recorded in Book 4, page 98 of Miscellaneous Maps, records of Orange County, California.

Novato Creek, or estuary, in Marin County, from its mouth to Sweetzer's Landing.

Noyo River, to a point three miles from its mouth.

Petaluma River, from its mouth to the southerly line of Washington Street, in the city of Petaluma.

HISTORY:

Enacted Stats 1937 ch 368. Amended Stats 1939 ch 613 § 1.

§ 105. Alphabetical enumeration of public ways; Sacramento River to Yuba River

The following streams and waters are also navigable and are public ways:

Sacramento River, between its mouth and a point 100 feet below Reid's Ferry, in Shasta County.

Salinas River and Elkhorn Slough, or Estero Viejo, in Monterey County, from its mouth to a point as far up as tidewater flows.

San Joaquin River, between its mouth and Sycamore Point.

San Leandro Bay, in the County of Alameda, the waters included in the estuary of San Antonio and the tidal canal connecting it with San Leandro; and the airport channel extending from the bay.

San Rafael Creek, in Marin County, from its mouth to a point as far as tidewater flows therein.

Sonoma River, between its mouth and a point opposite Fowler's hotel in the town of San Luis.

Stockton Slough, between its mouth and a line 160 feet west of the east line of Center Street extended in Stockton.

Suisun River, between its mouth and the Town of Suisun embarcadero.

Tuolumne River, between its mouth and Dickinson's Ferry.

Yuba River, between its mouth and a point at the mouth of the slough at the foot of F Street, in the city of Marysville.

HISTORY:

Enacted Stats 1937 ch 368. Amended Stats 1937 ch 911; Stats 1952 1st Ex Sess ch 2 § 1.

§ 106. Additional enumeration of public ways

The following streams and waters are also navigable and are public ways:

The north branch of Alameda Creek, from its mouth to Eden Landing.

The streams and sloughs emptying into Eel River.

The streams and sloughs south of Eureka, in Humboldt County, which prior to January 2, 1873, were used for the purpose of floating logs or timber.

The sloughs south of Humboldt Point, in Humboldt County, which at high water mark have a depth of two feet of water, and which are wide enough to float and admit a boat carrying five tons or more of freight.

That part of a slough which lies between Simonds Canal in the town of Alviso and the bay of San Francisco.

That certain creek running through the tideland survey numbered 68, and swamp and overflowed land survey numbered 145, from its mouth to the head of the tidewater therein.

HISTORY:
Enacted Stats 1937 ch 368.

§ 107. Coast line and names of geographic features; Construction

The coast line of the State of California from the boundary line between it and Mexico on the south, to the boundary line between it and Oregon on the north, is as defined and determined, on August 21, 1933, by the United States Coast and Geodetic Survey, and the names of the islands, rocks, headlands, bays, bodies of water and other geographic features are in accordance with nomenclature adopted by the United States Coast and Geodetic Survey as shown on its charts.

This section is not to be construed as defining or affecting property rights or property boundaries.

HISTORY:
Enacted Stats 1937 ch 368.

HEALTH AND SAFETY CODE

§ 5460. Issuance of peremptory abatement order; Report to regional board; Prosecution of injunction proceedings

The state department or local health officer may issue a peremptory order requiring the abatement of a contamination, and shall immediately furnish to the proper regional board a report of information and data relating thereto.

Coincident with issuing such order, or if any order or regulation is not complied with, the director or local health officer may bring and prosecute an action for an injunction in the superior court of the county in which the contamination occurs.

The state department or local health officer shall render to persons subject to such order all possible assistance in complying with the order, including all possible assistance in securing any necessary funds for such purpose.

HISTORY:
Added Stats 1949 ch 1550 § 4, operative December 15, 1949. Amended Stats 1959 ch 1299 § 29; Stats 1970 ch 1464 § 2.

§ 5461. Discharge of sewage or other waste resulting in contamination a misdemeanor

Any person who discharges sewage or other waste in any manner which results in contamination is guilty of a misdemeanor.

HISTORY:
Added Stats 1949 ch 1550 § 4, operative December 15, 1949. Amended Stats 1967 ch 1447 § 5.

§ 117040. Right to open reservoir for public fishing

A city, city and county, district or other public agency, owning or operating a reservoir used for domestic or drinking water purposes, may open to public fishing all or any part of the reservoir and its surrounding land.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117045. Necessity of determination that public fishing will not affect water in reservoir; Permit to be obtained

Before the reservoir and its surrounding land are opened to public fishing the public agency owning or operating the reservoir shall determine that the public fishing will not affect the purity and safety for drinking and domestic purposes of the water collected in the reservoir, and shall obtain from the department a valid water supply permit setting forth the terms and conditions upon which public fishing may be conducted in the reservoir and on its surrounding land.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117050. Prohibitions as to use of reservoir used as regulating reservoir

Public fishing shall not be conducted in a reservoir or on its surrounding land if the reservoir is used as a regulating reservoir to meet daily or peak consumption demands and as a terminal reservoir to a water collecting facility and as a distribution reservoir from which water may be supplied for drinking or domestic purposes without full purification treatment after withdrawal from the reservoir.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117055. Public fishing on terminal reservoir

The department may allow public fishing on any terminal reservoir if it finds that adequate means are being used to protect drinking water quality and that public fishing will have no significant effect on water quality. The department shall examine all feasible means of protecting water quality on terminal reservoirs and other reservoirs where public fishing may be allowed. The department may close any terminal water supply reservoir to public angling on an emergency basis, if water quality is threatened by public use.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117080. "Governmental agency"; "Body of water"; "Owned"

"Governmental agency," as used in this article, includes a city, city and county, and district, but does not include a chartered city or city and county.

"Body of water" means a reservoir or lake.

"Owned" means owned or controlled.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117085. Opening body of water of governmental agency for recreation; Request by resolution of county board of supervisors; Cost estimates, deposits, and payments; Coordinated plan; Amendment of water supply permit

The board of supervisors of any county wherein is located a body of water owned by a governmental agency, that is used to supply water for human consumption may by resolution request the governmental agency owning the body of water to open the body of water to public fishing and the surrounding land area for other recreational use. The governmental agency owning the body of water shall thereupon make and file with said board of supervisors an estimate of the cost of preparing a coordinated plan for public fishing in said body of water and other recreational uses in the surrounding land area. The board of supervisors thereupon may deposit with the governmental agency owning the body of water the amount of the estimate not exceeding two thousand five hundred dollars ($2,500), and the governmental agency owning said body of water thereupon

shall proceed promptly with and complete the coordinated plan. In event the cost of preparing the plan shall be less than the amount deposited by the board of supervisors, the excess shall be repaid by the governmental agency owning the body of water to the board of supervisors that made the deposit. The plan may provide for development of the area by stages and may exclude from public access structures, facilities or works of the agency necessary in supplying water for human consumption and the portions of the body of water and surrounding land area as may be reasonably required for the protection, maintenance or operation of the structures, facilities, or works. The plan may exclude portions of the surrounding area as are unsuitable for public recreational use. The coordinated plan may also include an estimate of the cost of the capital improvements necessary or convenient for public fishing and recreational uses, an estimate of the annual cost of maintenance and operation of the plan, and a recommendation as to the manner in which the plan may be financed.

After completion of the coordinated plan the governmental agency shall promptly make application to the department for an amendment to its water supply permit, that would allow the opening of the body of water to public fishing and the surrounding land area for other recreational use pursuant to the coordinated plan.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117090. Calling election to determine whether body of water be used for recreation

Upon receipt of the amended permit, if the agency does not allow such use, it shall call for a vote of its constituents at the next statewide primary election or general election, or if the agency is a municipal corporation at the next general municipal election, to determine whether or not the use shall be allowed and if a majority vote is in favor the public agency shall allow public fishing in the body of water and other recreational uses in the surrounding area in compliance with the amended permit.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117095. Inapplicability of article with respect to secondary reservoir for domestic water supply

Nothing herein contained shall permit or require fishing or other recreational uses in a secondary reservoir from which water is supplied for domestic use without purification treatment after withdrawal from said reservoir.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117100. Ballot for election

The ballot for the election authorized by Section 117090 shall contain the instructions required by law to be printed thereon and in addition thereto the following:

Shall the (insert name of governmental agency) allow fishing in the (name of body of water) and other recreational uses in the surrounding area subject to the regulations of the State Department of Health Services?	YES	
	NO	

If the governmental agency concludes that a bond issue is required to pay for the capital improvements included in the coordinated plan as approved by the amended permit, there shall also be printed on the ballot, immediately following the ballot proposition aforesaid, the following proposition to be voted on by the constituents of the governmental agency:

Shall the (insert name of governmental agency) incur a bonded indebtedness in the principal amount of $_____ for providing the capital improvements for fishing in the (name of body of water) and other recreational uses in the surrounding land area, subject to the regulations of the State Department of Health Services?	YES NO	

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360). Amended Stats 2006 ch 538 § 437 (SB 1852), effective January 1, 2007.

§ 117105. Power of governmental agency owning body of water; Fees, contracts, and regulations; Inspection by department

The governmental agency owning the body of water may fix and collect fees, including charges for motor vehicle parking, for the construction of facilities, operation, and use of the area opened for public fishing and other recreational uses. The governmental agency shall have the power to contract with others for the rendering of any or all of the services required in connection with the operation of the area including the right to rent or lease the whole or any part of the area to provide necessary or convenient facilities for the use of the public. The governmental agency shall have the power to make and enforce regulations that it may find necessary or convenient for proper control of the areas opened to public fishing and other recreational uses. The department shall make recurring inspections of all recreational areas approved under this article to ensure the continued purity of drinking water.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117110. Promulgation of regulations governing area opened to recreational uses; Prima facie evidence

The governmental agency shall cause a copy of the rules and regulations to be posted upon the area opened to public fishing and other recreational uses, and it shall cause the rules and regulations to be published at least once in a newspaper of general circulation published in the county in which the reservoir is in whole or in part situated, if there be such a newspaper, otherwise in a newspaper of general circulation published within the area of the governmental agency. The posting and publication shall be sufficient notice to all persons. The affidavit of the secretary, clerk, or corresponding officer of the governmental agency that the rules and regulations have been so posted and published is prima facie evidence thereof. A copy of the rules and regulations, attested by the secretary, clerk, or corresponding officer of the governmental agency shall be prima facie evidence that the rules and regulations have been made by the governmental agency as provided by law.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117115. Financing recreational uses out of revenues; Discretion of governmental agency owning body of water

As far as possible the development and operation of the recreational uses authorized by this article shall be financed out of the revenues authorized by this article; provided, however, that the governmental agency owning the body of water is not required to fix fees that are unreasonably high and in its discretion may make use of any means of financing that it is otherwise authorized to use for any purpose.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360).

§ 117120. Violation of rule or regulation as misdemeanor; Place for trial

Any violation of any rule or regulation lawfully made by the governmental agency is a misdemeanor. The superior court of the county within which the reservoir lies in whole or in part is a proper place for trial of all prosecutions for violations of any rules and regulations adopted by the governmental agency.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360). Amended Stats 1998 ch 931 § 343 (SB 2139), effective September 28, 1998; Stats 2003 ch 449 § 29 (AB 1712).

§ 117125. Stocking with fish by Department of Fish and Wildlife

Notwithstanding any other law, the Department of Fish and Wildlife may stock with fish any body of water opened to public fishing pursuant to this article.

HISTORY:
Added Stats 1995 ch 415 § 6 (SB 1360). Amended Stats 2015 ch 673 § 19 (AB 1531), effective January 1, 2016.

PENAL CODE

§ 374c. Shooting from or upon road or highway

Every person who shoots any firearm from or upon a public road or highway is guilty of a misdemeanor.

HISTORY:
Added Stats 1933 ch 203 § 1 p 671.

§ 431. Delivering receipts for poll-taxes, other than prescribed by law, or collecting poll-taxes, etc., without giving the receipt prescribed by law

Every person who uses or gives any receipt, except that prescribed by law, as evidence of the payment of any poll-tax, road-tax, or license of any kind, or who receives payment of such tax or license without delivering the receipt prescribed by law, or who inserts the name of more than one person therein, is guilty of a misdemeanor.

HISTORY:
Enacted 1872.

§ 487. Grand theft

Grand theft is theft committed in any of the following cases:

(a) When the money, labor, or real or personal property taken is of a value exceeding nine hundred fifty dollars ($950), except as provided in subdivision (b).

(b) Notwithstanding subdivision (a), grand theft is committed in any of the following cases:

(1)(A) When domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops are taken of a value exceeding two hundred fifty dollars ($250).

(B) For the purposes of establishing that the value of domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops under this paragraph exceeds two hundred fifty dollars ($250), that value may be shown by the presentation of credible evidence which establishes that on the day of the theft domestic fowls, avocados, olives, citrus or deciduous fruits, other fruits, vegetables, nuts, artichokes, or other farm crops of the same variety and weight exceeded two hundred fifty dollars ($250) in wholesale value.

(2) When fish, shellfish, mollusks, crustaceans, kelp, algae, or other aquacultural products are taken from a commercial or research operation which is producing that product, of a value exceeding two hundred fifty dollars ($250).

(3) Where the money, labor, or real or personal property is taken by a servant, agent, or employee from his or her principal or employer and aggregates nine hundred fifty dollars ($950) or more in any 12 consecutive month period.

(c) When the property is taken from the person of another.

(d) When the property taken is any of the following:

(1) An automobile.

(2) A firearm.

HISTORY:

Added Stats 1993 ch 1125 § 5 (AB 1630), effective October 10, 1993, operative January 1, 1997. Amended Stats 2002 ch 787 § 12 (SB 1798); Stats 2009–2010 3d Ex Sess ch 28 § 17 (SB 18XXX), effective January 25, 2010; Stats 2010 ch 693 § 1 (AB 2372), effective January 1, 2011, ch 694 § 1.5 (SB 1338), effective January 1, 2011; Stats 2013 ch 618 § 7 (AB 924), effective January 1, 2014.

§ 653o. Endangered species; Importation or possession for sale

(a) It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or ****a* part or product thereof, of a polar bear, leopard, ocelot, tiger, cheetah, jaguar, sable antelope, wolf (Canis lupus), zebra, whale, cobra, python, sea turtle, colobus monkey, kangaroo, vicuna, sea otter, free-roaming feral horse, dolphin or porpoise (Delphinidae), Spanish lynx, or elephant.

(b)(1) Commencing January 1, 2020, it ****is* unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or ****a* part or product thereof, of a crocodile or alligator.

(2) This subdivision ****does not* authorize the importation or sale of any alligator or crocodilian species, or ***products thereof, that are listed as endangered under the federal Endangered Species Act, or to allow the importation or sale of any alligator or crocodilian species, or ***products thereof, in violation of ***federal law or international treaty to which the United States is a party.

(c) Commencing January 1, 2022, it is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of an iguana, skink, caiman, hippopotamus, or a Teju, Ring, or Nile lizard.

****(d)* A person who violates this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars ($1,000) and not to exceed five thousand dollars ($5,000) or imprisonment in the county jail not to exceed six months, or both that fine and imprisonment, for each violation.

****(e)* The prohibitions against importation for commercial purposes, possession with intent to sell, and sale of the species listed in this section are severable. A finding of the invalidity of any one or more prohibitions shall not affect the validity of any remaining prohibitions.

***

HISTORY:

Added Stats 2007 ch 576 § 2 (SB 880), effective January 1, 2008, operative January 1, 2011. Amended Stats 2009 ch 15 § 2 (SB 609), effective January 1, 2010. Stats 2010 ch 412 § 1 (SB 1345), effective January 1, 2011, repealed January 1, 2016; Stats 2014 ch 464 § 2 (AB 2075), effective January 1, 2015, operative January 1, 2016; Amended Stats 2019 ch 767 § 1 (AB 1260), effective January 1, 2020.

§ 653p. Endangered species; Possession with intent to sell; Violation of federal laws

It is unlawful to possess with the intent to sell, or to sell, within the state, the dead body, or any part or product thereof, of any species or subspecies of any fish, bird, mammal, amphibian, reptile, mollusk, invertebrate, or plant, the importation of which is illegal under the Federal Endangered Species Act of 1973 (Title 16, United States Code Sec. 1531 et seq.) and subsequent amendments, or under the Marine Mammal Protection Act of 1972 (Title 16, United States Code Sec. 1361 et seq.), or which is listed in the Federal Register by the Secretary of the Interior pursuant to the above acts. The

violation of any federal regulations adopted pursuant to the above acts shall also be deemed a violation of this section and shall be prosecuted by the appropriate state or local officials.

HISTORY:
Added Stats 1970 ch 1557 § 2, operative December 1, 1970. Amended Stats 1976 ch 692 § 2.

§ 653q. Possession or sale of dead seal

It is unlawful to import into this state for commercial purposes, to possess with intent to sell, or to sell within the state, the dead body, or any part or product thereof, of any seal.

Any person who violates any provision of this section is guilty of a misdemeanor and shall be subject to a fine of not less than one thousand dollars ($1,000) and not to exceed five thousand dollars ($5,000) or imprisonment in the county jail for not to exceed six months, or both such fine and imprisonment, for each violation.

HISTORY:
Added Stats 1971 ch 1200 § 4.

§ 653r. Possession or sale of particular endangered species

Notwithstanding the provisions of Section 3 of Chapter 1557 of the Statutes of 1970, it shall be unlawful to possess with intent to sell, or to sell, within this state, after June 1, 1972, the dead body, or any part or product thereof, of any fish, bird, amphibian, reptile, or mammal specified in Section 653o or 653p.

Violation of this section constitutes a misdemeanor.

HISTORY:
Added Stats 1971 ch 1283 § 2.

§ 830.2. Highway Patrol members, university police, certain persons in Department of Corrections, employees of specified departments, state fair marshals and police, and certain persons of Inspector General's office

The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the Department of the California Highway Patrol including those members designated under subdivision (a) of Section 2250.1 of the Vehicle Code, provided that the primary duty of the peace officer is the enforcement of any law relating to the use or operation of vehicles upon the highways, or laws pertaining to the provision of police services for the protection of state officers, state properties, and the occupants of state properties, or both, as set forth in the Vehicle Code and Government Code.

(b) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(c) A member of the California State University Police Departments appointed pursuant to Section 89560 of the Education Code, provided that the primary duty of the peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(d)(1) Any member of the Office of Correctional Safety of the Department of Corrections and Rehabilitation, provided that the primary duties of the peace officer shall be the investigation or apprehension of inmates, wards, parolees, parole violators, or escapees from state institutions, the transportation of those persons, the investigation of any violation of criminal law discovered while performing the usual and authorized duties of employment, and the coordination of those activities with other criminal justice agencies.

(2) Any member of the Office of Internal Affairs of the Department of Corrections and Rehabilitation, provided that the primary duties shall be criminal investigations of Department of Corrections and Rehabilitation personnel and the coordination of those activities with other criminal justice agencies. For purposes of this subdivision, the member of the Office of Internal Affairs shall possess certification from the Commission on Peace Officer Standards and Training for investigators, or have completed training pursuant to Section 6126.1 of the Penal Code.

(e) Employees of the Department of Fish and Game designated by the director, provided that the primary duty of those peace officers shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(f) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

(g) The Director of Forestry and Fire Protection and employees or classes of employees of the Department of Forestry and Fire Protection designated by the director pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of the peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of the Public Resources Code.

(h) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any of these peace officers shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(i) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officers shall be the enforcement of the law as prescribed in that section.

HISTORY:

Added Stats 1968 ch 1222 § 1. Amended Stats 1969 ch 1206 § 1; Stats 1970 ch 1454 § 3; Stats 1971 ch 631 § 2, ch 632 § 2, ch 1469 § 6; Stats 1976 ch 420 § 4; Stats 1980 ch 1340 § 6, effective September 30, 1980; Stats 1982 ch 1277 § 2; Stats 1987 ch 367 § 1; Stats 1989 ch 1165 § 21, ch 1166 § 2; Stats 1990 ch 82 § 7 (SB 655), effective May 2, 1990; Stats 1992 ch 427 § 128 (AB 3355), ch 1370 § 38 (AB 3193), effective October 27, 1992 (ch 1370 prevails). Supplemented by the Governor's Reorganization Plan No. 1 of 1995, effective July 12, 1995; Amended Stats 1996 ch 305 § 49 (AB 3103); Stats 1999 ch 917 § 2 (AB 1502), ch 918 § 4.5 (SB 868); Stats 2008 ch 699 § 11 (SB 1241), effective January 1, 2009; Stats 2009 ch 35 § 10 (SB 174), effective January 1, 2010; Stats 2011 ch 10 § 5 (SB 78), effective March 24, 2011, ch 36 § 19 (SB 92), effective June 30, 2011.

§ 830.6. Deputy, reserve, or auxiliary law enforcement officers; Designation by Native American tribe; Persons summoned to aid uniformed officers

(a)(1) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a reserve deputy sheriff, a reserve deputy marshal, a reserve police officer of a regional park district or of a transit district, a reserve park ranger, a reserve harbor or port police officer of a county, city, or district as specified in Section 663.5 of the Harbors and Navigation Code, a reserve deputy of the Department of Fish and Game, a reserve special agent of the Department of Justice, a reserve officer of a community service district which is authorized under subdivision (h) of Section 61600 of the Government Code to maintain a police department or other police protection, a reserve officer of a school district police department under Section 35021.5 of the Education Code, a reserve officer of a community college police department under Section 72330, a reserve officer of a police protection district formed under Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code, or a reserve housing authority patrol officer employed by a housing authority defined in subdivision (d) of Section 830.31, and is

assigned specific police functions by that authority, the person is a peace officer, if the person qualifies as set forth in Section 832.6. The authority of a person designated as a peace officer pursuant to this paragraph extends only for the duration of the person's specific assignment. A reserve park ranger or a transit, harbor, or port district reserve officer may carry firearms only if authorized by, and under those terms and conditions as are specified by, his or her employing agency.

(2) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city police officer, a reserve deputy sheriff, a reserve deputy marshal, a reserve park ranger, a reserve police officer of a regional park district, transit district, community college district, or school district, a reserve harbor or port police officer of a county, city, or district as specified in Section 663.5 of the Harbors and Navigation Code, a reserve officer of a community service district that is authorized under subdivision (h) of Section 61600 of the Government Code to maintain a police department or other police protection, or a reserve officer of a police protection district formed under Part 1 (commencing with Section 20000) of Division 14 of the Health and Safety Code, and is so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by that authority, the person is a peace officer, if the person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6. The authority of a person designated as a peace officer pursuant to this paragraph includes the full powers and duties of a peace officer as provided by Section 830.1. A transit, harbor, or port district reserve police officer, or a city or county reserve peace officer who is not provided with the powers and duties authorized by Section 830.1, has the powers and duties authorized in Section 830.33, or in the case of a reserve park ranger, the powers and duties that are authorized in Section 830.31, or in the case of a reserve housing authority patrol officer, the powers and duties that are authorized in subdivision (d) of Section 830.31, and a school district reserve police officer or a community college district reserve police officer has the powers and duties authorized in Section 830.32.

(b) Whenever any person designated by a Native American tribe recognized by the United States Secretary of the Interior is deputized or appointed by the county sheriff as a reserve or auxiliary sheriff or a reserve deputy sheriff, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by the county sheriff, the person is a peace officer, if the person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6. The authority of a peace officer pursuant to this subdivision includes the full powers and duties of a peace officer as provided by Section 830.1.

(c) Whenever any person is summoned to the aid of any uniformed peace officer, the summoned person is vested with the powers of a peace officer that are expressly delegated to him or her by the summoning officer or that are otherwise reasonably necessary to properly assist the officer.

HISTORY:

Added Stats 1968 ch 1222 § 1. Amended Stats 1977 ch 987 § 1; Stats 1979 ch 987 § 1; Stats 1980 ch 1301 § 1, ch 1340 § 15, effective September 30, 1980, ch 1340 § 15.5, effective September 30, 1980, operative January 1, 1981; Stats 1986 ch 160 § 1; Stats 1989 ch 594 § 5, ch 1165 § 34.1; Stats 1990 ch 1695 § 10 (SB 2140); Stats 1991 ch 509 § 1 (SB 474); Stats 1993 ch 169 § 1 (AB 529), ch 718 § 5 (AB 674); Stats 1994 ch 117 § 4 (SB 281); Stats 1st Ex Sess ch 26 § 1 (SB 48 X), effective September 20, 1994, operative until January 1, 1995, § 2, effective September 20, 1994, operative January 1, 1995; Stats 1995 ch 54 § 1 (AB 787), effective July 3, 1995; Stats 1996 ch 1142 § 2 (SB 1797), effective September 30, 1996; Stats 2003 ch 292 § 4 (AB 1436); Stats 2007 ch 118 § 1 (AB 1374), effective January 1, 2008.

§ 16290. "Body vest"; "Body shield"

As used in this part, "body vest" or "body shield" means any bullet-resistant material intended to provide ballistic and trauma protection for the wearer or holder.

HISTORY:

Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 16650. "Handgun ammunition"

(a) As used in this part, "handgun ammunition" means ammunition principally for use in pistols, revolvers, and other firearms capable of being concealed upon the person, notwithstanding that the ammunition may also be used in some rifles.

(b) As used in Section 30312 and in Article 3 (commencing with Section 30345) of Chapter 1 of Division 10 of Title 4, "handgun ammunition" does not include either of the following:

(1) Ammunition designed and intended to be used in an antique firearm.

(2) Blanks.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 16660. "Handgun ammunition designed primarily to penetrate metal or armor"

As used in this part, "handgun ammunition designed primarily to penetrate metal or armor" means any ammunition, except a shotgun shell or ammunition primarily designed for use in a rifle, that is designed primarily to penetrate a body vest or body shield, and has either of the following characteristics:

(a) Has projectile or projectile core constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper, or depleted uranium, or any equivalent material of similar density or hardness.

(b) Is primarily manufactured or designed, by virtue of its shape, cross-sectional density, or any coating applied thereto, including, but not limited to, ammunition commonly known as "KTW ammunition," to breach or penetrate a body vest or body shield when fired from a pistol, revolver, or other firearm capable of being concealed upon the person.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 17090. "Rifle"

As used in Sections 16530, 16640, 16650, 16660, 16870, and 17170, Sections 17720 to 17730, inclusive, Section 17740, subdivision (f) of Section 27555, Article 2 (commencing with Section 30300) of Chapter 1 of Division 10 of Title 4, and Article 1 (commencing with Section 33210) of Chapter 8 of Division 10 of Title 4, "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 17210. "Silencer"

As used in Chapter 9 (commencing with Section 33410) of Division 10 of Title 4, "silencer" means any device or attachment of any kind designed, used, or intended for use in silencing, diminishing, or muffling the report of a firearm. The term "silencer" also includes any combination of parts, designed or redesigned, and intended for use in assembling a silencer or fabricating a silencer and any part intended only for use in assembly or fabrication of a silencer.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 20015. Sale, purchase, possession, or use of blowguns by personnel dealing with animals

Nothing in this division shall prohibit the sale to, purchase by, possession of, or use of

any blowgun or blowgun ammunition by zookeepers, animal control officers, Department of Fish and Game personnel, humane officers whose names are maintained in the county record of humane officers pursuant to Section 14502 of the Corporations Code, or veterinarians in the course and scope of their business in order to administer medicine to animals.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 26100. Possession of firearm in motor vehicle; Punishment; Discharge at person not in motor vehicle

(a) It is a misdemeanor for a driver of any motor vehicle or the owner of any motor vehicle, whether or not the owner of the vehicle is occupying the vehicle, knowingly to permit any other person to carry into or bring into the vehicle a firearm in violation of Section 25850 of this code or Section 2006 of the Fish and Game Code.

(b) Any driver or owner of any vehicle, whether or not the owner of the vehicle is occupying the vehicle, who knowingly permits any other person to discharge any firearm from the vehicle is punishable by imprisonment in the county jail for not more than one year or in state prison for 16 months or two or three years.

(c) Any person who willfully and maliciously discharges a firearm from a motor vehicle at another person other than an occupant of a motor vehicle is guilty of a felony punishable by imprisonment in state prison for three, five, or seven years.

(d) Except as provided in Section 3002 of the Fish and Game Code, any person who willfully and maliciously discharges a firearm from a motor vehicle is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 30315. Possession of handgun ammunition designed to penetrate metal or armor

Any person, firm, or corporation who, within this state knowingly possesses any handgun ammunition designed primarily to penetrate metal or armor is guilty of a public offense and upon conviction thereof shall be punished by imprisonment pursuant to subdivision (h) of Section 1170, or in the county jail for a term not to exceed one year, or by a fine not to exceed five thousand dollars ($5,000), or by both that fine and imprisonment.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012. Amended Stats 2011 ch 15 § 548 (AB 109), effective April 4, 2011, operative January 1, 2012.

§ 30320. Manufacture, importation, sale or knowing transport of handgun ammunition designed to penetrate metal or armor

Any person, firm, or corporation who, within this state, manufactures, imports, sells, offers to sell, or knowingly transports any handgun ammunition designed primarily to penetrate metal or armor is guilty of a felony and upon conviction thereof shall be punished by imprisonment in state prison, or by a fine not to exceed five thousand dollars ($5,000), or by both that fine and imprisonment.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 30325. Transport of handgun ammunition designed to penetrate metal or armor for disposition according to law

Nothing in this article shall apply to or affect the possession of handgun ammunition designed primarily to penetrate metal or armor by a person who found the ammunition,

if that person is not prohibited from possessing firearms or ammunition pursuant to subdivision (a) of Section 30305, Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, and the person is transporting the ammunition to a law enforcement agency for disposition according to law.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 30330. Exception for armed forces; police agency, forensic laboratory, or valid permit holder

Nothing in this article shall apply to or affect the sale to, purchase by, possession of, or use of any ammunition by any member of the Army, Navy, Air Force, or Marine Corps of the United States, or the National Guard, while on duty and acting within the scope and course of employment, or any police agency or forensic laboratory or any person who is the holder of a valid permit issued pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 30335. Transportation of ammunition when propellant removed and primer permanently deactivated

Nothing in this article shall prohibit the possession, importation, sale, attempted sale, or transport of ammunition from which the propellant has been removed and the primer has been permanently deactivated.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

§ 33410. Possession of silencer

Any person, firm, or corporation who within this state possesses a silencer is guilty of a felony and upon conviction thereof shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 or by a fine not to exceed ten thousand dollars ($10,000), or by both that fine and imprisonment.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012. Amended Stats 2011 ch 15 § 554 (AB 109), effective April 4, 2011, operative January 1, 2012.

§ 33415. Exception to punishment

Section 33410 shall not apply to, or affect, any of the following:

(a) The sale to, purchase by, or possession of silencers by agencies listed in Section 830.1, or the military or naval forces of this state or of the United States, for use in the discharge of their official duties.

(b) The possession of silencers by regular, salaried, full-time peace officers who are employed by an agency listed in Section 830.1, or by the military or naval forces of this state or of the United States, when on duty and when the use of silencers is authorized by the agency and is within the course and scope of their duties.

(c) The manufacture, possession, transportation, or sale or other transfer of silencers to an entity described in subdivision (a) by dealers or manufacturers registered under Chapter 53 (commencing with Section 5801) of Title 26 of the United States Code and the regulations issued pursuant thereto.

HISTORY:
Added Stats 2010 ch 711 § 6 (SB 1080), effective January 1, 2011, operative January 1, 2012.

PUBLIC RESOURCES CODE

§ 825. Title

This chapter shall be known and may be cited as the California Aquaculture Development Act.

HISTORY:
Added Stats 1979 ch 187 § 2, effective June 29, 1979.

§ 826. Legislative finding

The Legislature finds and declares that it is in the interest of the people of the state that the practice of aquaculture be encouraged in order to augment food supplies, expand employment, promote economic activity, increase native fish stocks, enhance commercial and recreational fishing, and protect and better use the land and water resources of the state.

HISTORY:
Added Stats 1979 ch 187 § 2, effective June 29, 1979.

§ 827. Purpose of chapter

The purpose of this chapter is to establish a policy and program toward improving the science and practice of aquaculture as a means of expanding aquaculture industry and related economic activity in the state.

HISTORY:
Added Stats 1979 ch 187 § 2, effective June 29, 1979.

§ 828. "Aquaculture"

As used in this chapter, "aquaculture" means the culture and husbandry of aquatic organisms, including, but not limited to, fish, shellfish, mollusks, crustaceans, kelp, and algae. Aquaculture shall not mean the culture and husbandry of commercially utilized inland crops, including, but not limited to, rice, watercress, and bean sprouts.

HISTORY:
Added Stats 1979 ch 187 § 2, effective June 29, 1979.

§ 829. "Director"

As used in this chapter, "director" means the Director of the Department of Fish and Game.

HISTORY:
Added Stats 1979 ch 187 § 2, effective June 29, 1979.

§ 830. "Department"

As used in this chapter, "department" means the Department of Fish and Game.

HISTORY:
Added Stats 1979 ch 187 § 2, effective June 29, 1979.

§ 4445. Prohibited firing of tracer or incendiary ammunition

A person shall not fire or cause to be fired from any rifle or other device capable of discharging ammunition, any bullet, projectile, or other ammunition which contains the components of thermite, magnesium, or aluminum, or any other component capable of causing a fire and commonly known as tracer or incendiary ammunition within any forest-covered area, brush-covered area, grass-covered area or grain-covered area.

HISTORY:
Added Stats 1965 ch 1144 § 9.6.

§ 5003.1. Legislative declaration of public interest

The Legislature finds and declares that it is in the public interest to permit hunting, fishing, swimming, trails, camping, campsites, and rental vacation cabins in certain state recreation areas, or portions thereof, when it is found by the State Park and Recreation Commission that multiple use of state recreation areas would not threaten the safety and welfare of other state recreation area users. Hunting shall not be permitted in any unit now in the state park system and officially opened to the public on or before June 1, 1961, or in any unit hereafter acquired and designated by the commission as a state park, state marine reserve, state marine park, state reserve, state marine conservation area, or state marine cultural preservation area, and may only be permitted in new recreational areas and state marine recreational management areas that are developed for that use.

Whenever hunting or fishing is permitted in a state recreation area or state marine recreational management area, and whenever fishing is permitted in a state park, state marine park, state marine cultural preservation area, or state marine conservation area, the Department of Fish and Game shall enforce hunting and fishing laws and regulations as it does elsewhere in the state.

HISTORY:
Added Stats 1961 ch 1632 § 2. Amended Stats 2000 ch 385 § 12 (AB 2800); Stats 2003 ch 610 § 17 (AB 1770).

§ 5003.3. Waterfowl season

The State Park and Recreation Commission shall allow, in accordance with Section 5003.1, waterfowl hunting annually from the opening day of hunting season for ducks or geese, whichever is earlier, to and including the closing day of this season, whichever is later, as established by the Fish and Game Commission, in all of Franks Tract State Recreation Area, except within 200 feet of or on the 330 acre island known as the Little Franks Tract, which is bounded on the south and west by Piper Slough, on the north by False River, and on the east by the open water portion of Franks Tract State Recreation Area. A map of the portions of Franks Tract State Recreation Area open to hunting shall be available at the delta area office at Brannan Island State Recreation Area for examination.

HISTORY:
Added Stats 1982 ch 753 § 1, effective September 8, 1982.

§ 10000. Legislative findings and declarations

The Legislature finds and declares as follows:

(a) A substantial increase has occurred in the number of requests to appropriate water from the various streams and watercourses of this state, especially for the purpose of generating electric energy.

(b) These requests, if approved without due regard for their cumulative effect on streamflows, could adversely affect, to a serious and significant degree, the fish and wildlife resources dependent on those streams and watercourses.

(c) These fish and wildlife resources are important for the entire state and are inextricably linked to the continued economic viability of industries, such as the fishing industry, which are desirable and important components of the state's economy.

HISTORY:
Added Stats 1982 ch 1478 § 1.

§ 10001. Identification list

The Director of Fish and Game shall identify and list those streams and watercourses throughout the state for which minimum flow levels need to be established in order to

assure the continued viability of stream–related fish and wildlife resources. The director shall include in this identification list those streams and watercourses the director determines are significant, along with a statement of findings as to why that stream or watercourse was selected. The identification list required by this section shall rank the streams and watercourses beginning with those where the need for establishing minimum flow levels is the greatest. The director, at his discretion, may revise the list and may add or delete streams or watercourses as circumstances require. The initial identification list required by this section shall be completed no later than January 1, 1984.

HISTORY:
Added Stats 1982 ch 1478 § 1.

§ 10002. Preparation of proposed requirements

The Director of Fish and Game shall prepare proposed streamflow requirements, which shall be specified in terms of cubic feet of water per second, for each stream or watercourse identified pursuant to Section 10001. In developing the requirements for each stream, the director shall consult with the Director of Water Resources, the Director of Parks and Recreation and with all affected local governments. The Director of Fish and Game may also consult with any private individuals, groups, or organizations as the director deems advisable. Upon completion of the proposed streamflow requirements for any individual stream or watercourse, the Director of Fish and Game shall transmit these proposed requirements to the State Water Resources Control Board. The State Water Resources Control Board shall consider these requirements within a stream as set forth in Section 1257.5 of the Water Code. The Director of Fish and Game shall complete the preparation of proposed requirements for the initial streams not later than July 1, 1989.

The Department of Fish and Game may contract for temporary services for purposes of preparing the proposed streamflow requirements.

HISTORY:
Added Stats 1982 ch 1478 § 1. Amended Stats 1985 ch 1259 § 1. See this section as modified in Governor's Reorganization Plan No. 2 § 300 of 2012; Amended Stats 2013 ch 352 § 482 (AB 1317), effective September 26, 2013, operative July 1, 2013.

§ 10003. Revision or modification of requirements

The Director of Fish and Game, on his or her own motion or at the request of the State Water Resources Control Board, may review any streamflow requirement and may propose revision or modification thereof. The proposed revision or modification shall be transmitted to the State Water Resources Control Board.

HISTORY:
Added Stats 1982 ch 1478 § 1. Amended Stats 1985 ch 1259 § 2.

§ 10004. Initiation of studies

The Department of Fish and Game shall initiate studies to develop proposed streamflow requirements for those streams or watercourses in each fiscal year for which funds are appropriated and shall complete studies on each stream or watercourse within three years. It is the intent of the Legislature that the department develop a program that will initiate studies on at least 10 streams or watercourses in each fiscal year.

HISTORY:
Added Stats 1985 ch 1259 § 3.

§ 10005. Filing fee

(a) The Department of Fish and Game shall impose and collect a filing fee of eight hundred fifty dollars ($850) to defray the costs of identifying streams and providing

studies pursuant to Division 10 (commencing with Section 10000) of the Public Resources Code.

(b) The filing fee shall be proportional to the cost incurred by the Department of Fish and Game and shall be annually reviewed and adjustments recommended to the Legislature in an amount necessary to pay the costs of the Department of Fish and Game as specified in subdivision (a).

(c) Any user of water, including a person or entity holding riparian or appropriative rights, shall pay the filing fee to the Department of Fish and Game upon application to the State Water Resources Control Board for any permit, transfer, extension, or change of point of diversion, place of use, or purpose of use, if there is a diversion of water from any waterway where fish reside. No permit, or other entitlement identified in this section is effective until the filing fee is paid. The State Water Resources Control Board shall, every six months, forward all fees collected to the department and provide the location for each entitlement for which a filing fee has been collected.

(d) The fee imposed by this section shall not be imposed on the following applications filed with the State Water Resources Control Board:

(1) Small domestic use registrations and livestock stockpond certificates submitted pursuant to Article 2.7 (commencing with Section 1228) of Chapter 2 of Division 2 of the Water Code.

(2) The first application for an extension of time for an individual permit if no change in point of diversion, place of use, or purpose of use is included in the application.

(3) Water applications which, in the opinion of the Department of Fish and Game, are filed for administrative and technical clarification purposes only.

(4) Water applications or petitions, the primary purpose of which is to benefit fish and wildlife resources. The determination of the benefit to fish and wildlife shall be made, in writing, by the Department of Fish and Game in order to be exempt from the fee.

(e) If an applicant or petitioner files multiple applications or petitions for the same appropriation, transfer, extension, or change, and the State Water Resources Control Board reviews and considers the applications or petitions together, only one filing fee is required for those applications or petitions.

HISTORY:
Added Stats 1990 ch 1706 § 19 (AB 3158). Amended Stats 1992 ch 761 § 2 (AB 3010); Amended Stats 2001 ch 398 § 7 (AB 1671).

§ 30100.2. "Aquaculture"

"Aquaculture" means a form of agriculture as defined in Section 17 of the Fish and Game Code. Aquaculture products are agricultural products, and aquaculture facilities and land uses shall be treated as agricultural facilities and land uses in all planning and permit–issuing decisions governed by this division.

HISTORY:
Added Stats 1982 ch 1486 § 31. Amended Stats 1983 ch 131 § 30, effective June 27, 1983.

§ 30222.5. Protection of oceanfront land suitable for coastal dependent aquaculture

Oceanfront land that is suitable for coastal dependent aquaculture shall be protected for that use, and proposals for aquaculture facilities located on those sites shall be given priority, except over other coastal dependent developments or uses.

HISTORY:
Added Stats 1982 ch 1486 § 32. Amended Stats 2006 ch 538 § 589 (SB 1852), effective January 1, 2007.

§ 30411. Department of Fish and Wildlife; Fish and Game Commission

(a) The Department of Fish and Wildlife and the Fish and Game Commission are the

principal state agencies responsible for the establishment and control of wildlife and fishery management programs and the commission shall not establish or impose any controls with respect thereto that duplicate or exceed regulatory controls established by these agencies pursuant to specific statutory requirements or authorization.

(b) The Department of Fish and Wildlife in consultation with the commission and the Division of Boating and Waterways within the Department of Parks and Recreation, may study degraded wetlands and identify those which can most feasibly be restored in conjunction with development of a boating facility as provided in subdivision (a) of Section 30233. Any study conducted under this subdivision shall include consideration of all of the following:

(1) Whether the wetland is so severely degraded and its natural processes so substantially impaired that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.

(2) Whether a substantial portion of the degraded wetland, but in no event less than 75 percent, can be restored and maintained as a highly productive wetland in conjunction with a boating facilities project.

(3) Whether restoration of the wetland's natural values, including its biological productivity and wildlife habitat features, can most feasibly be achieved and maintained in conjunction with a boating facility or whether there are other feasible ways to achieve these values.

(c) The Legislature finds and declares that salt water or brackish water aquaculture is a coastal-dependent use which should be encouraged to augment food supplies and to further the policies set forth in Chapter 4 (commencing with Section 825) of Division 1. The Department of Fish and Wildlife may identify coastal sites it determines to be appropriate for aquaculture facilities. If the Department of Fish and Wildlife identifies these sites, it shall transmit information identifying the sites to the commission and the relevant local government agency. The commission and, where appropriate, local governments shall, consistent with the coastal planning requirements of this division, provide for as many coastal sites identified by the Department of Fish and Wildlife for any uses that are consistent with the policies of Chapter 3 (commencing with Section 30200).

(d) Any agency of the state owning or managing land in the coastal zone for public purposes shall be an active participant in the selection of suitable sites for aquaculture facilities and shall make the land available for use in aquaculture when feasible and consistent with other policies of this division and other law.

HISTORY:

Added Stats 1976 ch 1330 § 1. Amended Stats 1979 ch 187 § 3, effective June 29, 1979; Stats 1982 ch 1486 § 33; Stats 1983 ch 1300 § 30; Stats 1991 ch 285 § 24 (AB 1270); Stats 1995 ch 810 § 24 (AB 1636); Stats 2006 ch 36 § 9 (SB 201), effective January 1, 2007; Stats 2015 ch 113 § 10 (AB 1528), effective January 1, 2016; Stats 2016 ch 86 § 259 (SB 1171), effective January 1, 2017.

§ 34000. Use of funds

Money deposited in the Bosco–Keene Renewable Resources Investment Fund created by former Section 7150.6 of the Fish and Game Code may be encumbered, pursuant to appropriation by the Legislature, only for the following purposes:

(a) Salmon and steelhead hatchery expansion and fish habitat improvement.

(b) Forest resource improvement projects pursuant to the California Forest Improvement Act of 1978.

(c) Urban forestry projects pursuant to the California Urban Forestry Act of 1978.

(d) Agricultural soil drainage programs which will retard desertification and protect agricultural productivity.

(e) Support of technical assistance programs which will prevent soil erosion.

(f) Agricultural, industrial, and urban water conservation programs.

(g) Wildland fire prevention programs pursuant to the Wildland Fire Protection and Resources Management Act of 1978, Article 1 (commencing with Section 4461) and Article 2 (commencing with Section 4475) of Chapter 7 of Part 2 of Division 4.

(h) Coastal resource enhancement projects pursuant to Chapter 6 (commencing with Section 31251) of Division 21.

(i) Regulation and oversight of surface mining activities pursuant to the Surface Mining and Reclamation Act of 1975 (Chapter 9 (commencing with Section 2710) of Division 2).

HISTORY:
Added Stats 1980 ch 9 § 3, operative July 1, 1980. Amended Stats 1982 ch 1336 § 13; Stats 2003 ch 240 § 25 (AB 1747), effective August 13, 2003.

VEHICLE CODE

§ 38503. Operation of vehicle by person under 18

No person under the age of 18 years, on and after January 1, 1990, shall operate an all-terrain vehicle on public lands of this state unless the person satisfies one of the following conditions:

(a) The person is taking a prescribed safety training course under the direct supervision of a certified all-terrain vehicle safety instructor.

(b) The person is under the direct supervision of an adult who has in their possession an appropriate safety certificate issued by this state, or issued under the authority of another state.

(c) The person has in possession an appropriate safety certificate issued by this state or issued under the authority of another state.

HISTORY:
Added Stats 1987 ch 881 § 37.

§ 38504. Operation of vehicle by person under 14

No person under 14 years of age, on and after January 1, 1990, shall operate an all-terrain vehicle on public lands of this state unless the person satisfies one of the conditions set forth in Section 38503 and, in addition, is accompanied by and under the direct supervision of a parent or guardian or is accompanied by and under the direct supervision of an adult who is authorized by the parent or guardian.

HISTORY:
Added Stats 1987 ch 881 § 37.

§ 38504.1. Parent or guardian liability for granting permission to person under 14 to operate all-terrain vehicle

(a) Neither a parent or guardian of a child who is under 14 years of age, nor an adult who is authorized by the parent or guardian to supervise that child shall grant permission to, or knowingly allow, that child to operate an all-terrain vehicle in a manner that violates Section 38504.

(b) A person convicted of a violation of subdivision (a) is punishable as follows:

(1) For a first conviction, the court shall either impose a fine of one hundred twenty-five dollars ($125) or order the person to take or retake and complete an all-terrain vehicle safety training course pursuant to Section 38501. If ordered to take or retake and complete the safety training course, the person shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.

(2) For a second conviction, a fine of not less than one hundred twenty-five dollars ($125) nor more than two hundred fifty dollars ($250).

(3) For a third or any subsequent conviction, a fine of not less than two hundred fifty dollars ($250) nor more than five hundred dollars ($500).

HISTORY:
Added Stats 2006 ch 195 § 1 (AB 2755), effective January 1, 2007.

§ 38504.2. Mandatory participation in all-terrain vehicle safety training course required for violators

If a person under 14 years of age was not properly supervised or accompanied in accordance with Section 38504, and the parent or guardian of that child or the adult who was authorized by the parent or guardian to supervise or accompany that child is in violation of Section 38504.1, upon a conviction pursuant to Section 38504, the court may order that child to attend and complete the all-terrain vehicle safety training course accompanied by the person who violated Section 38504.1. If so ordered, the child under 14 years of age shall provide the court a copy of the all-terrain vehicles safety certificate issued as a result of that completion.

HISTORY:
Added Stats 2006 ch 195 § 2 (AB 2755), effective January 1, 2007.

§ 38505. Safety helmet requirement

******A*** person, on and after January 1, 1989, shall ***not*** operate, ride, or be otherwise propelled on an all-terrain vehicle on public lands***, as described in Section 38001,*** unless the person wears a safety helmet meeting requirements established for motorcycles and motorized bicycles, pursuant to Section 27802.

HISTORY:
Added Stats 1987 ch 881 § 37. Amended Stats 1988 ch 165 § 2; Stats 2019 ch 469 § 10 (SB 785), effective January 1, 2020.

§ 38506. Carrying of passengers

******An*** operator of an all-terrain vehicle ******shall not*** carry a passenger when operating on public lands***, as described in Section 38001***.

However, the operator of an all-terrain vehicle, that is designed for operation off of the highway by an operator with no more than one passenger, may carry a passenger when operating on public lands***, as described in Section 38001***.

HISTORY:
Added Stats 1987 ch 881 § 37. Amended Stats 2003 ch 252 § 2 (SB 232); Stats 2019 ch 469 § 11 (SB 785), effective January 1, 2020.

WATER CODE

§ 233. Submission of plans or proposal for authorization of project for construction to Legislature; Requisites

No plans or proposal for authorization of a project for construction or operation by the State shall be submitted to the Legislature by the Department of Water Resources unless the plans or proposal includes (1) the comments and recommendations, if any, of the Department of Fish and Game and (2) provision for any water or facilities necessary for public recreation and the preservation and enhancement of fish and wildlife resources that the Department of Water Resources determines to be justifiable in terms of statewide interest, and feasible, as a nonreimbursable cost of the project.

HISTORY:
Added Stats 1959 ch 2047 § 1.

§ 1052. Unauthorized diversion or use a trespass; Action by Attorney General for injunctive relief; Amount of liability; Imposition of civil liability; Remedies as cumulative

(a) The diversion or use of water subject to this division other than as authorized in this division is a trespass.

(b) The Attorney General, upon request of the board, shall institute in the superior court in and for any county where the diversion or use is threatened, is occurring, or has occurred an action for the issuance of injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, or permanent injunction.

(c) Any person or entity committing a trespass as defined in this section may be liable in an amount not to exceed the following:

(1) If the unauthorized diversion or use occurs in a critically dry year immediately preceded by two or more consecutive below normal, dry, or critically dry years or during a period for which the Governor has issued a proclamation of a state of emergency under the California Emergency Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code) based on drought conditions, the sum of the following:

(A) One thousand dollars ($1,000) for each day in which the trespass occurs.

(B) Two thousand five hundred dollars ($2,500) for each acre-foot of water diverted or used in excess of that diverter's water rights.

(2) If the unauthorized diversion or use is not described by paragraph (1), five hundred dollars ($500) for each day in which the unauthorized diversion or use occurs.

(d) Civil liability for a violation of this section may be imposed by the superior court or the board as follows:

(1) The superior court may impose civil liability in an action brought by the Attorney General, upon request of the board, to impose, assess, and recover any sums pursuant to subdivision (c). In determining the appropriate amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the corrective action, if any, taken by the violator.

(2) The board may impose civil liability in accordance with Section 1055.

(e) All funds recovered pursuant to this section shall be deposited in the Water Rights Fund established pursuant to Section 1550.

(f) The remedies prescribed in this section are cumulative and not alternative.

HISTORY:

Enacted Stats 1943 ch 368, effective August 4, 1943. Amended Stats 1957 ch 1932 § 44; Stats 1987 ch 756 § 1; Stats 1991 ch 1098 § 1 (AB 2017); Stats 2003 ch 741 § 81 (SB 1049); Stats 2014 ch 3 § 9 (SB 104), effective March 1, 2014.

§ 1243. Use of water for recreation and fish and wildlife resources

(a) The use of water for recreation and preservation and enhancement of fish and wildlife resources is a beneficial use of water. In determining the amount of water available for appropriation for other beneficial uses, the board shall take into account, when it is in the public interest, the amounts of water required for recreation and the preservation and enhancement of fish and wildlife resources.

(b) The board shall notify the Department of Fish and Wildlife of an application for a permit to appropriate water. The Department of Fish and Wildlife shall recommend the amounts of water, if any, required for the preservation and enhancement of fish and wildlife resources and shall report its findings to the board.

(c) This section does not affect riparian rights.

HISTORY:

Added Stats 1959 ch 2048 § 1. Amended Stats 1967 ch 284 § 7.7, operative December 1, 1967; Stats 1972 ch 360 § 1; Stats 2015 ch 683 § 51 (SB 798), effective January 1, 2016.

§ 1257. Requirement that relative benefit be considered in acting on applications to appropriate water

In acting upon applications to appropriate water, the board shall consider the relative benefit to be derived from (1) all beneficial uses of the water concerned including, but not limited to, use for domestic, irrigation, municipal, industrial, preservation and enhance-

ment of fish and wildlife, recreational, mining and power purposes, and any uses specified to be protected in any relevant water quality control plan, and (2) the reuse or reclamation of the water sought to be appropriated, as proposed by the applicant. The board may subject such appropriations to such terms and conditions as in its judgment will best develop, conserve, and utilize in the public interest, the water sought to be appropriated.

HISTORY:
Added Stats 1955 ch 1015 § 1. Amended Stats 1957 ch 1932 § 74, ch 2082 § 1; Stats 1959 ch 2048 § 2; Stats 1969 ch 482 § 11, operative January 1, 1970, ch 1359 § 2, operative January 1, 1970; Stats 1970 ch 157 § 1.

§ 10600. Legislative findings and declarations

The Legislature hereby finds and declares that there is an increasing conflict between water development projects and instream beneficial uses such as rafting, swimming, and fishing on the South Fork of the American River between Chili Bar Reservoir and the Salmon Falls Bridge. The Legislature further finds and declares that the state should make reasonable efforts to find solutions to this conflict which will satisfy local water needs while continuing instream beneficial uses.

HISTORY:
Added Stats 1982 ch 1472 § 1.

§ 10601. Cooperative studies to determine alternative solution to meet water needs and preserve instream uses

Where a potentially economically viable water supply development on the South Fork of the American River between Chili Bar Reservoir and the Salmon Falls Bridge which will meet local water needs would eliminate or substantially impair significant instream beneficial uses of water, the department may undertake cooperative studies with equal state–local cost sharing to determine whether there is an alternative solution which will meet the local water needs from a different source or location and which will preserve most or all of the instream beneficial uses on that part of the south fork.

HISTORY:
Added Stats 1982 ch 1472 § 1.

§ 10602. Recommendations to Legislature for financial assistance

The department, with regard to the South Fork of the American River between Chili Bar Reservoir and the Salmon Falls Bridge, may recommend to the Legislature that state financial assistance be provided (1) where it is necessary to make the alternative solution financially attractive to the local area compared to the development which would eliminate or substantially impair the significant instream beneficial uses, and (2) where the value of the instream beneficial uses that would be preserved are greater than the proposed state financial assistance.

HISTORY:
Added Stats 1982 ch 1472 § 1.

§ 10603. Consideration as to need for hydroelectric energy

In undertaking studies pursuant to this part, the department shall take into consideration the potential necessity to produce hydroelectric energy to pay for future water supplies.

HISTORY:
Added Stats 1982 ch 1472 § 1.

§ 10604. Required cooperative studies

The department shall undertake cooperative studies pursuant to this part for the following:

(a) The Georgetown Divide Public Utility District and the South Fork of the American River between Chili Bar Reservoir and Salmon Falls Bridge.

HISTORY:
Added Stats 1982 ch 1472 § 1.

§ 10605. Subsequent permit or license; Consideration as to preservation of instream uses

Where the state provides financial assistance to implement or assist in the implementation of an alternative solution, the State Water Resources Control Board, in considering a subsequent permit or license to be issued for a project on the stretch of river where the preserved instream beneficial uses occur, shall give great weight to the preservation of the instream beneficial uses preserved as a result of the state financial assistance.

HISTORY:
Added Stats 1982 ch 1472 § 1.

§ 10606. Reduction of instream uses; Repayment of state assistance as condition for issuance of subsequent permit or license

If the instream beneficial uses on the South Fork of the American River between Chili Bar Reservoir and the Salmon Falls Bridge preserved by the state financial assistance will be reduced by a subsequent permit or license issued for a project on the stretch of river where the preserved instream beneficial uses occur, the board shall require as a condition of issuance of the permit or license that the recipient repay the amount of the state assistance, or proportionate amounts thereof as determined by the board, including interest at the rate earned by the Pooled Money Investment Account to the fund from which the financial assistance was appropriated.

HISTORY:
Added Stats 1982 ch 1472 § 1.

§ 10607. Uniqueness of circumstances; Part not to be considered precedent

The Legislature finds and declares that the circumstances which resulted in the enactment of this part are unique and therefore this part shall not be considered a precedent.

HISTORY:
Added Stats 1982 ch 1472 § 1.

OTHER MISCELLANEOUS LAWS RELATING TO THE FISH AND GAME CODE (NOT INCLUDED IN THIS BOOK)

Boat Registration

Harbors and Navigation Code, commencing with Section 650.

Mineral Leases:

Public Resources Code, Sections 6991 and 6996.

Mining Pollution:

Public Resources Code, commencing with Section 3960.

Operation, Equipment, and Registration of Vessels:

Harbors and Navigation Code, commencing with Section 650.

Pyrotechnics:
Health & Safety Code, commencing with Section 12500.

Water Pollution:
Water Code, Section 13000 et seq.

SELECTED FEDERAL LAWS AND TREATIES RELATING TO SPORT FISH AND WILDLIFE

The acts listed here with brief descriptions of their provisions are to provide a ready reference to the federal conservation laws most commonly associated with the protection and management of wild mammals, birds, fishes, amphibians, and reptiles.

Many of the provisions described below are found in the United States Code, Title 16-Conservation.

For more detailed information, call your nearest U.S. Fish and Wildlife Service office.

Act of September 2,1964, as amended (16 U.S.C.695k et seq.)

This act stabilizes the ownership of lands within the Klamath Federal Reclamation Project, California-Oregon, and provides a permanent basis for the administration and management of the project and of the Tule Lake, Upper Klamath, Lower Klamath, and Clear Lake National Wildlife Refuges, to preserve waterfowl habitat in a vital area of the Pacific Flyway. The act dedicates lands within the executive order boundaries of the refuges to wildlife conservation and provides for their administration for the major purpose of waterfowl management with full consideration of optimum agricultural use consistent therewith; rounds out refuges by addition of tracts of public lands; continues the leasing of agricultural lands; and provides for distribution of net-lease revenues among local counties and the Reclamation Fund.

Airborne Hunting Act (1971), as amended (16 U.S.C.742j-1)

Prohibits the shooting or harassing of wildlife from any aircraft. The regulations to administer the act are found in 50 CFR 19.

Anadromous Fish Conservation Act (1965), as amended (16 U.S.C. 757a et seq.; Supp. 1, 1965)

This law authorizes the Secretary of the Interior to cooperate with the states in conserving, developing, and enhancing the nation's anadromous fish (such as salmon, shad, steelhead trout, and striped bass), and fish in the Great Lakes that ascend streams to spawn. The act authorizes research and investigations and construction and maintenance of fish hatcheries and of structures to improve feeding and spawning conditions and to facilitate the free migration of fish. These measures are cost-shared with the states and with other nonfederal interests. The program under this act is administered jointly by the Bureau of Sport Fisheries and Wildlife and the Bureau of Commercial Fisheries.

Bald Eagle Protection Act (1940), as amended (16 U.S.C.668 et seq.)

Provides for protection of the bald eagle (the National Emblem) and the golden eagle. Regulations adopted pursuant to this Act are in Part 22 Title 50, Code of Federal Regulations (50 CFR 22).

Colorado River Storage Project Act (1956), as amended (43 U.S.C. 620 et seq.)

Section 8 of this act authorizes and directs the Secretary of the Interior, in connection with the Colorado River Storage project and participating projects, to investigate, plan, construct, and operate facilities to mitigate losses of, and improve conditions for, fish and wildlife. Provides authority to acquire lands and to lease or convey lands and facilities to state and other agencies.

Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (1916) (39 Stat. 1702)

This treaty adopted a uniform system of protection for certain species of birds which migrate between the United States and Canada, in order to assure the preservation of species either harmless or beneficial to man; sets certain dates for closed seasons on migratory game birds; prohibits hunting insectivorous birds; allows killing of birds, under permit, when injurious to agriculture; and provides for enactment of laws to implement the treaty.

FEDERAL LAWS AND TREATIES

Convention Between the United States of America and the United Mexican States for the Protection of Migratory Birds and Game Mammals (1936) (50 Stat.1311)

This treaty adopted a system for the protection of certain migratory birds in the United States and Mexico; allows, under regulation, the rational use of certain migratory birds; provides for enactment of laws and regulations to protect birds by establishment of closed seasons and refuge zones; prohibits killing of insectivorous birds, except under permit when harmful to agriculture; provides for enactment of regulations on transportation of game mammals across United States-Mexico border.

Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)

This act establishes a national and international program for the protection and recovery of plant and animal species considered to be in danger of extinction. Authorizes the Secretaries of Interior and Commerce to designate those species which are endangered and delineate specific habitat areas deemed critical to their survival and recovery. Instructs the Secretaries to draw up written plans outlining the necessary steps required to bring about recovery and eventual de-listing of species including acquisition of important habitat lands. Provides for financial assistance with cooperating States to conduct research and carry out management to further the recovery of resident endangered species. Charges each Federal agency with the responsibility to insure that its actions do not jeopardize the existence of listed species. Implements U.S. participation in the Convention on International Trade in Endangered Species of Wild Fauna and Flora and authorizes other agreements with foreign countries as necessary. Designates prohibited acts, establishes penalties and provides for a permit program to authorize exceptions to the Act. The regulation to administer the act appears in 50 CFR 17.

Endangered Species Convention is implemented by 50 CFR 23 and in general lists certain species in appendices and provides for issuance of convention permits and certificates.

Estuary Protection Act (Act of August 3, 1968), as amended (16 U.S.C. 1221 et seq.; Supp. 1V, 1968)

This 1968 law expresses congressional policy on values of estuaries and need to conserve their natural resources. Authorizes the Secretary of the Interior, in cooperation with other federal agencies and the states, to study and inventory estuaries of the United States, including land and water of the Great Lakes. The secretary shall consider, among other matters, (1) the wildlife and recreation potential of estuaries, their ecology, their value to the marine, anadromous, and shell fisheries, and their esthetic value, (2) their importance to navigation and flood control and their mineral value, and (3) their value for more intensive economic development. Authorizes Interior to administer nonfederal estuaries under agreements and to cost-share developments with state or local agencies.

Federal Aid in Fish Restoration Act (1950), as amended (16 U.S.C. 777 et seq.)

This act, also known as the Dingell-Johnson Act, provides federal aid to the states in sport fish restoration work. Funds from an excise tax on certain items of sport fishing tackle are provided to states for land acquisition, research, development, and management.

Federal Aid in Wildlife Restoration Act (1937), as amended (16 U.S.C. 669 et seq.)

This act, also known as the Pittman-Robertson Act, provides federal aid to the states for wildlife restoration work. Funds from an excise tax on sporting arms and ammunition are provided to states on a matching basis for land acquisition, research, development, and management projects.

Federal Magistrates Act (1968), as amended (28 U.S.C. 631 et seq.; Supp. IV, 1965-1968)

This 1968 act substituted a United States magistrate system for the previous United States commissioner system. Magistrates have trial jurisdiction over minor offenses

committed on federal lands and offenses committed off such lands. (**Note**: this statute gives United States magistrates jurisdiction to try cases arising under the Migratory Bird Treaty Act, the Duck Stamp Act, the Black Bass Act, etc., and jurisdiction to try and sentence persons committing minor offenses on all areas of the National Wildlife Refuge System and the National Fish Hatchery System.)

Federal Water Project Recreation Act (1965), as amended (16 U.S.C. 460l-12 et seq.; Supp. 1, 1965)

This law declares the intent of Congress that recreation and fish and wildlife enhancement shall be fully considered purposes of federal water-development projects if nonfederal public bodies agree to (1) bear not less than half of the separable costs allocated to these purposes, (2) administer project land and water areas devoted to the purposes, and (3) bear all costs of operation, maintenance, and replacement. Where federal lands or authorized federal programs for fish and wildlife conservation are involved, the cost-sharing requirements are expected. This act provides for expenditure of federal water project funds for land acquisition needed to establish enhancement refuges for migratory waterfowl when recommended by the Secretary of the Interior, and authorizes the secretary to provide facilities for outdoor recreation and fish and wildlife at all reservoirs under his control except those within national wildlife refuges.

Fish and Wildlife Coordination Act (1934), as amended (16 U.S.C. 661 et seq.)

Authorizes assistance to federal, state, and other agencies in development, protection, rearing, and stocking of fish and wildlife and controlling losses thereof Authorizes surveys of fish and wildlife of all federal lands and on effects of pollution. Authorizes surveys to prevent losses of, and to enhance, fish and wildlife at water use projects constructed or licensed by the federal government. Authorizes incorporation of conservation measures at federal water projects and use of project lands by Bureau of Sport Fisheries and Wildlife or state wildlife agencies. Authorizes federal water-resource agencies to acquire lands in connection with water-use projects specifically for the conservation and enhancement of fish and wildlife.

Fur Seal Act of 1966, as amended (16 U.S.C. 1151 et seq.; Supp. 11, 1965-66)

Repeals Fur Seal Act of 1944. Continues responsibility of Secretary of the Interior for conservation and harvesting of North Pacific fur seals and for administration of the Pribilof Islands reservation for various purposes, including conservation of fur seals and other wildlife. Provides protection for sea otters on the high seas. Authorizes contract for research on fur seals and sea otters with persons and agencies. Provides for payment to the State of Alaska, pursuant to the Alaska Statehood Act, of 70 percent of net proceeds from sales of fur seal skins taken in harvest programs. Provides for payments to Alaska of 70 percent of net proceeds from sea otters taken by the Secretary on the high seas or within the Aleutian Islands National Wildlife Refuge. Provisions of this act relating to fur seals and the Pribilof Islands are administered by the Bureau of Commercial Fisheries.

Lacey Act of 1900, as amended (18 U.S.C. 42)

Regulates the importation and transportation of wildlife and authorizes collection and publication of information on wild birds. Regulations adopted pursuant to this Act are found in Title 50, Code of Federal Regulations (50 CFR 11-14).

Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 et seq.)

This law (approved in 1964) creates a special Land and Water Conservation Fund derived from various types of revenue. Authorizes Bureau of Sport Fisheries and Wildlife and other federal agencies (up to March 31, 1970) to collect entrance and user fees at their installations where outdoor recreation facilities meet certain qualifications. Authorizes appropriations from the fund for matching grants to states for outdoor recreation projects, and appropriations for acquisition of (1) recreation lands adjacent to national wildlife refuges and national fish hatcheries, (2) any national area authorized for the

preservation of fish and wildlife threatened with extinction, (3) inholdings in the national forest system, and (4) inholdings within the national park system and future outdoor recreation areas. A 1968 amendment expanded the fund to authorize appropriations and other revenues to make the income of the fund not less than $200 million a year for five years.

Lea Act (Act of May 18, 1948), as amended (16 U.S.C.695 et seq.)

This 1948 law authorizes the acquisition and development of management areas in California for waterfowl and other wildlife.

Marine Mammal Protection Act (1972), as amended (16 U.S.C. 1361 et seq.)

Generally prohibits taking and importation of marine mammals. Regulated by the U.S. Fish and Wildlife Service and National Marine Fisheries Service. The jurisdiction and administration of those portions under the Fish and Wildlife Service are found in 50 CFR 18. The jurisdiction and administration of those parts by the National Marine Fisheries Service are found under 50 CFR 216.

Migratory Bird Conservation Act of 1929, as amended (16 U.S.C. 715 et seq.)

Authorizes acquisition, development, and maintenance of migratory bird refuges, cooperation with other agencies in conservation; and investigations and publications on North American birds.

Migratory Bird Hunting and Conservation Stamp Act (1934), as amended (16 U.S.C. 718a et seq.)

This act, also known as the Duck Stamp Act, requires waterfowl hunters 16 years of age or older to possess duck stamps; authorizes acquisition of waterfowl production areas and use of duck stamp net revenue (1) to acquire such areas and (2) to acquire migratory bird refuges under provisions of the Migratory Bird Conservation Act.

Migratory Bird Treaty Act (1918, 1936, 1972, 1974, 1976), as amended (16 U.S.C. 703 et seq.)

Implements treaties with Great Britain (for Canada) Mexico, Japan, and Union of Soviet Socialist Republics for protection of migratory birds whose welfare is a federal responsibility; provides for regulations to control taking, selling, transporting, and importing migratory birds and provides penalties for violations. Regulations adopted pursuant to this Act, are found in Parts 10-26 of Title 50, Code of Federal Regulations. (50 CFR 10-26).

National Wildlife Refuge System Administration Act (1966) as amended (16 U.S.C. 668dd et seq.) (50 CFR 12, 25-28, 32, 33, 36)

Establishes regulation on National Wildlife Refuges.

Tariff Act of 1930, as amended (19 U.S.C. 1202, schedule 1; and Sec. 1527)

Imposes import duties on certain wild birds and on bird feathers and skins; prohibits importation of wild mammals or birds or parts or products thereof in violation of laws or regulations of the country from which exported.

Tariff Classification Act (Feather Import) (1962), as amended (19 U.S.C. 1202 Schedule 1, Part 15D Headnote 2(d))

Tariff schedules of the United States. The Fish and Wildlife Regulations to implement portions of this act are found in 50 CFR 15.

Wetlands Loan Extension Act of 1976, as amended (16 U.S.C. 715k-3 et seq.)

Authorizes the appropriation of $200 million over a 15-year period to speed up the bureau's land acquisition program for waterfowl. Appropriated moneys are merged with "duck stamp" funds. Advances are to be repaid to the Treasury beginning in fiscal year 1977.

Civil Procedures

Civil procedures in addition to or in lieu of criminal procedures may be undertaken.

These procedures are explained in 50 CFR 11. Civil Procedures may only be used for violations of Lacey Act, Bald Eagle Protection Act, Endangered Species Act and the Marine Mammal Protection Act.

General Permit Procedures (50 CFR 13). Provides uniform rules and procedures for application and administration of permits issued by the Fish and Wildlife Service.

NATIONAL PARKS, NATIONAL MONUMENTS, NATIONAL RECREATION AREAS AND NATIONAL SEASHORES ON WHICH WILDLIFE IS PROTECTED

Administered by the National Park Service, Department of the Interior

Cabrillo National Monument. (Established by Proclamation in 1913.)

Channel Islands National Monument. (Established by Proclamation in 1938.)

Death Valley National Monument. (Established by Proclamation in 1933.) This area lies in California and Nevada.

Devils Postpile National Monument. (Established by Proclamation in 1911.)

Golden Gate National Recreation Area. (Established by Congress, 1972.)

Joshua Tree National Monument. (Established by Proclamation in 1936.)

Lassen Volcanic National Park. (Created by Act of Congress, 1916; enlarged by Act of 1928.)-Includes Mt. Lassen, altitude 10,460 feet, and Cinder Cone, 6,907 feet. Inhabited by deer, bears, fur bearing animals, grouse, and quail. Area of the park: 104,527 acres.

Lava Reds National Monument. (Established by Proclamation in 1925)

Muir Woods National Monument. (Created by Proclamation of the President, 1908.) One of the most noted redwood groves in California. Located seven miles from San Francisco. A resort for deer and nongame birds. Area of the grove: 424 acres.

Pinnacles National Park. (Pinnacles National Monument established by Proclamation of the President, 1908; and created a State game preserve in 1909; Pinnacles National Park Created by Act of Congress, 2013.) Located in San Benito County, California; 12 miles from Soledad, and 35 miles from Hollister. Includes many spire-like rock formations, 600 to 1,000 feet high. Aside from its geological and scenic interest, it is important as one of the last strongholds and breeding places of the California condor, the largest and one of the most characteristic birds of the State, and a peculiar form of blacktailed deer. Area of the park: 26,606 acres.

Point Reyes National Seashore. (Created by Act of Congress, 1962.) This peninsula near San Francisco is noted for its long beaches backed by tall cliffs, lagoons and esteros, forested ridges, and offshore bird and sea lion colonies. Part of the area remains a private pastoral zone. Area of the peninsula: 67,265 acres.

Redwood National Park. (Created by Act of Congress, 1968.) Located in northwestern California near Crescent City. Coastal redwood forests with virgin groves of ancient trees, including the world's tallest, live in a mixture of sun and fog. The park includes 40 miles of scenic Pacific coastline. Area of the park: 109,027 acres.

Santa Monica Mountains National Recreation Area. (Established by Congress, 1978.)

Sequoia and Kings Canyon National Park. (Sequoia section created by Act of Congress in 1890 and the Kings Canyon section created by Act of Congress in 1940.)-Contains great numbers of Sequoia trees, some of which are from 25 to 30 feet in diameter and many over 10 feet. Located on the western slopes of the Sierra Nevada in Fresno and Tulare Counties. Includes Mount Whitney, the highest peak in continental United States. Area of the park: 841,158 acres, including 2,536 acres of the former General Grant National Park. Frequented by fur bearing mammals, deer, bear, grouse and quail.

Yosemite National Park. (Created by Act of Congress, 1905.) Located in middle eastern California, west of the crest of the Sierra Nevada. Includes Yosemite Valley, of world-famed beauty, lofty cliffs, many waterfalls of extraordinary height, three groves of big trees, the headwaters of the Tuolumne and Merced rivers, innumerable lakes, deep ice-sculptured canyons. Area of the park: 760,949 acres. Frequented by deer, bears, grouse, fur bearing animals, and quail.

FEDERAL LAWS AND TREATIES

Under Coast Guard, Department of the Navy

Ano Nuevo Island. (Established by Executive Order in 1872.) A lighthouse reservation on which wildlife is protected.

South Farallon Island. (Established by Executive Orders in 1859 and 1881.) A lighthouse reservation on which wildlife is protected. About 30 miles west of the Golden Gate. Includes nesting colonies of Cassin's auklets, pigeon guillemots, California murres, cormorants, Western gulls, petrels, and tufted puffins. Area of the island: 120 acres.

NATIONAL FORESTS IN CALIFORNIA

Government Land administered by the Forest Service, Department of Agriculture includes 18 areas, total 19,471,742 acres in California, with headquarters in Appraisers Bldg., San Francisco. Names of Forests and their headquarters are:

Angeles	Pasadena	Modoc	Alturas
Cleveland	San Diego	Plumas	Quincy
Eldorado	Placerville	San Bernardino	San Bernardino
Inyo	Bishop	Sequoia	Porterville
Klamath	Yreka	Shasta-Trinity	Redding
Lake Tahoe	South Lake Tahoe	Sierra	Fresno
Lassen	Susanville	Six Rivers	Eureka
Los Padres	Goleta	Stanislaus	Sonora
Mendocino	Willows	Tahoe	Nevada City

Before entering our National Forests ascertain if any portions are closed.

CALIFORNIA FISH AND GAME COMMISSION POLICIES

Policies adopted as of December 31, 2019

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FISH AND GAME COMMISSION POLICIES

COMMISSION

CODE OF CONDUCT

It is the policy of the Fish and Game Commission that:

I. A commissioner shall faithfully discharge the duties, responsibilities, and quasi-judicial actions of the commission.

II. A commissioner shall conduct his or her affairs in the public's best interest, following principles of fundamental fairness and due process of law.

III. A commissioner shall conduct his or her affairs in an open, objective, and impartial manner, free of undue influence and the abuse of power and authority.

IV. A commissioner understands that California's wildlife and natural resources programs require public awareness, understanding, and support of, and participation and confidence in, the commission and its practices and procedures.

V. A commissioner shall preserve the public's welfare and the integrity of the commission, and act to maintain the public's trust in the commission and the implementation of its regulations and policies.

VI. A commissioner shall not conduct himself or herself in a manner that reflects discredit upon state laws or policies, regulations, and principles of the commission.

VII. A commissioner shall not make, participate in making, or in any other way attempt to use his or her official position to influence a commission decision in which the member has a financial interest.

(Amended: 03/06/13)

COMMISSION AGENDA [REPEALED]

(Amended: 12/04/92, 05/23/12; Repealed 05/23/13)

COMMISSION OFFICE STAFFING NEEDS [REPEALED]

(Adopted: 12/04/92; Amended: 02/01/2007; Repealed 05/23/2013)

CRITERIA FOR CONSIDERING APPEALS OF PERMANENT REVOCATIONS OF A SPORT OR COMMERCIAL LICENSE OR PERMIT [REPEALED]

(Adopted: 10/03/96; Amended: 02/02/2006, 02/01/2007; Repealed 05/23/13)

IMPLEMENTATION AND REVIEW OF POLICIES

It is the policy of the Fish and Game Commission that:

The Fish and Game Commission shall regularly review implementation by the Department of Commission policy. To assist in this review, the Department shall, upon request by to the Commission, report on the subject of departmental adherence to specified Commission policies, and any administrative problems posing a need for modifying, repealing or adding Commission policies.

In addition, the Department shall report annually to the Commission on its programs and shall keep the Commission apprised of its activities through the presentation of informational items at the Commission meetings. Such reports shall include any significant anticipated changes in its programs for the forthcoming year and any limitation of financial or staffing resources which have hindered or may hinder the implementation of programs which are mandated by Commission policies.

The Department shall also report on its review of the following four elements: budget, legislation, environmental mitigation, and Department controlled lands.

I. Budget: The Commission shall receive an annual written and oral presentation by the Department at its early August meeting. The Department's report shall include, but not be limited to, the following: (1) proposed changes in personnel allocation and programmatic emphasis and shall evaluate impacts of proposals on policy implementation;

(2) projected revenue shortfalls which may inhibit policy implementation; (3) revenue surpluses or deficits in relation to major expenditure categories; and (4) 10 year trends in relation to: (a) population, (b) inflation, (c) license sales, and (d) other income. At periodic Commission Budget Subcommittee meetings, the Department shall report on major programmatic budgeted and actual expenditures as well as any other budget information the Commission believes is important in fulfilling its role as an oversight body.

II. Legislation: The Department shall report to the Commission on adherence to its policy on legislation. In addition, the Department shall provide an informational item at each Commission meeting regarding its proposed legislation or any legislation affecting the Department or the Commission and its position on the legislation.

III. Environmental Review: The Commission shall receive written departmental reports regarding major proposed land, water and marine projects which may have a significant impact on fish or wildlife habitat or environmentally sensitive habitat. Said reports shall include departmental evaluation of potential impacts, recommendation for project mitigation or opposition, and consistency of recommendations with Commission policy.

IV. Department Controlled Lands: The Commission shall receive a list of lands controlled by the Department along with the specific location, a map and a general description of the lands, the use of any revenue derived from the lease or use of said lands, the lessee or lessor, the expiration date of such leases, and any significant conflicts or impacts the use of the lands may have on wildlife. The Department, through the surname process, shall keep the Commission's Executive Director informed of any modifications of this information, and amendments to any existing leases.

The Commission shall review all information and recommendations for policy consistency. The Commission may delegate initial review of the above information to Commission staff.

(Adopted: 12/04/92; Amended: 06/07/07)

LEGISLATION

It is the policy of the Fish and Game Commission that:

The Department shall inform the Commission of legislation it proposes to sponsor (introduce). The Commission shall receive monthly written and oral reports from the Department summarizing the status of legislation affecting fish and wildlife resources or Department/Commission responsibilities, along with the Department's official position on such legislation, if any. The report shall include departmental analysis of consistency of each bill with Commission policy and with the Department's and Commission's Mission Statements.

Any public request for Commission to take a position on proposed legislation shall first be considered by one of the Commission subcommittees. Upon approval by simple majority of a subcommittee, the subcommittee, Commissioner assigned to the subcommittee, or a Commission staff representative shall bring the request to the Commission for action at a Commission meeting.

Under extraordinary circumstances and at the discretion of the Commission President, proposed legislation may be placed on the agenda for consideration of a position or other action by the Commission. Also, by a majority vote the Commission may direct staff to place proposed legislation on the agenda for possible action at a future meeting. A Commissioner, making clear that he or she is not representing the entire Commission in any official capacity, may support or oppose legislation apart from the Commission.

(Amended: 12/04/92, 11/17/11)

RETENTION OF COMMISSION RECORDS

It is the policy of the Fish and Game Commission that:

I. The Commission's regulatory rulemaking files shall be retained on file in the Commission office or the State Archives for public and judicial review pursuant to Section 11347.3(e) and (f) of the Government Code.

II. The Commission's nonregulatory files and records not addressed specifically in Section 1600 of the State Administrative Manual shall be retained on file in the Commission office for a period of three calendar years, and thereafter shall be destroyed unless it is determined by the Executive Director that such documents are of historical or reference value.

(Amended: 02/04/93; 08/01/2003)

WILDLIFE PROSECUTOR OF THE YEAR POLICY

It is the policy of the Fish and Game Commission to honor a courtroom champion of California's fish, wildlife and natural resources, a person who tirelessly prosecutes fish, wildlife, natural resource and environmental crimes in California courts. The Commission will recognize this prosecutor through an annual Wildlife Prosecutor of the Year Award.

Eligibility

Any currently seated prosecuting attorney, including, but not limited to, city attorney, ~~D~~district ~~A~~attorney or ~~D~~deputy ~~District A~~attorney general, is eligible for nomination and the contribution(s) must have occurred during the previous three years.

Nominations

Based on input from wildlife officers and their experiences in the field, the California Department of Fish and Wildlife's ~~D~~deputy ~~D~~director and chief, Law Enforcement Division, may submit up to four nominations. ~~Of the four nominations, no more than one may be from each Department law enforcement district.~~ The nominations must be submitted to a selection committee (identified below) no later than March 15.

Selection Criteria

The award recognizes one attorney who exhibits one or more of the following:

(1) exceptional skill and an outstanding commitment to protecting California's fish, wildlife and natural resources;

(2) superior performance in prosecuting wildlife, natural resource and environmental crimes;

(3) relentless pursuit of justice for the most egregious violators and keen ability to prosecute complex, controversial or landmark cases; or

(4) exemplary work promoting and maintaining a collaborative working relationship with wildlife officers in pursuit of conserving our natural resources.

Selection Committee

The selection committee will consist of the ~~P~~president and the ~~E~~executive ~~D~~director of the Commission, and the Department of Fish and Wildlife's ~~D~~director and ~~D~~deputy ~~D~~director, Law Enforcement Division.

Award Announcement

The award will be announced at the Commission's meeting in June, and presented to the recipient during ~~the California District Attorney Association's annual summer conference~~ a future event agreed upon by the selection committee where the prosecutor can be recognized for his or her efforts. The Commission will distribute a news release announcing the prosecutor of the year and showcasing the exemplary work and contributions to protecting California's fish and wildlife resources.

(Adopted: 06/22/2016; Amended: 08/07/2019)

FISHERIES

ANADROMOUS RAINBOW TROUT

It is the policy of the Fish and Game Commission that:

I. Anadromous rainbow trout, commonly called steelhead, shall be managed to protect and maintain the populations and genetic integrity of all identifiable stocks. Naturally spawned anadromous rainbow trout shall provide the foundation of the Department's management program.

II. Anadromous rainbow trout populations shall be periodically inventoried by the Department, or its agents, as necessary for management and protection of the anadromous rainbow trout stocks and their habitat, as outlined in this policy.

III. Anadromous rainbow trout streams shall be inventoried for quantity and quality of habitat, including stream flow conditions. Restoration and acquisition plans shall be developed and implemented to safeguard such critical habitats as estuaries, coastal lagoons, and spawning and rearing areas, and to protect or guarantee future instream flows. Steelhead Fishing Report - Restoration Card Program and other funding may be directed to implement the plans;

IV. Existing anadromous rainbow trout habitat shall not be diminished further without offsetting mitigation of equal or greater long-term habitat benefits. All available steps shall be taken to prevent loss of habitat, and the Department shall oppose any development or project that will result in irreplaceable losses. Artificial production shall not be considered appropriate mitigation for loss of wild fish or their habitat.

V. The Department shall strive to improve habitat conditions, alleviate threats, and renegotiate mitigation requirements at appropriate opportunities to eliminate the need for fish rescue operations. Anadromous rainbow trout rescue will not be considered as mitigation for proposed water development. Only under the following circumstances shall anadromous rainbow trout be rescued:

A. When they will be returned to the stream system of origin; and

B. When fish can be held until habitat conditions in the place where they were collected improve, or when fish can be immediately released in nearby areas of the same stream and the Department has determined that no adverse impacts would occur to existing salmonid populations: and

C. When, in the opinion of the Department, habitat conditions are temporarily inadequate or when conducted pursuant to a permitted in-stream construction or restoration activity.

VI. Sport fishing for anadromous rainbow trout shall be encouraged where the Department has determined that angling will not harm existing wild populations. Angling of juveniles shall only be permitted where such angling does not impair adequate returns of adults for sport fishing and spawning. Special angling regulations for naturally spawned anadromous rainbow trout may be necessary when a fishery includes both naturally spawned and hatchery stocks. These regulations shall be consistent with restoration and recovery goals.

VII. Domesticated or non-native fish species will not be planted, or fisheries based on them will not be developed or maintained, in drainages of anadromous rainbow trout waters, where, in the opinion of the Department, they may adversely affect native anadromous rainbow trout populations by competing with, preying upon, or hybridizing with them. Exceptions to this policy may be made for stocking drainages that are not part of an anadromous rainbow trout restoration or recovery program.

VIII. The Department will continue marking all hatchery anadromous rainbow trout and selective harvest of marked fish will be allowed only where the Department has determined that the harvest will not impair the viability of the population.

IX. The Department will continue to investigate stocking of sterile rainbow trout in waters within anadromous rainbow trout drainages, where the Department has determined that stocking reproductively viable rainbow trout may have an adverse effect on the genetic integrity of the anadromous rainbow trout populations. Stocking of sterile rainbow trout in anadromous rainbow trout drainages will not be conducted if the Department determines there may be an adverse affect to existing wild anadromous rainbow trout populations.

X. In streams without Department hatcheries, artificial rearing shall be limited to areas where the Department determines it would be beneficial to supplement natural production to re-establish or enhance the depleted wild population. New programs that propose to propagate state- or federally- listed anadromous rainbow trout shall conform to the Department's guidelines for establishment and operation of recovery hatcheries found in the Recovery Strategy for California Coho Salmon, Appendix H.

Xl. The best available scientific information will be used by the Department to assess the anadromous rainbow trout resource and to develop management strategies and recommendations.

(Amended: 06/18/93; 05/09/08)

COMMERCIAL USE OF NATIVE REPTILES

It is the policy of the Fish and Game Commission that:

Proper management of the State's wild reptile resources for commercial use is a challenge due to the relative lack of information about the biology of many California reptiles. Even those species generally thought to be common are often inadequately studied and understood with regard to population abundance, distribution, effects of habitat loss, and basic life history parameters. Given the paucity of data available about the status of some species of reptiles in general, and the impacts of commercial use specifically, requests to add species to Section 43, Title 14, CCR, will be carefully evaluated on an individual basis.

A person who wishes to add or remove a species to the list of reptiles that may be captively bred and sold, must provide information adequate to meet the requirements of Title 14, Article 2.5 (Certified Regulatory Program for Adoption of Regulations), Section 777.8 (b) through (d). The following types of information must accompany the request to the Commission:

1) A review of scientific literature documenting the status of the species in California, Status of a species includes range and distribution, demographic data, taxonomy, life history, and existing or potential threats to the species persistence.

2) Analysis of the effects of broodstock collection methods on wild populations.

3) Analysis of the effects on wild reptile populations of released or escaped reptiles bred under this program.

4) Evaluation of the commercial market for the proposed species.

The information will be reviewed by Department of Fish and Game staff and peer-reviewed by independent professional herpetologists. After peer review, the Department will forward all information to the Commission.

(Adopted: 02/06/03; Amended: 09/30/05)

COMMISSION DESIGNATED WILD TROUT WATERS

It is the policy of the Fish and Game Commission to:

I. Designate certain state waters to be managed exclusively for wild trout. Commission designated wild trout waters should provide a quality experience by providing the angler with an opportunity to fish in aesthetically pleasing and environmentally productive waters with trout populations whose numbers or sizes are largely unaffected by the angling process.

Waters designated by the Commission for wild trout management shall meet the following criteria:

A. Angler Access

1. Open for public angling with unrestricted access when of sufficient dimensions to accommodate anglers without overcrowding.

or

2. Open for public angling with controlled access under a plan approved by the Commission setting forth the number of anglers and the method of distribution.

B. Able to support, with appropriate angling regulations, wild trout populations of sufficient magnitude to provide satisfactory trout catches in terms of number or size of fish.

II. Wild trout waters shall be managed in accordance with the following stipulations:

A. Domestic strains of catchable-sized trout shall not be planted in designated wild trout waters.

B. Hatchery-produced trout of suitable wild and semi-wild strains may be planted in designated waters, but only if necessary to supplement natural trout reproduction.

C. Habitat protection is of utmost importance for maintenance of wild trout populations. All necessary actions, consistent with State law, shall be taken to prevent adverse impact by land or water development projects affecting designated wild trout waters.

II. The Department shall prepare and periodically update a management plan for each water designated as a wild trout water.

IV. Certain designated wild trout waters may be further designated by the Commission as "Heritage Trout Waters", to recognize the beauty, diversity, historical significance, and special values of California's native trout. Heritage Trout Waters shall meet the following additional criteria:

A. Only waters supporting populations that best exemplify indigenous strains of native trout within their historic drainages may qualify for designation.

B. Heritage Trout Waters shall be able to provide anglers with the opportunity to catch native trout consistent with the conservation of the native trout present.

V. Recognizing the importance of native trout to California's natural heritage, the Department shall emphasize education and outreach efforts to inform the public about our native trout, their habitats, and the activities for restoration of native trout when implementing the Heritage Trout Program.

A. Implement a Heritage Trout Angler Recognition Certificate through which anglers will have the opportunity to have their catches of California native trout recognized by the Commission. The criteria for receiving the formal recognition shall be maintained by the Department's Heritage and Wild Trout Program. To receive a certificate of recognition, anglers shall submit an application with supporting materials to the Department for review.

The following waters are designated by the Commission as "wild trout waters":

1. American River, North Fork, from Palisade Creek downstream to Iowa Hill Bridge (Placer County).

2. Carson River, East Fork, upstream from confluence with Wolf Creek excluding tributaries (Alpine County).

3. Clavey River, upstream from confluence with Tuolumne River excluding tributaries (Tuolumne County).

4. Fall River, from Pit No. 1 powerhouse intake upstream to origin at Thousand Springs including Spring Creek, but excluding all other tributaries (Shasta County).

5. Feather River, Middle Fork, from Oroville Reservoir upstream to Sloat vehicle bridge, excluding tributaries (Butte and Plumas counties).

6. Hat Creek, from Lake Britton upstream to Hat No. 2 powerhouse (Shasta County).

7. Hot Creek, from Hot Springs upstream to west property line of Hot Creek Ranch (Mono County).

8. Kings River, from Pine Flat Lake upstream to confluence with South and Middle forks excluding tributaries (Fresno County).

9. Kings River, South Fork, from confluence with Middle Fork upstream to western boundary of Kings Canyon National Park excluding tributaries (Fresno County).

10. Merced River, South Fork, from confluence with mainstem Merced River upstream to western boundary of Yosemite National Park excluding tributaries (Mariposa County).

11. Nelson Creek, upstream from confluence with Middle Fork Feather River excluding tributaries (Plumas County).

12. Owens River, from Five Bridges crossing upstream to Pleasant Valley Dam excluding tributaries (Inyo County).

13. Rubicon River, from confluence with Middle Fork American River upstream to Hell Hole Dam excluding tributaries (Placer County).

14. Yellow Creek, from Big Springs downstream to confluence with the North Fork of the Feather River (Plumas County).

15. Cottonwood Creek, upstream from confluence with Little Cottonwood Creek, including tributaries (Inyo County).

16. Klamath River, from Copco Lake to the Oregon border (Siskiyou County).

17. McCloud River, from Lake McCloud Dam downstream to the southern boundary of Section 36, T38N, R3W, M.D.B. & M. (Shasta County).

18. Deep Creek, from confluence with Green Valley Creek downstream to confluence with Willow Creek (San Bernardino County).

19. Middle Fork Stanislaus River, from Beardsley Afterbay Dam to Sand Bar Diversion Dam (Tuolumne County).

20. Truckee River, from confluence with Trout Creek downstream to the Nevada State line (excluding the property owned by the San Francisco Fly Casters Club) (Nevada and Sierra counties).

21. Sespe Creek, a 25-mile section between the Lion Campground and the boundary of the U.S. Forest Service, Los Padres National Forest (Ventura County).

22. East Fork Carson River, from Hangman's Bridge near Markleeville downstream to the Nevada state line (Alpine County).

23. Bear Creek, Bear Valley Dam (impounding Big Bear Lake) downstream to the confluence with the Santa Ana River (San Bernardino County).

24. Lavezolla Creek (Sierra County).

25. Laurel Lake #1 and Laurel Lake #2 (Mono County).

26. Middle Fork San Joaquin River - Northern boundary of the Devils Postpile National Monument downstream to the Lower Falls (3.6 miles); and footbridge just above the confluence with Shadow Creek downstream to the footbridge just above upper Soda Springs Campground (4 miles) (Madera County).

27. South Fork Kern River watershed from its headwaters downstream to the southern boundary of the South Sierra Wilderness (Tulare County).

28. Golden Trout Creek drainage, including tributaries, from confluence with the Kern River upstream to the headwaters (Tulare County).

29. Eagle Lake, north of Susanville (Lassen County).

30. Upper Kern River, from the Forks of the Kern, upstream to Tyndall Creek in Sequoia National Park (Tulare County).

31. Heenan Lake, near Markleeville and Monitor Pass (Alpine County).

32. Upper Truckee River, including tributaries, upstream from the confluence with Showers Creek (El Dorado and Alpine counties).

33. Sacramento River, including tributaries, from Box Canyon Dam downstream to Scarlett Way in Dunsmuir (Siskiyou County) and from the county bridge at Sweetbriar downstream to Lake Shasta (Shasta County).

34. Long Lake (Plumas County).

35. Piru Creek, including tributaries, upstream of Pyramid Lake (Ventura and Los Angeles counties).

36. Upper Stony Creek including tributaries, upstream from Mine Camp Campground (Colusa, Glenn, and Lake counties).

37. Lower Honeymoon Lake (Fresno County).

38. Upper East Fork San Gabriel River, including tributaries, upstream from Heaton Flat (Los Angeles County).

39. Royce Lake #2 (Fresno County).

40. Lower Yuba River, from Englebright Dam to the confluence with the Feather River (Yuba and Nevada counties).

41. Parker Lake (Mono County).

42. South Fork San Joaquin River and all tributaries from Florence Lake upstream to the boundary of Kings Canyon National Park including the Piute Creek drainage (Fresno County).

43. Sallie Keyes Lakes (Fresno County).

44. Sacramento River from Keswick Dam downstream to the Red Bluff Diversion Dam (Shasta and Tehama counties)

45. Pauley Creek from the confluence with the Downie River upstream to the headwaters (Sierra County).

46. Caples Creek from the confluence with the Silver Fork American River upstream to Caples Lake Dam (El Dorado and Alpine counties).

47. Putah Creek from Lake Solano upstream to Monticello Dam on Lake Berryessa (Solano and Yolo counties).

48. Lake Solano (Solano and Yolo counties).
49. Milton Reservoir (Nevada and Sierra counties).
50. Gerle Creek Divide Reservoir (El Dorado County).
51. Manzanita Lake (Shasta County).
52. Maggie Lake (Tulare County).
53. Little Kern River drainage, including tributaries, from the confluence with the Kern River upstream to the headwaters (Tulare County).
54. Hilton Lake #1 (Davis Lake) (Mono County).
55. South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz Creek, Eight Mile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County).
56. South Fork Smith River, from the confluence with Goose Creek upstream to Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County).
57 Hilton Lake #2 (Mono County).
58. South Fork Smith River, from the confluence with Craigs Creek upstream to the confluence with Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek and excluding all other tributaries (Del Norte County).
59. Hilton Lake #4 (Mono County).

The following "wild trout waters" are further designated by the Commission as "heritage trout waters".

1. Clavey River, upstream from confluence with Tuolumne River, excluding tributaries (Tuolumne County).
2. Golden Trout Creek drainage, including tributaries, from confluence with the Kern River upstream to the headwaters (Tulare County).
3. Eagle Lake, north of Susanville (Lassen County).
4. Upper Kern River, from the Forks of the Kern, upstream to Tyndall Creek in Sequoia National Park (Tulare County).
5. Heenan Lake, near Markleeville and Monitor Pass (Alpine County).
6. Upper Truckee River, including tributaries, upstream from the confluence with Showers Creek (El Dorado and Alpine counties).
7. Piru Creek, including tributaries, upstream of Pyramid Lake (Ventura and Los Angeles counties).
8. Upper Stony Creek including tributaries, upstream from Mine Camp Campground (Colusa, Glenn, and Lake counties).
9. Upper East Fork San Gabriel River, including tributaries, upstream from Heaton Flat (Los Angeles County).
10. Lower Yuba River, from Englebright Dam to the confluence with the Feather River (Yuba and Nevada counties).
11. Little Kern River drainage, including tributaries, from the confluence with the Kern River upstream to the headwaters (Tulare County)
12. South Fork Smith River, from the confluence with Blackhawk Creek upstream to the Island Lake Trail crossing, including the following tributaries: Buck Creek, Quartz Creek, Eight Mile Creek, Williams Creek, Harrington Creek and Prescott Fork and excluding all other tributaries (Del Norte County).
13. South Fork Smith River, from the confluence with Goose Creek upstream to Blackhawk Creek, including Goose Creek and Hurdygurdy Creek and excluding all other tributaries (Del Norte County).
14. South Fork Smith River, from the confluence with Craigs Creek upstream to the confluence with Goose Creek, including Craigs Creek, Rock Creek, and Coon Creek and excluding all other tributaries (Del Norte County).

(Amended: 01/04/94; 06/22/95; 03/06/97; 11/06/98; 04/02/99; 12/08/00; 04/03/03; 12/12/08, 11/04/09, 10/21/10, 11/17/11; 11/07/12, 11/06/13, 12/03/14; 12/10/15; 10/20/16; 12/06/17; 12/13/18)

FISH AND GAME COMMISSION POLICIES

COOPERATIVELY OPERATED REARING PROGRAMS FOR SALMON AND STEELHEAD

It is the policy of the Fish and Game Commission that:

I. The State's salmon and steelhead resources may be used to support cooperative rearing programs. Rearing programs may be of two types: (1) those that grow fish for use in accelerating the restoration/rehabilitation of depleted wild populations in underseeded habitat and (2) those that are dedicated solely to growing fish for harvest. The following constraints apply to both types:

A. Only those fish surplus to the needs of the Department's programs shall be utilized for such programs and allocation shall be based on past performance and the Department's evaluation of the potential of proposed new programs.

B. The suitability and acceptance or rejection of proposed programs shall be determined by the Department, after reviewing a written proposal. A written project and management plan providing for evaluation and covering a period of five years must be evaluated and approved by the Department. Prior to reauthorization the Department must determine that the project is in compliance with the approved plan and continuance of the program is in the best interest of the State's fishery resources.

C. Routine care and food costs shall be the financial responsibility of the sponsoring entity. The Department shall provide technical advice and special assistance as appropriate.

D. Fish raised in these programs shall not be stocked in, or broodstock captured from, waters where the Department has determined that adverse effects to native fish populations or other aquatic species may result.

II. The bulk of the state's salmon and steelhead resources shall be produced naturally. The State's goals of maintaining and increasing natural production take precedence over the goals of cooperatively operated rearing programs.

(Amended: 06/18/93)

EMERGING FISHERIES

It is the policy of the California Fish and Game Commission that:

The following criteria shall be utilized by the Department to determine if a fishery qualifies as an "Emerging Fishery" in accordance with Section 7090, Fish and Game Code:

1. The fishery is not a previously established fishery as determined by criteria set forth in Section 7090(b)(2), Fish and Game Code; and

2. The Director shall have determined that the fishery has recently exhibited trends which will result in an increase in landings, an increase in the number of participants, or which may jeopardize a stable fishery. In making this determination, the Director shall consider, but not be limited to, an actual increase in landings of the species in question; an increase in the number of applications for experimental gear permits received by the Commission for this fishery; an increase in the amount or efficiency of the gear used in the fishery; or any evidence that the existing regulations are not sufficient to insure a stable, sustainable fishery.

(Adopted: 10/20/2000)

FORAGE SPECIES

It is the policy of the Fish and Game Commission that:

I. For purposes of California fisheries management, forage species are defined as species that contribute significantly to the diets of larger organisms during some part of their life history, thereby transferring energy and nutrients to higher trophic levels in the ecosystem.

II. The Commission recognizes the importance of forage species to the marine ecosystem off California's coast and envisions management of forage species that: optimizes their ecological, economic and social values; accounts for the benefits rendered by forage species to other species, fisheries, wildlife, and the overall ecosystem; and considers recreational and commercial fishing interests and other economic sectors.

III. The Commission intends to provide adequate protection for forage species through management goals that:

- Are precautionary and utilize the best available science in management decisions using clear and transparent methods;
- Identify and progressively incorporate Essential Fishery Information (EFI) needed for ecosystem-based management of forage species, including physical factors, oceanographic conditions, the effects of fishing on forage species' dependent predators, the availability of alternative prey, spatio-temporal foraging hotspots for predators, and existing management, including marine protected areas;
- Prevent the development of new or expanded forage fisheries until EFI is available and applied to ensure the sustainability of target forage species and protection of its benefits as prey; and
- Facilitate consistency in the management of forage species, integrate with existing Fishery Management Plans, and encourage cooperation and collaboration across jurisdictions and international boundaries in managing forage species.

(Adopted: 11/07/12)

GOLDEN TROUT

It is the policy of the Fish and Game Commission that:

The golden trout, designated as the state fish of California, will be perpetuated and maintained as appropriate to support its designation.

I. Certain waters within the high mountainous areas of Madera, Fresno, Inyo, Mono and Tulare counties may be designated by the Department as "Golden Trout Waters of California". Within that area, they shall include, if possible:

A. All of the native golden trout streams: and

B. Any other stream or lake in which non-native but self-perpetuating wild golden trout form the bulk of the population.

Within these waters golden trout will be preserved and maintained in as genetically pure a state as possible. Rainbow trout and other species of trout shall not be planted in designated golden trout waters. Barren lakes in this area may be reserved by the Department for future stocking of golden trout.

II. A brood stock shall be maintained in lakes set aside for the sole purpose of egg production to provide fingerlings for planting waters.

III. Hatchery-reared or wild fingerlings may be used for initial stocking in streams and lakes designated by the Department. In lakes containing other fish populations, the fingerlings will be of such size that a reasonable survival may be expected. Fingerlings may be stocked to maintain populations in lakes. Whenever practicable, the range of golden trout will be extended through wild fish or fingerling plantings in native waters through a recovery plan, or in other waters possessing adequate spawning grounds.

IV. The Golden Trout Policy prevails over the general Trout Policy if the two are in conflict.

(Amended: 05/14/93)

PLANTING FISH IN YOUTH CAMPS

It is the policy of the Fish and Game Commission that:

The Department may plant fish in suitable waters at certain youth camps. Such camps must be operated primarily for underprivileged or disabled children or youth, with most costs of supporting a child at camp not paid by the children or their families. The Department shall report in writing annually to the Commission on the program. If a conflict exists between this policy and the salmon and steelhead or trout policies, the latter policies prevail.

(Amended: 05/04/04)

FISH AND GAME COMMISSION POLICIES

SALMON

It is the policy of the Fish and Game Commission that:

I. Salmon shall be managed to protect, restore, and maintain the populations and genetic integrity of all identifiable stocks. Naturally spawned salmon shall provide the foundation for the Department's management program.

II. Salmon populations shall be periodically inventoried by the Department, or its agents, as necessary for management and protection of salmon stocks and their habitat, as outlined in this policy.

III. Salmon streams shall be inventoried for quantity and quality of habitat, including stream flow conditions. Restoration and acquisition plans shall be developed and implemented to safeguard such critical habitats as estuaries, coastal lagoons, and spawning and rearing areas, and to protect or guarantee future instream flows. Fisheries Restoration grants and other funding may be directed to implement the plans.

IV. Existing salmon habitat shall not be diminished further without offsetting the impacts of the lost habitat. All available steps shall be taken to prevent loss of habitat, and the Department shall oppose any development or project that will result in irreplaceable loss of fish. Artificial production shall not be considered appropriate mitigation for loss of wild fish or their habitat.

V. The Department shall strive to improve habitat conditions, alleviate threats, and renegotiate mitigation requirements at appropriate opportunities to eliminate the need for fish rescue operations. Salmon rescue will not be considered as mitigation for proposed water development. Only under the following circumstances shall salmon be rescued:

A. When they will be returned to the stream system of origin; and

B. When fish can be held until habitat conditions in the place where they were collected improve, or when fish can be immediately released in nearby areas of the same stream and the Department has determined that no adverse impacts would occur to existing salmonid populations; and

C. When, in the opinion of the Department, habitat conditions are temporarily inadequate or when conducted pursuant to a permitted in-stream construction or restoration activity.

VI. Hatchery releases of Chinook salmon in anadromous waters will be externally marked and coded-wire tagged at the current Department standard.

Vll. New programs that propose to propagate state-or federally-listed salmon shall conform to the Department's guidelines for establishment and operation of recovery hatcheries found in the Recovery Strategy for California Coho Salmon, Appendix H. In coastal streams without Department hatcheries, artificial rearing shall be limited to areas where the Department determines it would be beneficial to supplement natural production to re-establish or enhance the depleted wild population. In the Sacramento, American, Feather, San Joaquin, Klamath and Trinity River systems, hatchery production shall be used to meet established mitigation goals. At the discretion of the Department, excess eggs from non-listed salmon from the State, Federal, or cooperative hatcheries may be used to provide additional fish for the commercial and sport fisheries. Because of potential adverse impacts, all salmon reared from excess eggs that are intended to be released into estuaries, bays, or the ocean for fisheries enhancement must be marked so that potential impacts and efficacy of the project can be evaluated. Specifically, the projects must provide to the Department, within five years of the adoption of this policy, a written evaluation of their operations that specifically addresses: 1) potential impacts to nearby stream environments; 2) potential impacts to ESA or CESA listed salmonid populations; and 3) efficacy of the project in meeting project goals and objectives. The Department will assess the evaluations and will provide a recommendation to the Commission on whether this section of the policy should be continued.

VIII. Domesticated or non-native fish species will not be planted, or fisheries based on them will not be developed or maintained, in drainages of salmon waters, where, in the opinion of the Department, they may adversely affect native salmon populations by competing with, preying upon, or hybridizing with them. Exceptions to this policy may

be made for stocking drainages that are not part of a salmon restoration or recovery program.

IX. The best available scientific information will be used by the Department to assess the salmon resource and to develop management strategies and recommendations

(Amended: 06/18/93; 06/18/05; 05/09/08)

STOCKING FISH IN WATERS WHERE ANGLERS PAY ACCESS FEES

It is the policy of the Fish and Game Commission to:

Recognize there is a tremendous demand for fishing in reservoirs, lakes and streams. The Department of Fish and Game cannot meet all of the demands for catchable-sized hatchery fish for such waters. Therefore, to the extent possible it should encourage the involvement of the private aquaculture industry.

The Department shall not stock fish in (1) private waters that are closed to the public, and (2) fee-fishing lakes operated by registered aquaculturists privately for profit. As long as they are open to the general public, the Department shall stock two types of waters: (1) those in which most, if not all, fish are reared and stocked by the Department, and (2) those in which the reservoir or recreation operator, under a Cooperative Stocking Program, plants an equal or greater weight of catchable-sized fish than does the Department.

The Department alone cannot plant enough fish nor improve enough habitat to develop the full recreational potential of many waters. Although the Commission recognizes the prerogative of a local entity to rely on a fishing program of this type, it also recognizes the resulting loss in recreation fishing opportunities in areas where the demand is so great. It, therefore, directs the Department to encourage local entities to shift to the more successful Cooperative Stocking Program.

I. Waters Where Anglers Pay Small Fees to Defray Only Costs of Essential Services:

A. The Department may stock public and private waters where a nominal fee is charged to defray the costs of maintaining sanitary and safety services, roads, parking, gatekeeping and patrol services, liability insurance, licenses and taxes, and fish habitat improvement projects, providing all revenues are used to pay for these costs only. Access fee revenues may be used also to purchase fish to supplement the state allotment, at the discretion of the recreation operator.

B. The recreational operator will be required to demonstrate that their access fee revenues are necessary for recovery of costs of essential services or additional supplemental stocking upon request by the Department. The Department may stop stocking public and private waters that charge access fees that are determined to be unusual or unreasonable for recovery of costs of essential services or additional supplemental stocking.

C. Access fees charged by state parks are not covered by this policy. State park fees are established and set by the California Department of Parks and Recreation.

II. Waters With Cooperative Stocking Programs:

Cooperative programs may be entered into by the Department with public and private entities. In these instances, the cooperator supplements the Department fish planting allotment by purchasing additional fish. The Commission encourages the Department to enter into such cooperative stocking programs, provided they conform to the following requirements:

A. Each proposed cooperative stocking program will be in the form of a Memorandum of Understanding; and

B. Each year the cooperator shall purchase and stock at least as many pounds of fish as the Department stocks, and hopefully, considerably more as the program develops and the annual income from fees increases.

However, to facilitate the starting of a new program, the cooperator may delay the matching commitment until the second year of the agreement when fee revenue from the first year will become available for purchasing fish.

If any cooperator does not match or exceed by weight the fish stocked by the state in the second year of the cooperative program, no additional Department fish shall be delivered until the commitment is met.

C. In order to generate revenue to finance the cooperator's share of fish and fish habitat improvements, daily fees higher than those required to pay actual costs of necessary sanitary and other essential services required for fishermen at a water stocked by the state may be charged, provided that all resulting revenues in excess of those needed for such necessary services be used to purchase fish for stocking or to implement habitat improvement projects in the water.

D. The cooperator shall not divert any profits resulting from daily access fees to support any other operation. The cooperator shall keep separate financial records for each water stocked by the Department under a matching program in such a manner that costs of sanitation and other necessary services for fishermen and costs of stocked fish and habitat improvement can be readily determined. These records shall be made available to the Department upon request.

E. To the extent of its ability, when requested, the Department will assist any cooperator with advice on technical, procedural and business policies to help in developing a financially self-sustaining operation.

III. Davis-Grunsky Waters:

The Department will not stock fish in place of those which the local water agency is required to stock by its Davis-Grunsky contract in order to realize the anticipated recreational benefits from the project.

(Amended: 08/26/93, 12/04/97, 01/07/99, 12/08/2000, 12/07/01, 12/20/02, 12/05/03, 12/09/05, 12/07/07, 06/30/11)

STRIPED BASS

It is the policy of the Fish and Game Commission that:

I. The Department of Fish and Game shall work toward stabilizing and then restoring the presently declining striped bass fishery of the Sacramento-San Joaquin Estuary. This goal is consistent with Commission policy that the Department shall emphasize programs that ensure, enhance, and prevent loss of sport fishing opportunities.

II. The Department shall ensure that actions to increase striped bass abundance are consistent with the Department's long-term mission and public trust responsibilities including those related to threatened and endangered species and other species of special concern. Recognizing issues associated with potential incidental take of these species, an appropriate interim objective is to restore the striped bass population to the 1980 population level of 1.1 million adults within the next 5-10 years.

III. The long-term striped bass restoration goal, as identified in the Department's 1989 Striped Bass Restoration Plan, is 3 million adults.

IV. The Department shall work toward these goals through any appropriate means. Such means may include actions to help maintain, restore, and improve habitat; pen-rearing of fish salvaged from water project fish screens; and artificial propagation.

(Adopted: 04/05/96)

TROPHY BLACK BASS PROGRAM

It is the policy of the Fish and Game Commission to:

I. Designate certain waters of the State to be managed by the Department, pursuant to Section 1743 (a)(2) of the Fish and Game Code, to produce trophy-sized black bass. Fishing in waters with a reasonable opportunity to catch a trophy-sized black bass is considered a quality experience; moreover, catching such a fish is a life-long goal of most ardent black bass anglers.

Trophy-sized black bass are defined based on their large but not unattainable size in the more productive warmwater reservoirs and lakes of the State. The Commission recognizes trophy-sized black bass based on the following minimum weight standards:

Largemouth bass 10 lbs.

Smallmouth bass 6 lbs.

Spotted bass 6 lbs.

II. Only designate waters for inclusion in the Trophy Black Bass Program that meet the following criteria:

A. Angler access:

1. Open for public angling with unrestricted access, or

2. Open for public angling with controlled access consistent with Commission policy.

B. Historically or biologically demonstrated the capability of producing, with appropriate angling regulations or other fishery management actions, catches by anglers in most years of fish meeting the above trophy-sized black bass standards.

III. Manage Trophy Black Bass Waters in accordance with the following directions:

A. At least one water in each of the Department's five management regions shall be designated and managed as a Trophy Black Bass Water.

B. This policy does not necessarily indicate a prioritization of the fishery or management emphasis to be applied by the Department to any of these waters.

C. A management plan for each designated Trophy Black Bass Water shall be prepared and updated by the Department as needed but not less often than every five years. Each plan shall include, but not be limited to, a description and evaluation of the fishery; an assessment of environmental factors conducive to or limiting trophy black bass production; recommendations for management actions needed to increase abundance of trophy-sized bass; and an assessment of personnel and fiscal resources needed to carry-out the intent of the Commission's Trophy Black Bass Program. Management actions for consideration in all Trophy Black Bass Management Plans shall include, but not be limited to, 1) evaluation of current angling regulations, 2) potential for genetic enhancement of the population, and 3) need for habitat restoration and enhancement projects.

IV. Establish a Trophy Black Bass Recognition Program through which anglers will have the opportunity to have their trophy catches recognized by the Commission.

A. Anglers wishing to have their trophy bass catches recognized will be required to submit to the Department a completed application form, provided by the Department, including at least two witness verifications, within 30 days of catching the fish. Applications for recognition will be reviewed by the Department and presented to the Commission at it's February meeting. Letters of recognition to successful applicants will be awarded by the Commission following the February meeting.

B. Release of trophy bass increases the opportunity for other anglers to share in the experience. Thus, the Commission and the Department shall encourage the release of trophy-sized black bass into the water from which they were caught. This will be accomplished by recognizing the catch and release of trophy black bass based on length and girth measurements. Length and girth measurements, provided by the Department, will be acceptable for determining the fishes weight.

C. This program is not intended to be a verification procedure for State or world record-sized fish. Additional information and verification may be required for State or world record acceptance.

D. The Department shall maintain records of information generated by this program and shall use this information for recommending waters for inclusion in the program.

Such records will be compiled into a form that can be made quickly available for review and dissemination to the public and the Commission.

V. Consider waters for designation as Trophy Black Bass Waters in its February meeting. Petition for inclusion in the program will be accepted by the Commission at any time. Public recommendations will be forwarded to the Department for its assessment as to whether the proposed waters actually or potentially meet Trophy Black Bass Water criteria. The Department will present recommendations for new waters for designation as Trophy Black Bass Waters at the Commission's December meeting immediately preceding the adoption meeting.

The following waters are designated by the Commission as "Trophy Black Bass Waters" for the species so indicated:

A. Castaic Lake (Los Angeles County): Largemouth bass

B. Clear Lake (Lake County): Largemouth bass

C. Isabella Lake (Kern County): Largemouth bass

D. Oroville Lake (Butte County): Smallmouth and spotted bass

E. Trinity Lake (Trinity County): Smallmouth bass

VI. Remove from listing, based on unforeseeable conditions, any lake or reservoir that was designated as a Trophy Black Bass Water.

(Added: 05/15/92)

TROUT

It is the policy of the Fish and Game Commission that:

I. Natural reproduction and rearing of trout will be encouraged to the greatest extent possible by protecting and improving habitat and by affording protection from disease, predators and competing fish species.

II. Populations of wild trout shall be sustained in suitable waters to provide a diversity of angling opportunities. In some waters it may be necessary to restrict angler harvest to the extent that such harvest has virtually no long-term effect on numbers and sizes of fish in the populations.

III. Artificial propagation and rearing of trout is a major Department program, but will be utilized only when necessary to augment natural production. Stocking fingerling and sub-catchable-sized trout shall take priority over planting catchable-sized trout in the hatchery stocking program when the smaller fish will maintain satisfactory fishing.

Hatchery trout shall not be stocked in waters where they may compete or hybridize with trout which are threatened, endangered or species of special concern. Exceptions may be made for stocking waters which are not part of a species recovery program.

IV. Catchable-sized trout shall be stocked only:

A. In lakes, reservoirs and streams where natural reproduction and growth are inadequate to maintain populations capable of supporting fishing; and

B. When it is reasonable to expect at least 50% by number or weight will be taken by anglers.

In stocking catchable-sized trout, lakes and larger streams shall have priority over smaller streams. Suitable waters with heavy fishing pressure compared to the size of planting allotments shall have priority. Trophy fish, weighing one pound or more may constitute up to 10% by weight of each load of catchables stocked, if they replace an equivalent poundage of catchables in the allotment for the water stocked.

V. Subcatchable-sized trout may be stocked in lakes, reservoirs and streams where appropriate to augment trout populations in such waters, and to increase fishing opportunities and success. Fingerlings shall be stocked primarily in waters where reproduction is limiting and satisfactory angling can be supported with fingerling stocking, where the population has been destroyed, and in lakes where they will establish a new fishery or augment the existing fishery.

VI. Water companies, utility districts and other public or private agencies in control of urban lakes shall be encouraged to finance put-and-take trout fishing in such waters when suitable for such purposes. The Department shall provide technical advice and otherwise assist in the development and maintenance of such programs.

(Amended: 01/04/94)

WARMWATER GAME FISH STOCKING

It is the policy of the Fish and Game Commission that:

Maintenance stocking of warmwater game fish is not recommended because satisfactory populations are usually sustained by natural reproduction. Accordingly, such stocking shall be limited to:

I. Lakes, reservoirs and streams where natural reproduction is inadequate to maintain populations capable of supporting fishing, which demonstrate acceptable growth rates or are capable of producing trophy-sized fish, and where such stocking can be demonstrated to be cost effective.

II. Waters selected for evaluation of experimental management techniques.

III. Reintroduction of desirable species that have been eliminated either by natural causes or management actions intended to remove unwanted species.

IV. Introduction of new species or subspecies consistent with existing policies and under guidelines provided by the Department of Fish and Game.

Captured wild fish will normally be used to stock all waters. Artificially-produced fish also may be used if circumstances warrant.

Privately owned waters not open to the public will generally not be stocked by the Department. These waters can be stocked by registered aquaculturists under the authority of a private stocking permit issued by the Department.

(Amended: 08/26/93)

YOUTH FISHING PROGRAMS

The Department is supportive of youth fishing programs sponsored by city, county or other public entities.

Through its urban fishing program, the Department will combine fisheries resource management with educational services to develop healthy urban fisheries, and provide young people with an opportunity to fish close to home.

Fish planted for such programs may be obtained from State hatcheries.

(Amended: 05/14/93)

WILDLIFE

DEER MANAGEMENT

It is the policy of the Fish and Game Commission to:

Conserve, restore, maintain and utilize California's wild deer populations. Such conservation shall be in accordance with the principles of conservation of wildlife resources set forth in Section 1801 of the Fish and Game Code and in accordance with the objectives and elements stated in "A Plan for California Deer, 1976".

Management Program:

I. The Department shall designate deer herd management units. Such units may encompass a single deer herd or group of deer herds having similar management and habitat requirements and characteristics. Boundaries of such units, unless appropriate, need not follow county boundary lines.

II. The Department shall develop and submit plans for all deer herd management units to the Commission by December 1, 1985. The goals of such plans shall be the restoration and maintenance of critical deer habitats to perpetuate healthy deer herds in the wild state as set forth in the appropriate deer herd management plans and to provide for high quality and diversified use of deer as a renewable resource in California. Specific objectives shall be stated in each management plan designed to achieve these goals, including objectives relating to the long-term protection of critical seasonal habitat located on both privately owned and public lands. Such objectives shall be the standards for determining if land use plans (including general plans reviewed pursuant to the Commission's Land Use Policy), proposed development projects and other agencies' plans and programs adequately address deer needs.

III. Management plans shall contain elements that provide the following kinds of information:

A. Document available information on the deer and their critical seasonal habitats and implement efficient and objective programs to obtain deer herd and habitat inventory information.

B. Provide a range of biologically feasible alternatives for habitat capacities, herd size and harvest strategies for each herd; then after review, select the preferred alternative as the basis for plan objectives and implementation programs.

C. Develop programs to maintain and increase the quality of critical seasonal deer habitats as officially designated in a herd management plan. Such programs will emphasize cooperative action between the Department and appropriate land management entities, both public and private. For critical deer habitats located on public and privately owned lands, a strategy shall be developed for the preservation of habitat as directed in the Commission's Land Use Policy.

D. Develop programs which assess the current status of deer habitat and land use and plans to conduct research needed to complement that information, so that the objectives for deer management may be achieved.

E. .Develop programs including predator control to reduce natural mortalities where such reduction may be critical to meeting deer herd plan objectives.

F. Develop diversified recreational use programs, including both hunting and non-hunting uses, consistent with the basic individual deer herd management unit capabilities.

IV. Deer herd management unit plans shall be reviewed annually and shall be the basis for Department recommendations to the Commission.

V. The Department shall determine each year its proposed recommendations to the Commission, including its recommendations as to whether any antlerless or either sex deer hunts should be ordered. The recommendations of the Department shall include the number, if any, of antlerless deer that should be taken in units, whether the permits should be for either sex deer, the proposed dates for each such taking and the number of permits proposed for each unit. The Department shall apprise the Commission of the best biological information available, any social, economic or political impacts its proposals are likely to have, and shall apprise the Commission of alternatives which may respond to such concerns.

If the Department recommendations are based on considerations in addition to biological data, those considerations will be fully explained to the Commission.

Notify the Commission prior to adoption, if possible, but as soon as feasible, when a federal, state or local general or special plan, or a proposed project authorized by such a plan, is determined to be in conflict with Commission policy or the Department's management plans and programs and would have a significant adverse impact on fish or wildlife resources. In the case of local agency plans or special projects where changes are made late in the review and comment period or at an adoption hearing, notification of the Commission will be within 30 days following the receipt by the Department of the text of the approved plan or project. The Department shall include with such report its determination of the significance of the potential impact of the amendment or project on the deer herd or herds affected and the alternative remedial measures available to the Commission and Department which may be taken to minimize or eliminate such impacts.

(Amended: 11/13/84)

DEPREDATION CONTROL

It is the policy of the Fish and Game Commission that:

All wildlife species shall be maintained in harmony with available habitat whenever possible. In the event that some birds or mammals may cause injury or damage to private property, depredation control methods directed toward offending animals may be implemented. Should such depredation be upon wildlife species being intensively managed, the Department may institute appropriate depredation control methods directed towards the offending animals.

ELK

It is the policy of the Fish and Game Commission to:

Maintain elk herds for scientific, educational and diversified recreational uses. Management will be consistent with the habitat needs of other wildlife species and in recognition of potential conflicts with land uses such as agriculture and forestry. Elk habitat shall be protected and managed in cooperation with both public agencies and private land owners. Natural forage conditions shall be the primary consideration in regulating elk numbers. Surplus animals may be harvested by hunting, or when suitable relocation sites are available, translocated to alleviate damage and other conflicts.

I. Tule Elk

This subspecies shall be managed to establish healthy, free-roaming populations in suitable historic areas. Each herd will be managed as prescribed in Department management plans developed in cooperation with other appropriate agencies.

II. Roosevelt Elk:

This subspecies shall be managed on the basis of habitat carrying capacity and compatibility with the requirements of other wildlife, agriculture, forestry and recreation. Hunting will generally be used to harvest excess animals. Animals may be translocated to establish new populations within historic Roosevelt elk range if suitable sites are available.

III. Rocky Mountain Elk:

This subspecies shall be managed on the basis of habitat carrying capacity, avoidance of any conflict or hybridization with native species and compatibility with the requirements of other wildlife, agriculture, forestry and recreation. Hunting will be used to harvest excess animals.

(Amended: 11/04/93)

RAPTORS

It is the policy of the Fish and Game Commission to:

I. Recognize that raptors, including vultures, hawks, eagles, falcons, kites, ospreys and owls, are part of California's native fauna, are integral to their ecosystems, and have intrinsic, ecological, scientific, educational, economic and recreational values.

II. It is the intent of the Commission to insure that raptor populations and their habitats shall be identified, monitored, maintained, restored and enhanced through research, management and protection by the Department and to insure that the utilization of or impacts to any population of raptor species will not contribute to its depletion in the wild.

In instances where depredation by raptors occurs, reasonable measures shall be taken by the landowner to protect his/her property before permission may be obtained to take depredating animals as authorized by federal law. However, taking of endangered or threatened species and the indiscriminate take of raptors shall not be permitted.

The Commission recognizes falconry, as authorized in the Fish and Game Code, as a legitimate use of this wildlife resource. The Commission recognizes that captive raptor breeding programs may be an important management tool in the re-establishment of endangered or threatened species in the wild.

Species found to be endangered or threatened shall receive maximum protection and management effort to ensure their survival.

(Amended: 12/03/93)

TERRESTRIAL PREDATOR POLICY

It is the policy of the Fish and Game Commission that:

I. For the purposes of this policy, terrestrial predators are defined as all native wildlife species in the Order Carnivora, except those in the Family Otariidae (seals, sea lions), the Family Phocidae (true seals), and sea otters (Enhydra lutris).

II. Pursuant to the objectives set forth in Section 1801 of Fish and Game Code, the Commission acknowledges that native terrestrial predators are an integral part of California's natural wildlife and possess intrinsic, biological, historical, and cultural value, which benefit society and ecosystems. The Commission shall promote the ecological, scientific, aesthetic, recreational, and educational value of native terrestrial predators in the context of ecosystem-based management, while minimizing adverse impacts on wildlife and reducing conflicts that result in adverse impacts to humans, including health and safety, private property, agriculture, and other public and private economic impacts.

III. The Commission further recognizes that sustainable conservation and management strategies are necessary to encourage the coexistence of humans and wildlife. It is, therefore, the policy and practice of the Fish and Game Commission that:

A. Existing native terrestrial predator communities and their habitats are monitored, maintained, restored, and/or enhanced using the best available science. The department shall protect and conserve predator populations.

B. Native terrestrial predator management shall be consistent with the goals and objectives of existing management and conservation plans. Management strategies shall recognize the ecological interactions between predators and other wildlife species and

consider all available management tools, best available science, affected habitat, species, and ecosystems and other factors. The department shall provide consumptive and non-consumptive recreational opportunities. The recreational take of native terrestrial predator species shall be managed in a way that ensures sustainable populations of predator and prey are maintained.

C. Human-predator conflict resolution shall rely on management strategies that avoid and reduce conflict that results in adverse impacts to human health and safety, private property, agriculture, and public and private economic impacts. Efforts should be made to minimize habituation of predators especially where it is leading to conflict. Human safety shall be considered a priority. Management decisions regarding human-predator conflicts shall evaluate and consider various forms of lethal and nonlethal controls that are efficacious, humane, feasible and in compliance with all applicable state and federal laws and regulations. A diverse set of tools is necessary to avoid, reduce, and manage conflict. To ensure long-term conservation of predators and co-existence with humans and wildlife, all legal tools shall be considered when managing to address conflicts.

(Adopted April 19, 2018)

UPLAND GAME

It is the policy of the Fish and Game Commission to:

Conserve, restore, maintain and enhance upland game habitat and to maintain Upland game populations at optimum levels on public and private lands within California. The Department's Upland Game Program shall be aggressively carried out in a manner that is consistent with Section 1801 of the Fish and Game Code and in accordance with the objectives and elements stated in each of the appropriate "Upland Game Species Management Plans" required below.

I. **Species Plans**: Management plans developed for each of the state's upland game species shall be updated periodically. Annual summaries for each year's accomplishments should be prepared to facilitate updating and to track plan task schedules. The goals of these plans include the restoration, maintenance and enhancement of upland game populations at the highest levels of diversity, distribution and density commensurate with the optimum management opportunities on both public and private lands. The plans shall include the following kinds of information:

A. Compilation of available scientific information on distribution and identification of critical habitats, as well as recommendations for implementing objective programs for obtaining updated population status indices.

B. A comprehensive prioritized list of biologically feasible proactive management alternatives with cost estimates which, when implemented, would provide for the restoration of upland game population to optimum levels in suitable habitats statewide.

C. Specific recommendations for an aggressive program to encourage and assist the private sector and state, federal, county and local land management agencies and districts in the development and maintenance of upland game habitat, and to provide increased public hunting opportunities.

II. **Programs**

A. The Department shall continue the process of reviewing the current upland game management opportunities on lands under its control. The management of the Department's lands should be an example and be a model for what can be done to maximize habitat development opportunities and upland game populations.

Where and when feasible, habitat on Department-controlled lands shall be managed for upland game species to maximize upland game hunting opportunities. This shall include the use of "put and take hunting programs" where feasible, as well as the prudent use of naturally produced birds.

B. The Department shall provide the public with timely information through news releases, publications, etc., on upland game hunting opportunities on Department-controlled lands.

C. The Department shall encourage and work closely with state, federal, and local public land management agencies and districts in the development and maintenance of upland game habitat and hunting opportunities.

D. Where and when feasible, the Department shall provide wild trapped upland game birds to public and private land management agencies and districts and individuals for release in broodstock purposes on lands that will be open to public hunting or for Department relocation programs when self-sustaining populations have been established.

The Department shall provide the Commission with an annual report regarding implementation of this policy.

III. **Game Bird Heritage**: To better assist the Department's Regions in the direction and scope of upland game projects, opportunities and educational programs, the Regional Offices would submit proposals to the GBH Advisory Subcommittee for an informal review before GBH funds are allocated. This will provide partners to assist the Department with projects and help GBH managers to rate projects for funding.

(Adopted: 06/23/1989; Amended: 12/03/1993, 12/02/2004)

WILD PIGS

It is the policy of the Fish and Game Commission that:

The wild pig population of the State must be controlled to minimize the threat of increasing damage to California's native plant and animals, to agricultural operations and to park and recreational activities from the foraging habits of the animals.

Consistent with State law and regulations, the Department will prepare and recommend to the Commission regulations which enhance recreational hunting and facilitate the issuing of depredation permits and/or other legally available means to alleviate this problem.

(Amended: 12/03/93)

MISCELLANEOUS

AL TAUCHER'S PRESERVING HUNTING AND SPORT FISHING OPPORTUNITIES

Through statutory policy, the California Legislature has directed the Department of Fish and Game and the Fish and Game Commission to maintain diversified recreational uses of wildlife, including the sport of hunting. California's hunters and sport anglers have assisted in the management and wise use of fish and wildlife resources since before the inception of the Commission in 1870. Sporting men and women of California have historically provided the major portion of the Department's financial base through payment of license fees and taxes on hunting and fishing equipment and by direct donations. Dollars from hunters and anglers have played a major role in the management, protection and preservation of fish and wildlife that are enjoyed by all Californians, including campers, hikers, bird watchers, photographers and other members of the public.

Therefore, it is the policy of the Fish and Game Commission that:

The Department shall emphasize programs that ensure and enhance hunting and fishing opportunities. These activities shall be integrated into all Department programs.

In its review of federal, state and local plans, special plans and proposed projects to determine consistency with Commission policy and the goals and objectives of the Department's management plans and programs, and in meeting its responsibilities as trustee for the State's fish and wildlife resources, the Department shall establish the goal of preventing loss of hunting and sport fishing opportunities.

To meet the objective of this policy, the Department shall establish a working group to develop enhancement strategies and shall meet semiannually with a Fishing and Hunting Opportunity Subcommittee of the Commission and its staff and members of the interested public to review program progress and future plans.

(Adopted: 06/16/94)

FISH AND GAME COMMISSION POLICIES

CALIFORNIA POLICY FOR NATIVE PLANTS

The California Fish and Game Commission recognizes the following:

1. The management and conservation of California's native flora are important to the State of California, and native plants, as vital components of the State's natural wildlife communities, are held in trust for the people of the State by and through the Department of Fish and Wildlife. [FGC Sec. 711.2(a), 711.7(a), and Sec. 1600]

2. 'Native plants' are generally defined as plants that occur naturally in California without direct or indirect human actions.

3. The California State Legislature recognized the essential value and importance of California native plants to the State's history, economy, landscape, and environment, as declared in Assembly Concurrent Resolution 173 (2010).

4. The State's policies and practices regarding native plants are in need of review and updating. More than 30 years ago state law focused on transplantation as a means of mitigating for listed plant species, however experience and numerous studies document that such practices are largely ineffectual over time and often damaging to species or population survival.

5. Growing concern for the effects of wild land fires continues to raise questions and uncertainty regarding appropriate course of action on such issues as fuels management, post fire salvage and seeding, among other actions that may have significance for native plant conservation.

6. It is incumbent upon the Commission and the Department to address the differing public agency opinions and ideas regarding native plant conservation objectives, survey and mitigation standards, genetic degradation, habitat protection, and other native plant issues. Better coordination between state agencies is necessary to overcome institutional and budget constraints.

Therefore, it is the policy and practice of the Fish and Game Commission that:

- The Commission shall encourage, support, and implement, on its own initiative and with the Department of Fish and Wildlife, strategies and tools to conserve native plants as integral elements of the State's wildlife. The Commission shall consider, as appropriate, native plant conservation when carrying out duties which may have a relevant link to plant conservation.
- Incorporating and using current scientific techniques, tools, and standards in the conservation of native plants is necessary to protect the integrity of natural communities and wildlife resources, make land use decisions, and meet the needs of human communities.
- Conservation planning and management for native plants require proactive approaches that address both naturally occurring and human-induced stressors.
- Data collection and sharing among public and private entities coupled with improved data analysis is critical to successful native plant conservation. This requires adequately trained and experienced human resources being available to the Department and other responsible parties.
- Laws, public policies, and natural resource management practices of public agencies, with regard to native plants, need to be reviewed, modernized, and coordinated to ensure consistent and effective native plant conservation based on current scientific and societal needs and understanding.

(Adopted 06/11/15)

COOPERATION

It is the policy of the Fish and Game Commission that:

The Commission, its staff, and the Department shall cooperate with local, state and federal agencies and with all interested persons, groups or organizations in every way to further the aims and purposes of fish and game conservation, preservation, propagation, protection, management, and administration. To this end, agreements may be entered into with such agencies, groups or persons when authorized by law.

FISH AND GAME COMMISSION POLICIES

ENDANGERED AND THREATENED SPECIES

It is the policy of the Fish and Game Commission to:

Protect and preserve all native species of fishes, amphibians, reptiles, birds, mammals, invertebrates and plants, and their habitats, threatened with extinction; or those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation. The Department will work with all interested persons, agencies and organizations to protect and preserve such sensitive resources and their habitats.

INTRODUCTION OF NON-NATIVE SPECIES

It is the policy of the Fish and Game Commission that:

I. Proposals to introduce exotic species shall be submitted to the Commission for approval. The Department will review and evaluate proposals to insure that the potential effects of such introductions will not have unacceptable negative impacts on native species, agriculture interests, and public health and safety.

II. In considering proposed introductions, the Commission and Department will be guided by the following:

A. Introduction of exotic species will be authorized only after potential impacts have been carefully evaluated and it has been demonstrated that such impacts will be negligible or positive. Such an evaluation will consider the species' ability to disperse outside the introduction area.

B. Initial experimental introduction of an approved exotic species will be made under conditions that will permit the action to be reversed, such as introduction into a confined area or introduction of sterile individuals.

C. Benefits of the action will be described, including why the need cannot be satisfied through improved management to enhance native species or previously established non-native species.

III. Introduction of previously established non-native species into areas of the state where they have not been established will be permitted only after it has been determined by the Department that they will have no significant negative impacts.

A. Introduction of previously established non-native animal species shall be done in a manner consistent with Section 671.6 of Title 14.

B. Stocking of "fish" into the waters of the State shall be done in a manner consistent with Section 238.5 of Title 14.

IV. Definitions:

A non-native species is any of mammal, bird, fish, amphibian, reptile, invertebrate, or plant that is not native to California .

A previously established non-native species is an animal or plant that has become established in California by the aid of humans.

(Amended: 01/04/94; 06/23/05)

KELP

It is the policy of the Fish and Game Commission to:

I. Endeavor to maintain an optimum sustained harvest and utilization of the state's kelp resources and derive an optimum return therefrom, whenever the same are in the best interest of fish and wildlife resources.

II. Insure a supply of kelp for all interested harvesters. Approximately one-fourth of the total area of the state's kelp beds, as designated by the Department, shall remain unleased and thus open to any licensed harvester.

(Amended: 12/08/05)

LAND USE PLANNING

It is the policy of the Fish and Game Commission that:

The preservation, protection and restoration of fish and wildlife resources within the State is of significant public interest and is inseparable from the need to acquire, preserve, protect and restore fish and wildlife habitat to the highest possible level, and to maintain in a state of high productivity those areas that can be most successfully

used to sustain fish and wildlife and which will provide appropriate consumptive and nonconsumptive public use. To carry out these purposes, it is essential that a comprehensive program be implemented by the Department to assure that there will be close coordination with state, federal and local planning agencies, including county boards of supervisors and other decision-making entities in the formulation and implementation of any plans including, but not limited to, county general plans and any modifications to such plans, which may impact fish or wildlife.

I. Commensurate with this policy, the Commission recognizes that:

A. The land resources of the state provide an essential habitat component necessary for the annual renewability and well-being of the state's fish and wildlife resources;

B. The land resources are a limited resource subject to increasing demands;

C. Conservation, efficient planning and implementation of various land uses are necessary to meet the competing needs of urban communities, industry, agriculture, recreation, and fish and wildlife; and

D. There is a need for the Department to provide timely consultation with Federal, State and local governments and agencies on land use planning and projects with a view toward resolving conflicts with the Department management plans, programs and other responsibilities.

E. Locally developed regional landscape conservation planning is a forward-looking method which can provide early resolution of land use/wildlife resource protection conflicts and lead to the preservation of essential wildlife habitat while allowing for appropriate growth and economic development.

II. To provide maximum protection and enhancement of fish and wildlife, the Department shall:

A. Promote the development of regional conservation planning at the ecosystem level through active participation in the local development of regional Natural Community Conservation Planning (NCCP) and other forward-looking multiple habitat conservation planning efforts.

B. Review, coordinate and provide comments and recommendations on federal, state, local general plans, special plans and proposed projects as appropriate, including the conservation and land use elements adopted by local government pursuant to provisions of Section 65300 et seq., of the Government Code for the purpose of determining the consistency of such plans with Commission policies, and the goals and objectives of the Department's management plans, programs and other responsibilities for the state's fish and wildlife resources. An initial review of local general plans will be completed by January 1986;

C. Carry out subsequent reviews of general and special plans and proposed projects and provide appropriate comments and recommendations to the affected federal, state and local government or agency, as needed to assure such plans remain consistent with the Commission's policies and the Department's management plans, programs and other responsibilities;

D. Notify the Commission prior to adoption, if possible, but as soon as feasible, when a federal, state or local general or special pan, or a proposed project authorized by such a plan, is determined to be in conflict with Commission policy or the Department's management plans and programs, and would have a significant adverse impact on fish or wildlife resources. In the case of local agency plans or special projects where changes are made late in the review and comment period or at an adoption hearing, notification of the Commission will be within 30 days following the receipt by the Department of the text of the approved plan or project;

E. Provide to the Commission as soon as feasible, the Department's remedial action or actions for responding to such findings and determinations or the Department's reasons for finding that no remedial action is necessary. In the case of local agency plans or special projects, notification of the Commission will be within 30 days following the receipt by the Department of the text of the approved plan or project;

F. Participate in the local land use planning process and project review implemented in connection with the requirements of Section 21,000, et seq., of the Public Resources

Code, for the purpose of conserving and protecting fish or wildlife habitat consistent with the Department's management plans, programs and other responsibilities;

G. Oppose the adoption of plans or portions of plans for land use or approval of proposed projects if, after following diligent efforts to resolve issues affecting fish and wildlife resources, the Department finds that such actions are not consistent with the Department's management plans, programs and other responsibilities and will result in significant losses to fish and wildlife resources.

(Amended: 11/13/84; 03/03/94)

DESIGNATION OF DEPARTMENT CONTROLLED LANDS AS STATE WILDLIFE AREAS

It is the policy of the Fish and Game Commission that:

The Department, within 30 days of the date of obtaining legal control of any lands which are to be managed as a state wildlife area or as a public hunting area, shall request that the Commission formally designate such lands as a "State Wildlife Area". The Commission will periodically, but not less than once every three years, consider taking regulatory action to add such formally designated lands to the list of "State Wildlife Areas" in Title 14, California Code of Regulations.

(Amended: 04/07/94; 8/18/05)

MANAGEMENT AND UTILIZATION OF FISH AND WILDLIFE ON FEDERAL LANDS

It is the policy of the Fish and Game Commission that:

The Department manage and protect all fish and wildlife and threatened or endangered native plants within the state's jurisdiction on lands administered by the federal government in accordance with the laws of this state and regulations adopted pursuant thereto. This policy will not extend to lands over which the state has ceded exclusive jurisdiction nor to the right of the federal government to manage habitat and control access in its proprietary capacity. Management and protection of migratory fish and wildlife will be coordinated between the Department and the federal government on all lands under federal jurisdiction, if appropriate. It is recognized that the federal government has the right under treaty to regulate migratory, endangered and threatened species, and marine mammals under the appropriate Federal Statutes.

MANAGEMENT AND UTILIZATION OF FISH AND WILDLIFE ON PRIVATE LANDS

It is the policy of the Fish and Game Commission that:

I. Program Assistance

The owners or tenants of privately owned lands shall be actively encouraged to propagate, conserve, and promote the wise use of fish and wildlife populations on their lands, consistent with other reasonable uses. The Department shall, whenever possible, provide interested persons with guidance and information on programs for developing and employing management techniques to effect such purposes and which will protect and enhance native wildlife or vegetation, even though access to such private lands is subject to the owner's or tenant's control.

The Department, before processing any application for a license for a new Private Lands Wildlife Habitat Enhancement and Management Area (herein referred to as a Private Wildlife Management Area), shall determine that:

(a) The applicant has sent a copy of the application, by certified mail, to each adjoining landowner; and

(b) The applicant has published a notice in a paper of general circulation in the area affected. Such notice shall include: the applicant's name; the name of the Private Wildlife Management Area; the total acreage and its location by county, section, township, and range; the species to be taken; and the proposed seasons. That notice shall also specify that comments regarding the application should be sent to the Department of Fish and

Game, Wildlife Management Division, 1416 Ninth Street, Sacramento, California 95814, within 15 days of the notice publication date.

II. Private Wildlife Management Areas

Private Wildlife Management Area plans (PLM) shall be utilized as a vehicle to maintain and enhance habitat for wildlife.

To this end, except as provided herein, requirements for all plans shall include written findings by the Department that, when implemented, the terms and conditions of the management plan can reasonably be expected to result in:

(a) An increase in the carrying capacity for the species being managed. The aim of this provision is to ensure higher density and/or improved habitat conditions for the featured species. The net result of implementation of the plan is to benefit the species/population while enhancing native wildlife or vegetation.

If the Department makes written findings that the above enhancement measures would not be appropriate requirements of a plan for biological reasons, it may propose alternative management enhancement strategies which result in a net benefit to wildlife.

(b) Exceptions to enhancement requirement. The Department may make a written determination that habitat maintenance, rather than enhancement, is appropriate if:

(1) The landowner has, prior to entering the PLM program, consistently engaged in the best management practices beneficial to the species in question; or

(2) The land in question is designated, on the applicable county or city general and specific plan maps, for development at a density or with permitted uses which would have or could have a significant adverse impact on wildlife habitat values, and that such development activity or use is probable within the foreseeable future.

III. Deer

All plans will be based upon sound biological data and will be consistent with the applicable deer herd management plan(s). Additionally, harvest plans will be submitted only if they:

(a) Are consistent with Department management goals and objectives for the species involved; and

(b) Assure seasons and methods of take which are consistent with biologically sound principles intended to achieve or maintain deer herd goals and objectives. Department recommendations for deer hunts during the rut shall include analysis and findings of consistency with these criteria; and

(c) Ensure that, when antlerless, either sex, or late season buck hunts are proposed for migratory deer herds, they are consistent with proposed harvest regimes for antlerless, either sex, or late season buck hunts in the same or adjacent zones unless the Department makes a specific finding that such special hunts are not biologically or statutorily feasible. The intent of this provision is to seek parity for the nonattached hunters.

IV. Game Species Other Than Deer

Department recommendations for harvest programs involving species other than deer shall reflect an intent to provide parity for the nonattached hunters in the same general area, unless the Department makes a specific finding that such hunts are not biologically or statutorily feasible.

V. Monitoring

All plans shall include provisions for at least annual monitoring of compliance with habitat enhancement provisions. The costs of monitoring shall be borne by the applicant to ensure compliance.

Accurate records of hunting activities conducted pursuant to the approved plans shall be maintained by all licensees and shall be made available to the Department upon request. Such information shall be analyzed annually by the Department.

(Amended: 12/10/87; 05/09/94)

MARINE PROTECTED AREAS

It is the policy of the Fish and Game Commission to:

Cooperate with other State, Federal, and Local Government agencies in the consideration and designation of certain marine and estuarine submerged lands as marine

protected areas under the Marine Life Protection Program which has all of the following goals:

- To protect the natural diversity and abundance of marine life, and the structure, function, and integrity of marine ecosystems.
- To help sustain, conserve, and protect marine life populations, including those of economic value, and rebuild those that are depleted.
- To improve recreational, educational, and study opportunities provided by marine ecosystems that are subject to minimal human disturbance, and to manage these uses in a manner consistent with protecting biodiversity.
- To protect marine natural heritage, including protection of representative and unique marine habitats in California waters for their intrinsic value.
- To ensure that California's marine protected areas have clearly defined objectives, effective management measures, and adequate enforcement, and are based on sound scientific guidelines.
- To ensure that the state's marine protected areas are designed and managed, to the extent possible, as a network.

Designation of individual or networks of marine protected areas is intended to protect marine habitats, ecosystems and living marine resources. Marine protected areas shall be selected based on sound, peer reviewed science readily available for public scrutiny and comment in a timely manner. Such marine protected area proposals shall be created using guidance contained in the Marine Life Protection Act Master Plan Framework concerning marine protected area design, management, enforcement, monitoring, evaluation, and financing to satisfy one or more of the following purposes:

Natural Heritage:

- To protect unique or representative areas of marine habitat for their intrinsic values.
- To protect unique or representative areas of marine habitat for their recreational values.
- To insure continued public ownership and access.
- To provide insurance against catastrophic loss of a significant portion of a habitat.
- To provide a baseline for damage assessment of other areas.

Ecosystem Biodiversity:

- To protect a portion of an ecosystem with all its component parts.
- To protect unique or representative species or species assemblages.
- To provide for genetic diversity and stable stock compositions for species of concern.
- To provide insurance against the catastrophic loss of a significant species or species assemblage.

Education/Research:

- To provide research areas subject to minimal human activities.
- To foster stewardship of living marine resources and habitats.
- To provide educational opportunities for schools, colleges, universities and the public.
- To provide baseline areas or reference sites for comparison with other areas.

Protection of Marine Populations:

- To help the recovery, restoration, or enhancement of one or more species of concern.
- To provide for natural size and age compositions, and genetic diversity of populations in representative habitats.

(Adopted: 08/06/99; Amended: 12/08/05)

FISH AND GAME COMMISSION POLICIES

MULTIPLE USE OF LANDS ADMINISTERED BY THE DEPARTMENT OF FISH AND GAME

It is the policy of the Fish and Game Commission that:

Lands under the administration of the Department be made available to the public for fishing, hunting or other forms of compatible wildlife dependent recreational use, and for scientific studies whenever such use or uses will not unduly interfere with the primary purpose for which such lands were acquired.

For the purposes of this policy, undue interference shall not mean that hunter and angler access to properties that would otherwise be available for access for passive recreational activities (i.e., bird watching, interpretive tours, etc.) is deemed to be necessarily incompatible. Further, hunting and fishing shall not be banned simply because a Department administered land was acquired primarily for the protection of various threatened and endangered species unless it can be clearly demonstrated that such activities would be likely to have a detrimental effect on listed species on the property in question.

(Amended: 08/02/02)

NAMING INSTALLATIONS

It is the policy of the Fish and Game Commission that:

I. No fish hatchery, game refuge, wildlife area or any installation, other than Marine Protected Areas (MPAs), shall be named for any person, living or dead. Installations shall be named in a manner which will indicate their geographical location, avoiding as far as possible the names of local political units. Vessels shall be named for fish.

II. The Commission may commemorate an individual by including that individual's name after the geographic name of a MPA if all of the following criteria are met:

1. The individual has been deceased for a minimum of 5 years;

2. It has been determined the individual has made an extraordinary, unique, and long-lasting contribution to the conservation, use and/or enjoyment of California's living marine resources;

3. It has been determined with reasonable care and consideration that the individual's merit and/or contribution can stand the test of time;

4. The individual and/or their efforts have a direct connection with the geographic location of the MPA or immediate vicinity.

III. The Commission shall be represented at and may participate in all ceremonies dedicating the launching or inauguration of any of the facilities mentioned above. The Department and the Commission staff shall coordinate their work and efforts in setting up or arranging such programs.

(Amended: 04/07/94; 05/23/12)

NATIONAL FORESTS

It is the policy of the Fish and Game Commission that:

National forest lands provide habitat essential to the annual renewability and well-being of a host of fish and wildlife resources. The Fish and Game Commission and the Department of Fish and Game have the responsibility and authority to manage the fish and wildlife resources on national forest lands in this state. Management practices of the U.S. Forest Service can affect fish and wildlife and their habitat and can affect the management of fish and wildlife by the Commission and the Department.

To ensure effective communication between the Commission, Department and the U.S. Forest Service, the following procedures will be used:

I. The Department shall cooperate and work closely with the U.S. Forest Service with the goal of ensuring adequate protection and conservation of fish and wildlife resources and their habitat during U.S. Forest Service planning and management activities.

II. The Department shall request from the U.S. Forest Service an annual report summarizing plans, management practices and policies on national forest lands in California that have or may have impacts on fish and wildlife resources or their habitat.

III. The Department shall provide the Commission with an analysis of this annual report and of existing management practices of which it is aware, with particular emphasis on specific plans, management practices and policies of the U.S. Forest Service in specific California national forests that are or may be adverse to fish and wildlife resources or their habitat.

IV. The Department shall make specific recommendations to the U.S. Forest Service via the Commission intended to correct or alleviate any adverse conditions identified in its analysis of the annual report.

V. The Department shall invite the U.S. Forest Service to appear before the Commission when it considers the annual report.

(Adopted: 11/13/84)

NON-NATIVE TURTLES AND FROGS

The Fish and Game Commission declares that:

1. The Fish and Game Commission and the Department of Fish and Game have been charged by the Legislature to protect and wisely manage the State's living natural resources and the habitats upon which they depend.

2. The importation of non-native turtles and frogs poses threats not only to the State's native turtles and frogs, but also to the native source populations of the imported turtles and frogs.

3. These threats include, but are not limited to: disease, hybridization, competition, and predation.

Therefore, it is the policy of the Fish and Game Commission that the Department of Fish and Game shall cease issuing importation permits for any live non-native turtles or frogs pursuant to Section 236, Title 14, CCR.

(Adopted: 04/08/2010)

PLANNING

It is the policy of the Fish and Game Commission that:

I. Proper management of the state's fish and wildlife resources can only be accomplished through sound planning.

II. The Department shall prepare and submit annually to the Commission a report on the Department's progress in implementing the Comprehensive Management System adopted by the Department in March 1992. This report will include a status report on attaining the goals and objectives contained in the strategic planning component of the Comprehensive Management System.

III. The Department operations shall be guided by the plan. Any proposed program not provided for in the plan shall be submitted to the Commission for approval unless mandated by the Legislature.

(Amended: 05/09/94)

PROSPECTING ON FISH AND GAME LANDS

It is the policy of the Fish and Game Commission to:

Oppose all applications for a prospecting permit on, or a lease of, any state land administered by the Department for the purpose of prospecting or producing any mineral, or commodity, including geothermal and petroleum resources unless no adverse effect to fish or wildlife or their habitat will occur.

The Department shall urge any state agency or agencies, empowered to grant such a permit or enter into such a lease, to provide for such protection and safeguards as the Department deems necessary to protect fish and wildlife and their habitat.

(Amended: 05/09/94)

PUBLIC INFORMATION AND EDUCATION

It is the policy of the Fish and Game Commission that:

I. The Department shall disseminate to the maximum extent feasible information to the public through the news media, books, pamphlets, motion pictures and other appropriate means regarding all matters dealing with the conservation, protection, manage-

ment and administration of the state's fish and wildlife resources. It shall also inform the public about the authority and activities of the Commission and the Wildlife Conservation Board.

II. The Department shall develop education programs in conjunction with the Department of Education directed toward the state's youth, which emphasize the importance of the preservation, enhancement and proper management of California's fish, wildlife and habitat resources and which recognize the role and value of hunting and fishing as resource management tools. Young people will be encouraged to participate in conservation, hunting and fishing programs based on a sound renewable natural resource ethic.

III. The Department shall encourage education programs that increase the public's respect and concern for wild animals; and their knowledge of the interrelationships between wild animals, their environment, and their human neighbors.

The Department shall not support any program increasing the demand for possession or ownership of wild animals as pets.

(Amended: 03/02/95)

RESEARCH

It is the policy of the Fish and Game Commission that:

I. Research, including the investigation of disease, shall be performed to provide scientific and management data necessary to promote the protection, propagation, conservation, management or administration of fish and wildlife resources of this state when such data is not available by other means.

II. Whenever possible and advantageous, the services of the University of California or other academic or research institutions, or federal, state or local agencies shall be used.

III. The Department shall review the following information, which must be clearly stated in any proposed research programs: (a) goals and objectives of proposed research, including benefits to be derived from such research; (b) pertinent background information, including a literature review which supports this research; (c) experimental design, including methods of data collection and analysis; (d) estimated cost of program; (e) its estimated duration; and (f) how results will be presented to the Department. The provisions of this paragraph shall not extend to emergency investigations of disease.

IV. The Department shall report regularly to the Commission on the status of major research programs in progress.

(Amended: 06/16/94)

RESTRICTED ACCESS COMMERCIAL FISHERIES

It is the policy of the Fish and Game Commission to:

The policies in this document provide a source of information for the public and a guide for the Commission and Department in preparing and reviewing legislation, regulations, or policies that propose to restrict access to commercial fisheries. The development and adoption of these policies do not represent an initiative to apply restricted access approaches to all California fisheries. The objective is primarily to guide the Commission and Department in responding to requests for restricted access programs.

1. Restricted Access as a Management Tool

The global context. Virtually every modern fishery faces--or has faced--similar intractable management problems. Because these problems recur in so many dissimilar fisheries, it is clear that they are not caused by the biology of the species harvested, nor do they depend on the type of gear or size of vessel employed by harvesters.

The one factor common to all of these fisheries is that the fishery resources are available to anyone who wants to pursue them. Once a fisheries management authority specifies the total catch, the season length, and the allowable gear, every fisherman competes with every other fisherman to catch as much as possible in the shortest time possible. In some fisheries, bigger and faster boats, more electronics, more gear, longer hours each day and fewer days each season are the result as each fisherman rushes to catch more than the other--the "race for fish" so often described in the fishery management and economics literature. In other fisheries, the problem may just be that the number of par-

ticipants has increased to a level that jeopardizes the economic viability of the fishery. What makes sense for the individual makes no sense in the aggregate because it results in too many vessels, too much gear, too much waste, and too little income for fishermen. Moreover, excess fishing capacity usually leads to overfished populations of fish, which eventually leads to confrontations between fishermen and fishery managers over the status of the resource and the need for more restrictive regulations. Debate then follows over the need for better data.

The race for fish does not result from inadequate biological information. Population surveys, stock assessments and biological samples are important components of sound fishery management, and improving the science on which management decisions are based is always a desirable objective. But management plans based on better biology alone will not solve problems caused by the economics of the harvest system. Economic problems must be addressed directly.

The most effective solutions to these fishery management problems restrict fishing effort in some way so that the "race for fish" is ended. New entry to a fishery is most often restricted by issuing only a certain number of licenses to participate in the fishery. Existing effort in a fishery is usually restricted by limiting the size of the vessel, limiting the size or amount of gear, or directly limiting the quantity of fish that can be landed. Theoretically, the "right" number of licenses fished by the "right" size of vessels using the "right" amount of gear can harvest fish more sustainable and efficiently than the unrestricted fleet.

The problems restricted access programs are meant to address can actually become worse if the programs are poorly designed. Because many restricted access programs have been seriously flawed, some fishermen and others lack confidence that they can work. For example, in setting up restricted access programs, fishery managers have sometimes issued licenses to many more participants than are possible for the fishery to be both sustainable and economically viable for its participants. Clearly, expanding the fleet can have no effect on slowing the race for fish. Just as important, effort restrictions, such as those on the size of vessels or amount of gear, have sometimes been insufficient to restrain fishing power. Finally, managers sometimes address only one dimension of the race for fish by restricting access without also restricting capacity expansion by existing fishermen.

Because these mistakes have been frequent, it is sometimes said that restricted access doesn't work. What does not work is a management system that lacks the clear policies, the will, and the compassion to design and implement restricted access systems that reconcile the need of fishermen to make a living with the need to restrict total harvest. The set of policies in this document are intended to provide guidance on restricted access programs for the Commission, the Department, the fishing industry, and other interested members of the public.

The California context. Because California historically did not restrict the number or amount of fishing effort allowed to harvest fish, the State's commercial fisheries generally are overcapitalized: they have the physical capacity to exert more fishing pressure than the resources are able to sustain. Loss and degradation of marine and anadromous habitats and other ecological changes have aggravated this condition of excess fishing capacity.

The build-up in harvest capacity began with the advent of ocean commercial fishing in the mid-1800s and accelerated following World War II. Vessels became larger and faster, have greatly increased fishing power and hold capacity, and use a wide variety of electronic innovations to find and catch fish. At the same time, increasing knowledge of the behavior of target species have made fishermen increasingly skilled at their trade.

Since the early 1980s, various programs have been implemented, through statute or regulation, to limit the number of commercial vessels or fishermen allowed to use specific types of fishing gear or to harvest specific species or species groups of fishes. These programs have seldom resulted in adequate reduction in the overall fishing capacity for those species. They sometimes have been effective in capping the number of fishery participants; however, an unintended consequence has been a shift in effort from restricted

fisheries to open access fisheries that were already fully developed. The lack of consistent policies for guiding the development of restricted access fisheries1 has resulted in a myriad of laws and regulations. These are confusing to the industry, difficult for the Department to interpret and administer, and, in some cases, of questionable benefit to the fishery or the resource they were intended to protect.

Potential benefits. Properly designed, restricted access programs can enhance the State's ability to manage its commercial fishery resources. Restricted access programs should:

Contribute to sustainable fisheries management by providing a means to match the level of effort in a fishery to the health of the fishery resource and by giving fishery participants a greater stake in maintaining sustainability;

Provide a mechanism for funding fishery management, research, monitoring, and law enforcement activities;

Provide long-term social and economic benefits to the State and fishery participants; and

Broaden opportunities for the commercial fishing industry to share management responsibility with the Department.

Need for other fishery management tools. Restricted access programs are important tools for fishery managers, but they do not eliminate the need for other fishery management measures, such as gear restrictions, time and area closures, size limits, landing quotas, total allowable catches, and related measures. In all fisheries, a minority of vessels or divers catches most of the fish. Statistics show that a major fleet size reduction would be required to significantly reduce the fleet's fishing capacity. A severe restriction in the number of fishery participants, while perhaps contributing to fishery sustainability, can have other consequences that are undesirable: processors may have difficulty acquiring fishery product, for example, and the control of harvest might shift to a few individuals. Laws or regulations that limit the amount of gear that vessels may use or that restricts the amount or size of fish that may be taken are usually important in ensuring that restricted access initiatives achieve the desired benefits.

POLICY 1.1: The Commission and the Department may use restricted access programs as one of a number of tools to conserve and manage fisheries as a public trust resource.

2. General Restricted Access Policy/Goals and Objectives of Restricted Access Programs

California's fisheries are a public trust resource. As such they are to be protected, conserved and managed for the public benefit, which may include food production, commerce and trade, subsistence, cultural values, recreational opportunities, maintenance of viable ecosystems, and scientific research. None of these purposes need be mutually exclusive and, ideally, as many of these purposes should be encouraged as possible, consistent with resource conservation.

Fisheries are also a finite and renewable resource. If harvest and other human-caused factors affecting their health are not managed, fishery resources may be less than optimally productive or, in the worst case, may suffer serious declines. Therefore, as part of a program of controlling harvest, it is appropriate to control the amount of fishing effort applied in a fishery, including restrictions on the number of individuals or numbers of vessels participating. Restricting access to a fishery has become one of many standard fishery management tools that have been used by public agencies in carrying out their conservation and management responsibilities for publicly held finite fishery resources.

In general, the goals of restricting access to commercial fisheries are to contribute to the effective conservation and management of the State's marine living resources, provide long-term social and economic benefits to the commercial fishing industry and the State, and retain the public ownership status of those resources. More specifically, the Commission's purposes for restricting access or entry to a fishery are described as being to: 1) promote sustainable fisheries; 2) provide for an orderly fishery; 3) promote conservation among fishery participants; and 4) maintain the long-term economic viability of

fisheries. Restricted access programs may be instituted in order to carry out one or more of these purposes in a given fishery.

Promote sustainable fisheries. Depending on the fishery, limiting the fishing capacity of the fishery by limiting the number of individual fishermen or vessels may be one means of reducing take in order to protect the fishery resource. In most instances, reducing the number of individuals or vessels alone will not in itself reduce take unless it is accompanied by complementary measures such as trip limits, quotas, seasons, or gear limitations. Together, restrictions on access coupled with other measures can be an effective way of controlling effort to protect fishery resources and contribute to sustainability.

Provide for an orderly fishery. Extreme overcapitalization can lead to unsafe conditions as part of the competition among fishery participants, as in the case of "derby" fisheries. Properly designed restricted access programs can promote safety in those circumstances. Where fishing grounds are limited due either to geographical factors or fish congregating in small areas where harvest occurs, it may be necessary to limit the number of individuals or vessels involved in the fishery. The herring roe fishery is one example of where restricted access was established primarily for the purpose of maintaining an orderly fishery.

Promote conservation among fishery participants. Limiting the number of individuals or vessels in a fishery can give those in the fishery a greater stake in the resource, a sense of ownership, and confidence that a long-term opportunity exists in the fishery that usually does not exist in open access fisheries. A well-designed restricted access program can give fishery participants greater incentive to be stewards of that resource and even to invest in rebuilding the fishery (the commercial salmon stamp program, for example). Limiting access can also increase compliance with fishery regulations since an individual with a restricted access permit is much less likely to risk losing the opportunity to participate in that fishery because of a fishery violation.

Maintain the long-term economic viability of fisheries. To assure the greatest economic benefit to society from the harvest of a public fishery resource, it may be necessary to limit the number of individuals or vessels to assure economically viable fishing operations. When open access contributes to the impoverishment of fishery participants or illegal or unsavory behavior by participants competing for the limited resource, some form of restricted access based on economic viability may be necessary. Any restricted access program established, entirely or in part, for the purpose of economic viability must be crafted to avoid restricting access more than is necessary.

POLICY 2.1: The Commission may develop restricted access programs for fisheries that retain the public ownership status of the resource for one or more of the following purposes: 1) to promote sustainability; 2) to create an orderly fishery; 3) to promote conservation among fishery participants; 4) to maintain the long-term economic viability of fisheries.

3. Development and Review of Restricted Access Programs

Participation of stakeholders in program development. Restricted access programs should be developed with substantial support and involvement from stakeholders. Indeed, many of California's current restricted access programs were drafted by, or with considerable input from, the affected fishermen (the salmon, herring, Dungeness crab, and sea urchin fisheries, for example). Programs in which fishery participants and others have a substantial role in the design benefit from their knowledge of both the resource and the business aspects of the fishery. Such programs are also more likely to enjoy the support of fishery participants during implementation. Furthermore, any restricted access program must be developed consistent with the stakeholder participation requirements of Section 7059 of the Fish and Game Code.

Programs specific to the needs of the fishery. Standardization in the elements of restricted access programs is a laudable goal and could help reduce some of the complexity fishermen and the Department are faced with when dealing with different requirements for different fisheries. However, the overriding concern is that each restricted access program meets the needs of its particular fishery.

Each of the existing restricted access programs in California fisheries was designed to meet the needs of a particular fishery. As a result of periodic reviews of those programs, it may be possible to reduce some of the complexity that has resulted. However, a program should not be revised solely for the purpose of uniformity or consistency if there is a sound basis for the unique features of the program.

Program review. Restricted access programs need periodic review for possible revision. Restricted access programs should be reviewed periodically by the Department and fishery participants in the particular fishery to determine whether the program still meets the objectives of the State and the needs of the fishery participants. For the statutorily created restricted access programs, this review should take place preceding the expiration ("sunset") dates when the law is under consideration for extension. In addition, this restricted access policy should be reviewed at a regularly scheduled Commission meeting at least once every four years following its adoption.

POLICY 3.1: Restricted access programs shall be developed with the substantial involvement of participants in the affected fishery and others, consistent with the stakeholder participation requirements of Section 7059 of the Fish and Game Code. This approach shall balance the specific needs of the fishery with the desirability of increasing uniformity among restricted access programs in order to reduce administrative complexity.

POLICY 3.2: Each restricted access program shall be reviewed at least every four years and, if appropriate, revised to ensure that it continues to meet the objectives of the State and the fishery participants. Review of each restricted access program shall occur at least as often as the particular fishery is reviewed in the annual fishery status report required by Section 7065 of the Fish and Game Code. The general restricted access policy should be reviewed at a regularly scheduled Commission meeting at least once every four years following its adoption.

4. Elements of Restricted Access Programs

Categories of restricted access fisheries. Existing restricted access programs in California generally are based on target species or species groups of the fishery. The Commission expects that most new restricted access programs will follow that pattern.

Another option that may be appropriate for some fisheries, or groups of fisheries, is basing the restricted access system on gear type. Sixteen species or species groups of fishes comprise 90 percent of the State's commercial fish landings, although only a relatively few basic gear types produce the entire catch. As a means to minimize the number of programs and provide greater flexibility for fishery participants, the Commission and Department could base each restricted access program, first, on the gear type and then, if necessary, on endorsements for the species or species groups that are the target of that gear type. Where possible, the entire range of species (i.e., multi-species, ecosystem approach) contacted by a particular gear type would be included in the same program.

Additional flexibility would be provided in instances in which a fishery participant converted a restricted access permit from one gear type to another. Whether such conversions are allowed would be decided on a fishery-by-fishery basis depending on whether the conversion is consistent with the State's sustainable fisheries policies and the objectives of the two restricted access programs involved.

Each restricted access program should take into account possible impacts on open access fisheries and on other restricted access fisheries.

Fishery capacity goals and means to achieve capacity goals. Because a primary purpose of restricted access programs is to match the level of effort in a fishery to the health of the fishery resource, each restricted access program that is not based on harvest rights (see section on harvest rights) shall identify a fishery capacity goal intended to promote resource sustainability and economic viability of the fishery. Fishery capacity goals can be expressed as some factor or combination of factors that fairly represents the fishing capacity of the fleet. These factors may include the number of permitted fishery participants, number of permitted boats, net tonnage of the permitted fleet, amount of gear used in the fishery, and cumulative hold capacity. Fishery capacity goals should be based on such biological and economic factors as what is known about the size and distribution

of the target species, historic fleet size or harvest capacity, and distribution of harvest within the current fleet. Conflicts with other fisheries or ocean interest groups and economic conditions (current and future) within the fishery may also be factored in to such determinations. Depending on the fishery, the fishery capacity goal may be expressed as a single number or as a range.

The preferred approach to determining the capacity goal is to conduct a biological and economic analysis of the fishery. The analysis should consider the probable level of resource sustainability and the impact of various fleet capacities on the fishery and local communities. When such an analysis is not feasible, the Commission, Department, and stakeholders should work together in reviewing available information to arrive at a reasonable capacity goal for the fishery.

Capacity goals should be included in each restricted access program review. A fishery capacity goal will not be useful in managing effort in a fishery unless the restricted access program includes mechanisms for achieving the goal. If the fishery is overcapitalized and above its fishery capacity goal, there must be a system to reduce capacity as a basic requirement of the restricted access program. If the fishery is below its capacity goal, there must be a method to increase participation. In fisheries that are above their fishery capacity goals, transfers of permits should be allowed only if they are consistent with the system for achieving the fishery capacity goal (see Permit Transfers section).

In restricted access fisheries in which the permit is vessel based, the system for achieving fishery capacity goals must include a means of comparing and controlling the fishing power of individual vessels. Without that ability, the system controls only one aspect of fishery capacity--the number of vessels--without providing a means to manage the fishing power of those vessels (see policies on Permit Transfers and Replacement Vessels). The system may be based on factors such as vessel length, displacement, horsepower, hold capacity, or allowable amount of gear.

There are several options available to reduce the number of permits to meet fishery capacity goals. A few examples include:

Attrition--permit reduction when permit holders fail to renew their permits--has contributed to reducing effort in some fisheries. That process is slow, however, and only occurs when the outlook for the fishery is so poor that the permit has little value.

"Two-for-one" or similar requirements in transfer of permits have been used in several fisheries to reduce capacity and are effective if there is an active market for permits.

Annual "performance" standards can be required of each permit holder. For example a minimum number of landings could be required to qualify for permit renewal. This approach may be appropriated in some fisheries although it can artificially increase effort.

Permit or vessel buybacks have been used in a few fisheries and being explored for others in the United States. California's experience with this system is limited to nearshore set gill nets in Southern California. Buyback programs have been funded by both industry (through permit transfer fees, landing fees, special permit fees, etc.) and the public.

POLICY 4.1: Each new restricted access program shall be based either on one or more species or species groups targeted by the fishery or on a type of gear. In programs based on a type of gear an endorsement may be required for one or more species or species groups targeted by the gear type. Each restricted access program should take into account possible impacts of the program on other fisheries.

POLICY 4.2: Each restricted access program that is not based on harvest rights shall have a capacity goal. The Commission, Department and stakeholders will use the best available biological and economic information in determining each capacity goal.

POLICY 4.3: Each restricted access fishery system shall have an equitable, practicable, and enforceable system for reducing fishing capacity when the fishery is exceeding its participation goal and for increasing fishing capacity when the fishery is below its fishery capacity goal.

POLICY 4.4: In fisheries that exceed their fishery capacity goals, permit transfers will be allowed only if they are consistent with the means for achieving the fishery capacity goal.

5. Permits

Issuance of initial permits. The public will be given reasonable notice of intent to limit access to the fishery. A legislative bill may serve as an initial notice of intent or the Commission may take an action that serves as a notice of intent.

The Commission may set a Control Date for determining qualification for a restricted access program. Some level of fishery participation may be required to qualify for an initial permit. Fishery qualification can be based upon fishery participation during a period of time preceding notification of intent. In determining criteria for qualifying for the program, the Commission may consider the balance of gear types currently or historically relying on the fishery or the specialty markets or niches that the fishery was intended to serve. Fish landing data maintained by the Department shall be the basis for documenting fishery participation. Affidavits of fishery participation, or medical statements of inability to meet qualification standards shall not be accepted unless a system for considering exceptions, consistent with Policy 5.1, is included in the design of the restricted access program. Vessels under construction or inoperable during the qualification period shall not be considered for a permit.

California has had a practice--shared with other states, the Federal government, and other nations--of giving preference for issuing permits into a restricted access fishery to fishermen or vessels with past participation in that fishery. The practice has meant, as well, that permits generally have been issued to licensed California commercial fishermen rather than to nonfishermen or persons not licensed in the State. The practice is a fair means to assure that those who rely on that fishery or who have invested in that fishery can remain in the fishery. In determining priorities for the issuance of permits in a restricted access fishery, first priority for permits shall be given to licensed commercial fishermen/vessels with past participation in that fishery. Among fishermen or vessels with past participation in the affected fishery, preference for permits may be based on factors such as years of participation in the fishery or level of participation (landings). Second priority for permits may be based on such factors as crew experience, number of years in California fisheries, or participation in fisheries similar to that for which a program is being developed. (An example of a similar fishery being considered for eligibility for a permit was when displaced abalone divers were added to those eligible for any new sea urchin permits.) Drawings or lotteries for permits should only be used when two or more applicants have identical qualifications (for example, the same number of points for eligibility for a herring permit).

When initiating a restricted access program with vessel-based permits, designing a formula for deciding which vessels qualify that is equitable but does not increase the number of permits or the amount of effort already in the fishery is difficult but necessary. Without such a formula, the program can easily exacerbate the fishery's problems. The Commission's policy on this issue has three elements. First, the policy for all restricted access fisheries begins with the premise that initiating a restricted access program must not increase the recent level of fishing effort. Second, the default approach in designing a new program will be to issue initial permits only to the current owners of qualifying vessels. Third, in order to meet the needs of a particular fishery, it may be desirable to modify the approach of giving permits only to current owners of qualifying vessels.

Such exceptions would be decided fishery by fishery, but in no case would the formula allow increasing the recent level of effort.

A permit issued for dive, gill net, and some trap fisheries shall be issued to qualifying fishermen. A permit issued for a boat-based fishery may be issued to: 1) an individual who owned a qualifying vessel during the period in which the vessel qualified, and 2) 20-year commercial fishermen (as provided in Section 8101 of the Fish & Game Code).

Issuance of new permits. In the case of restricted access fisheries that are below their fishery capacity goals, new permits may be issued. The factors used to determine priority for issuance of new permits might be the same as for the issuance of initial permits.

Permit renewal and duration. Permits are renewable annually upon application and payment of the permit fee if the permit holder meets the requirements of the restricted access program. Permits may be renewed annually for the life of the restricted access

program. Limiting participation to a period less than the actual life of the limited access program has several drawbacks. First, it could eliminate incentive for conservation among permit holders if they know that their participation in the fishery will be limited. Second, a limitation on permit life would tend to discourage investment and diminish value of existing investment (vessels, for example) in the fishery. New investment in many fisheries is needed for safer, more fuel-efficient vessels, for equipment to maintain quality of the catch, and for changing gear. That will be discouraged if the duration of the permits is limited.

Substitutes. Each restricted access program with fisherman-based permits should determine whether substitutes for the permit holder will be allowed and, if so, in what circumstances and for what length of time. One option is that the permit holder must be present. Some programs have allowed temporary use of the permit by another in the case of death or disability of the permit holder.

POLICY 5.1: The Commission will give adequate public notice of intent to establish a restricted access program. The Commission may set a Control Date for determining qualification for a restricted access program. A new restricted access program shall not allow fishing effort to increase beyond recent levels. Some level of fishery participation may be required to qualify for an initial permit. Fishery qualification can be based upon fishery participation during a period of time preceding notification of intent or on other factors relevant to the particular fishery. Affidavits of fishery participation or medical statements of inability to meet qualification standards shall not be accepted. Vessels under construction or inoperable during the qualification period shall not be considered for a permit.

POLICY 5.2: New permits in a restricted access fishery shall only be issued when the fishery is below its fishery capacity goal.

POLICY 5.3: Restricted access fishery permits shall be of one year duration and are renewed upon annual application and payment of the permit fee and shall be valid, provided they are annually renewed and the permit holder meets the requirements of the restricted access program for the life of the program.

POLICY 5.4: Each fisherman-based program shall determine in what circumstances, if any, a substitute may fish the permit.

6. Permit Transfers

Permits within a restricted access program may be transferable or not, depending on the fishery. California currently manages some restricted access fisheries in which the permits are not transferable. Although non-transferable permits may be appropriate for some fisheries, the Commission expects that the trend will be toward transferability. First, permit transferability can and should be used as part of the mechanism for reducing capacity in a fishery that is above its capacity goal. Second, permit transferability allows for new entry into a restricted access fishery, particularly for younger fishermen or crew. Third, permit transferability protects part of an individual's investment in a fishery.

In California, as in nearly all states and federally managed fisheries, most limited access permits are transferable. Although a number of limited access fishery programs in California initially did not allow for permit transfers, these systems were found unworkable. Permit holders, even the aged, the sick, or those seeking to leave the fishery, held on to their permits, attempting in many instances to have the permit fished by another, non-permitted, individual. Non-transferability encouraged some fishery participants to work around the program rather than within it. Moreover, fishing vessels, particularly the larger ones or those built for a specific fishery, were rendered useless if there was no permit to go with them at the time of sale. For fishermen, as is the case with small business owners or farmers, their retirement funds are derived from the sale of their business, which in the case of a fisherman may be his/her vessel.

Fully transferable permits in restricted access programs have been criticized for the following reasons: 1) sales of permits on the open market can make the cost of entry into a fishery for young fishermen or crew extremely expensive and does not assure that the most deserving individuals obtain permits, 2) sales of permits on the open market can

result in windfall profits for those individuals who were initially issued a permit by the State and whose investment in the permit has only been the payment to the State of the permit fee; and 3) sales of permits on the open market can result in permits going to more active participants or to larger vessels deploying more fishing effort thereby increasing the fishing effort or capacity of the fleet. To the extent that these criticisms are valid, they can, and currently are in California, being addressed through conditions placed on permit transfers.

In order to prevent an increase in fishing power, in California's salmon limited entry program permits are transferable with the fishing vessel at the time of sale or to another vessel of equal or less fishing capacity, under specified conditions.

In the herring fishery, where the permit is to the individual rather than the vessel, permit transfers may only be made to a fishing partner or an individual holding a maximum number of points in that fishery, with points based on years of crew experience and years in California fisheries. This limitation on transfers is intended to give an advantage to those who have spent time in the fishery. Thus, those deserving of a permit are given a preference. By limiting the market for permit sales, the cost of entry is lower than it would be if the permits were available on a wide open market.

It is also possible to prevent increases in fishery capacity and reduce speculation in permits by setting fishery participation criteria in selected qualifying years for a permit to be transferable, or by requiring that the permit be held for some minimum number of years before it can be sold.

It is possible, as well, for the State and other participants in the fishery to benefit from the sale of permits through transfer fees or two-for-one permit transfer requirements. In California, there are transfer fees in some restricted access fisheries where the fees exceed the cost of administering a change in the permit. A transfer fee addresses the concern that permit holders may be making windfall profits from the sale of permits and can allow the State to share in the economic benefits of good conservation and management measures. Other participants in the fishery can benefit if the permit transfer fees are re-invested in the fishery, such as through a permit buyback program. Both the State and participants in the fishery can benefit through two-for-one permit transfer requirements if they are used to help reach a fishery capacity goal.

POLICY 6.1: Restricted access permits may be transferable. In fisheries in which the permit is transferable, transfer may be subject to conditions that contribute to the objectives of the restricted access program. In new restricted access programs, permit transfers will not be allowed unless a fishery capacity goal and a system for achieving that goal are part of the restricted access program. In existing restricted access programs, the objective is to review and revise those programs to include fishery capacity goals and systems to achieve those goals. A restricted access program may include a fee on the transfer of permits, in excess of actual administrative costs for the permit change, to offset other costs involved in the conservation and management of that fishery.

7. Vessel Issues

Vessel retirement. All vessel-based restricted access programs should provide for the voluntary retirement of commercial fishing vessels so that these vessels are no longer eligible to compete with permitted vessels in future years. Any vessels requested by the owner to be retired will be permanently identified on registration documents required for commercial vessels. Permits from retired vessels may be allowed to transfer to replacement vessels within one year of retirement provided the replacement vessel is of equal or lower fishing capacity or to a larger vessel if the restricted access program provides for vessel upgrades (see section on vessel upgrades).

Replacement vessels. Replacement vessels of the same or lower fishing capacity as the permitted vessel will be allowed only if the permitted vessel is lost, stolen, or no longer able to participate as a commercial fishing vessel, as shown on State or government documents, or other sources of information that the Department might consider. This requirement is necessary to preclude effort shift to open-access and other restricted access fisheries. The Department will make replacement vessel determinations. The ownership

of the replacement vessel, as shown on government documents, shall be same as the permitted vessel.

Vessel permit upgrades. Fishermen who hold vessel permits may want the option of acquiring a larger or more efficient vessel and transferring their existing permits or acquiring and adding new permits to the new vessel. The concern with allowing fishermen to upgrade their vessels is that by doing so the overall capacity of the fleet to catch fish increases, which should be allowed only to the extent that it is consistent with the fishery capacity goal. To offset this increase in fleet harvest capacity in fisheries that are above their fishery capacity goal, a permit consolidation process is needed whereby two or more permits can be combined to allow for the permitting of a single larger vessel. This is not a new concept in restricted access programs elsewhere. The Pacific Fishery Management Council, for example, uses a formula based on vessel length and capacity that allows for combining permits to allow for larger vessels in the groundfish fishery. In the California salmon fishery, vessel length is used by the Salmon Review Board in approving or denying vessel transfer requests for vessels in the 20-to 40-foot range.

Support vessels. In some fisheries, the use of support vessels can substantially increase the available fishing power of the fleet. In such restricted access fisheries with vessel-based permits, only vessels with a permit for that fishery should be allowed to support fishing operations of other permitted vessels. Non-permitted vessels shall not be allowed to attract fish for permitted vessels or to receive fish from permitted vessels for landing. In programs in which the permit is fisherman based, the use of support vessels may be allowed if they do not create significant enforcement problems or significantly add to the capacity of the fishery, but a registration fee may be required that is the same as the annual permit fee paid by a fishery participant.

POLICY 7.1: Vessels requested to be retired by the vessel owner will no longer be eligible to participate in commercial fisheries in California.

POLICY 7.2: Replacement vessels of the same or lower fishing capacity as the permitted vessel will be allowed only if the permitted vessel is lost, stolen, retired or no longer able to participate as a commercial fishing vessel.

POLICY 7.3: Each restricted access program that allows for vessel permit transfers may allow for vessel upgrades provided a permit consolidation/vessel retirement process consistent with the fishery capacity goal is made part of the program.

POLICY 7.4: A restricted access program may prohibit the use of support vessels or require that they be permitted in the fishery or that they pay a fee comparable to the permit fee.

8. Harvest Rights

Background. Harvest rights, often called individual transferable quotas (ITQs), involve the assignment of the exclusive rights to harvest a share of the annual total allowable catch (TAC) in a fishery. Harvest rights systems are a form of restricted access programs in that participation in the fishery is restricted to those who own quota shares. Setting TACs has been a key element in determining quota shares. The State or nation retains ownership of the fisheries resource. In most cases, individual quota systems have been implemented in fisheries with previously established limited entry programs. These individual quotas can be allocated for specific time periods, but most often are allocated in perpetuity. Individual quotas are often allocated for specific geographic areas such as the International Pacific Halibut Commission's zones. Usually, individual quotas are fully transferable (buy, sell, lease) to allow quota owners to optimize their business activities. Transferability of quota shares allows fishermen to move between fisheries. In exchange for this exclusive harvest right, quota owners usually are required to pay the costs of management, enforcement, and research. This cost recovery often leads to increased involvement of industry in research and management.

Harvest rights have usually been allocated to vessel owners. In some fisheries around the world quotas have also been allocated to communities, processors, and fishermen's organizations. Limits on the amount of quota harvest rights each entity can hold are set to prevent excessive aggregation. Aggregation limits currently range from 0.5 percent in Alaska's halibut fishery to 35 percent in some New Zealand offshore fisheries.

Similar management systems have been used to allocate fishing gear units instead of shares of a TAC. A tradable lobster trap certificate program developed by fishermen in the southeastern United States is an example.

When these restricted access policies were adopted (1999) industry comment was negative in regard to harvest rights systems. Nonetheless, these programs have become a tool for managing fisheries in various parts of the world, with the herring-roe-on-kelp fishery in California being one example. This policy acknowledges the existence of this tool as well as the complex issues that must be dealt with in developing any harvest rights program. The Commission may consider recommending development of a harvest rights program after careful consideration of stakeholder input.

The first 15 years of experience with individual quota management has shown that they end the race for fish and provide incentives to fishermen to change their business to maximize revenues and minimize costs. However, individual and community transferable quota systems have been controversial in the United States. In the Sustainable Fisheries Act of 1996, Congress placed a four-year moratorium on implementation of new ITQs and instructed the National Academy of Sciences to conduct a thorough study. In December 1998, the NAS study recommended that Congress end the moratorium.

Numerous issues have arisen when individual quotas are implemented and need to be considered:

1. Allocation of Initial Quotas. This usually, but not always, has been based on historical catches and/or vessel fishing power. The NAS study recommends that alternative methods of initial allocation be considered in addition to catch histories. Who receives the allocations (fishermen, processors, communities, tribes, etc.) must be determined and other issues resolved. Will initial allocation be free? Will the harvest right be for a certain time or perpetuity? Who is and is not eligible to obtain quota?

2. Catch Histories. If initial harvest rights are based to some degree on catch histories, accurate individual vessel or fisherman landing data is needed.

3. Transferability. The degree to which quotas are transferable (buy, sell, lease, "fishing on behalf of") must be determined.

4. Total Allowable Catches. Assuming individual quotas are a percentage of the TAC, in order to determine how much actual quota each quota owner may harvest, a TAC will have to be set. Setting TACs requires high quality resource assessment information and scientifically sound estimates of sustainable yields.

5. Aggregation Limits. Limits on the amount of quota an individual, company, community or other entity may hold needs to be considered, perhaps on a fishery by fishery basis.

6. Enforcement and Monitoring. Emphasis would likely shift towards enforcement methods to prevent quota holders from under-reporting their catches. Methods used elsewhere include increased record keeping/tracking of catches, limiting number of landing ports and increased use of industry-funded monitors at landing ports.

7. Cost Recovery. Most individual quota systems include, at a minimum, methods for having quota owners pay the cost of managing the system.

8. Processor-Fishery Participant Relationships. Depending on who winds up owning the harvest right, this relationship might change. Past experience shows that the quota owner will have increased influence on fishing decisions.

9. Quality Considerations. Early experience with individual quotas shows a consistent trend towards maximizing quality to maximize prices received. This could affect the timing and location of fishing and the other types of regulations needed.

POLICY 8.1: It is the policy of the Commission that harvest rights systems such as individual transferable quotas may be considered only after careful consideration of stakeholder input. In establishing such management systems, the State should consider: (1) fair and equitable initial allocation of quota shares which considers past participation in the fishery, (2) resource assessment for establishing total allowable catch estimates, (3) fishery participation goals and aggregation limits, (4) cost recovery from quota owners, (5) quota transferability, and (6) recreational fisheries issues.

9. Administration of Restricted Access Programs

Administration. Administrative costs should be minimized by requiring easily understood regulatory or statutory language including a minimum of exceptions to the main provisions. The use of review or advisory boards may be considered on a program-by-program basis. Board members should be reimbursed for travel and per diem expenses. The total cost for administration of each program should be borne by that program.

The Department will determine what unit is responsible for program administration and make all determinations relating to vessel fishing capacity.

Cost Accounting. Fees collected from restricted access initiatives should, for cost accounting and reporting purposes, be deposited in a single, dedicated Restricted Access Fishery Account within the Fish and Game Preservation Fund. Charges would be made against the account for direct restricted access program support. A fund condition and activity report should be published annually and include the amount of funds received from each restricted access fishery and the distribution and expenditure of those funds.

Enforcement. Restricted access programs should provide specific disincentives for violations of pertinent laws and regulations. Provision for a Civil Damages schedule, pursuant to regulations of the Commission, can serve in this regard. Because restricted access programs confer benefits to permit holders that are denied to those not in the fishery, penalties should be high for violations of the provisions of restricted access programs.

Restricted access programs should minimize enforcement costs. New technologies such as satellite-based vessel tracking are available and can be required of commercial fisheries that operate under Federal fishery management plans. Commission authority to require such technology, if deemed desirable, should be a part of any legislation or regulation creating a restricted access fishery. Enforcement staff will be responsible for monitoring the vessels and enforcing the pertinent laws and regulations. Enforcement costs for restricted access fisheries should be borne by the restricted access programs.

POLICY 9.1: Administrative costs shall be minimized and those costs shall be borne by the respective programs. Review or advisory boards may be considered on a program-by-program basis. The programs shall be administered in their entirety within an existing department unit.

POLICY 9.2: Fees collected from restricted access initiatives may, for cost accounting and reporting purposes, be deposited in a single dedicated Restricted Access Fishery Account within the Fish and Game Preservation Fund. A fund condition and activity report should be published annually.

POLICY 9.3: Restricted access programs should provide specific disincentives for violations of pertinent laws and regulations. Enforcement costs of restricted access programs should be minimized through the use of new technologies or other means.

**(Restricted access is used in this document to mean the application of laws, regulations, or policy that affect the number of fishing units or allowable take by individual units in a commercial fishery).*

(Adopted: 06/18/99)

SALTON SEA

It is the policy of the Fish and Game Commission to:

Recognize that the Salton Sea has been designated as a repository for agriculture drainage water (Federal Public Water Reserve Number 90 and Number 114). The Commission recognizes the importance of this designation to agriculture.

The Commission also finds that the Salton Sea has unique and valuable fish and wildlife resources and associated recreational values, and the Commission and the Department shall be guided by the following objectives:

I. Preserve the biological integrity of the Salton Sea and its associated wetland habitats.

II. Protect and perpetuate the diverse fish and wildlife resources of the Salton Sea ecosystem for the use and enjoyment of present and future generations.

III. Prevent or alleviate those aspects of projects, developments and activities which would or do exert adverse impact on the habitats and fish and wildlife resources of the Salton Sea ecosystems.
(Amended: 06/16/94; 06/23/05)

SEASON OPENING DATES

It is the policy of the Fish and Game Commission that:

Where and when practical, hunting and fishing seasons will open on a Saturday. In order that vacations and other plans can be scheduled well in advance, the following are designated as opening dates for the named species and will be adhered to unless there are strong reasons why the Commission should deviate:

Trout: General - Last Saturday in April
Pheasant: Second Saturday in November
Dove: September 1
Quail: Coastal Season north of San Francisco Bay - Last Saturday in September
Quail: Remainder of State - Third Saturday in October
Special Mountain Quail: Second Saturday in September
Chukar: Statewide - Third Saturday in October
Sage Grouse: Second Saturday in September (Lassen County), and first Saturday in October (Mono and Inyo counties)
Sierra and Ruffed Grouse: Second Saturday in September
Turkey: Fall Season - Second Saturday in November
Turkey: Spring Season - Last Saturday in March
(Editor's Note: For other hunting and fishing season opening dates, see Commission regulations.)
(Amended: 06/16/94; 08/01/2003)

SHELLFISH AND SEA OTTER CONFLICTS

The Fish and Game Commission declares the following:

1. The management and conservation of marine resources are important to the State of California and fish and wildlife resources are held in trust for the people of the State by and through the Department of Fish and Game. [FGC Sec. 711.7(a) and Sec. 1600]

2. It is the policy of the State to encourage the conservation, maintenance, and utilization of marine resources for the benefit of all citizens and to promote the development of local fisheries, to encourage the growth of commercial fisheries, and to achieve the sustainable use of the state's fisheries. [FGC Sec. 1700 and Sec. 7055]

3. Significant legislation enacted in 1998 established the State policy that marine living resources are to be conserved, used and restored for the benefit of all citizens; that the health and diversity of entire marine ecosystems and all marine resources are to be conserved; and that State actions are to recognize the importance of sustainable fisheries to the economy and the culture of California. [AB 1241]

4. The Commission has previously adopted policies to encourage the development and expansion of commercial fishing and to cooperate with local, state and federal agencies and private persons and organizations to further the conservation of fish and wildlife.

5. In 1986 a federal law was enacted amending the Endangered Species Act. The amendment specifically provides authority for the U.S. Fish and Wildlife Service to cooperatively undertake, with the Department of Fish and Game, a zonal management plan for the threatened southern sea otter that has its primary objective to conserve both sea otters and local commercial fisheries. This federal law paved the way for a Memorandum of Understanding between the two agencies and initiated an extraordinary effort to balance apparently competing needs and give assurances to both wildlife conservation and commercial fishing interests.

Therefore, it is the policy of the Fish and Game Commission to:

1. Actively encourage on its own initiative and with the Department of Fish and Game, consistent with state law and legislatively established policy, a balanced solution to minimize shellfish fishery and sea otter conflicts that provides assurances for sea otter recovery, sustainable local commercial and sport fishing, healthy marine ecosystems, and strong local economies.

2. Support and encourage the Department in completing and maintaining a current comprehensive Sea Urchin management plan that considers among other issues the long-term impacts of various levels of fishing effort, predation, and habitat quality.

3. Confer with appropriate state and federal agencies, local governments, scientific experts, fishery participants, sea otter support groups, and other interests in exploring options for and identifying a balanced zonal management plan that protects the marine resources of the State and supports sustainable local commercial fishing industries.

4. Promote a healthy marine ecosystem as the single best way to recover sea otters and promote local fisheries and encourage appropriate federal and State agencies to undertake research efforts necessary to identify the cause or causes for the continued decline in the sea otter population.

5. Pursue financial resources to match federal funds in undertaking research and management efforts designed to promote recovery of California's sea otter population while minimizing conflicts with shellfish fisheries and other marine resource uses. These funds could include general State revenues and the State's share of federal funds from Section 6 of the Endangered Species Act, sections 109 and 110 of the Marine Mammal Protection Act, or Pittman-Robertson federal aid.

(Adopted: 04/02/99)

TRAINING, TESTING AND TRIALING OF HUNTING DOGS

It is the policy of the Fish and Game Commission that:

The training, testing and trialing of hunting dogs facilitates hunting in that the use of a trained hunting dog is recognized as a conservation tool which will increase the recovery of downed game.

The use of a trained hunting dog is recognized as contributing to the enjoyment of the hunting experience.

The testing and trialing of hunting dogs is recognized as a recreational activity which is an extension of the hunting experience determines the best dogs for the improvement of hunting breeds, and provides means of evaluating the success of a training program.

The emphasis on programs that ensure and enhance hunting opportunities shall, where feasible, include opportunities to train, test and trial dogs to be used in hunting.

(Adopted: 05/09/02)

TRIBAL CONSULTATION

The Policy

On September 19, 2011, Governor Edmund G. Brown, Jr., issued Executive Order B-10-11, which provides, among other things, that it is the policy of the administration that every state agency and department subject to executive control implement effective government-to-government consultation with California Indian Tribes.

Purpose of the Policy

The mission of the California Fish and Game Commission (FGC) is, on the behalf of California citizens, to ensure the long term sustainability of California's fish and wildlife resources by setting policies, establishing appropriate rules and regulations, guiding scientific evaluation and assessments, and building partnerships to implement this mission. California Native American Tribes, whether federally recognized or not, have distinct cultural, spiritual, environmental, economic and public health interests and unique traditional knowledge about the natural resources of California.

The purpose of this policy is to create a means by which tribes and FGC can effectively work together to realize sustainably-managed natural resources of mutual interest.

Policy Implementation

1. Communication. Both FGC and the tribes are faced with innumerable demands on their limited time and resources. In the interest of efficiency, FGC will annually host a tribal planning meeting to coordinate the upcoming regulatory and policy activities before FGC. The meeting will provide a venue for education about process, identifying regulatory and policy needs, and developing collaborative interests; this will include inviting sister agencies to participate.

2. Collaboration. In areas or subjects of mutual interest, FGC will pursue partnerships with tribes to collaborate on solutions tailored to each tribe's unique needs and capacity. The structure of these collaborative efforts can range from informal information sharing, to a memorandum of understanding with more specific agreements regarding working relationships and desired outcomes, to co-management agreements with specific responsibilities and authorities.

3. Record-keeping. FGC will maintain a record of all comments provided by tribes and will include them in administrative records where appropriate.

4. Training. FGC will provide training to interested tribes on its processes for regulation and policy development.

(Adopted: 06/10/15)

USE OF DESIGNATED DEPARTMENT LANDS FOR PRIVATELY MANAGED PUBLIC HUNTING AREAS

It is the policy of the Fish and Game Commission that:

Diversified uses of wildlife resources will be promoted by the Department including hunting of designated species subject to regulations consistent with maintaining healthy, viable populations, public safety and a quality outdoor experience. Suitable Department administered lands may provide opportunities for public hunting programs, however, due to limitations on funding and staffing these lands may not be fully used. Therefore, the Department shall consider alternatives to its management of hunting programs on these lands, consistent with approved management plans, including leases to private parties for operating public hunting programs.

The Department shall review on an ongoing basis the status of lands under its jurisdiction and control to determine if there are lands which more properly could be leased to private enterprise to be managed as public hunting areas. If suitable, Department lands shall be made available to the private sector pursuant to appropriate Government Code provisions and General Services leasing procedures. In determining the qualifications of a proposed lessee, the Department shall take into account the experience of the proposed lessee in managing lands for wildlife habitat maintenance purposes and for providing hunting opportunities to the general public.

(Adopted: 12/06/84; Amended: 08/04/94)

WATER

It is the policy of the Fish and Game Commission that:

I. The quantity and quality of the waters of this state should be apportioned and maintained respectively so as to produce and sustain maximum numbers of fish and wildlife. Commensurate with this policy, the Commission recognizes that:

A. The waters of the state are a limited resource subject to ever increasing demands; and that

B. Conservation and the efficient management of water resources are necessary to meet the competing needs of urban communities, industry, agriculture, recreation and fish and wildlife.

II. **Quantity:**

To provide maximum protection and enhancement of fish and wildlife and their habitat, the Department shall:

A. Review and comment on proposed water development projects, on application for licenses or permits for water use, water development, and on projects affecting aquatic habitat.

B. Recommend and seek the adoption of proposals necessary or appropriate for the protection and enhancement of fish and wildlife and their habitat. The primary habitat objective is the maintenance of natural conditions in state waters, the adaption of impounded waters for fish and wildlife purposes, and the creation of new waters or areas which will support fish and wildlife, provided that such new waters enhance fish and wildlife.

C. Oppose the issuance of permits or licenses, or the authorization of appropriation of funds for water use projects which have not prevented or adequately compensated for damage to fish and wildlife resources.

D. Prepare and render reports on water use or development in relation to their effect on fish and wildlife at the request of federal or state agencies whenever the same may be required by law or otherwise be appropriate.

E. Monitor and maintain surveillance over existing water use projects to prevent avoidable damage to aquatic habitat and to insure compliance with fish and wildlife protection or enhancement requirements.

F. Take an active part in the planning of water development projects, and take appropriate action designed to insure adequate water supplies to maintain and enhance fish and wildlife habitat.

G. Assist, cooperate, and negotiate agreements with federal, state, public or private agencies or organizations, subject to the approval of the Commission, provided Commission approval shall not be required for agreements of a routine nature except when they call for a substantial augmentation of the budget.

H. Seek an allocation of water for fish and wildlife on an equitable basis with other uses, and protect fish and wildlife from the hazards created by such other uses.

I. Periodically reassess permit and license terms and conditions and where feasible, seek corrective action where original terms and conditions were inadequate.

J. Advise the Commission at one of its regularly scheduled meetings of any project which may have significant adverse impacts on fish and wildlife, and shall indicate the measures by which fish and wildlife resources will be protected from damage by the project in question. The Department shall also state the extent to which the agency or person preparing the plans for such project has incorporated therein plans for enhancing such resources.

K. Maintain field and technical expertise in all areas of instream flow assessment in order that the Department can provide recommendations which are biologically sound and technically defensible.

III. **Quality:**

Encourage and support programs to maintain or restore a high quality of the waters of this state, and prevent the degradation thereof caused by pollution and contamination. The Department shall take all appropriate actions to further these ends. In addition, the Department shall inform the State Water Resources Control Board and Regional Water Quality Control Board of water quality problems affecting fish and wildlife and shall seek mutual cooperation in solving such problems.

IV. Access:

Endeavor to keep as much water as possible open and accessible to the public for the use and enjoyment of fish and wildlife.

(Amended: 11/03/94)

WETLANDS RESOURCES

The Fish and Game Commission finds that:

I. California's remaining wetlands provide significant and essential habitat for a wide variety of important resident and migratory fish and wildlife species.

II. The quantity and quality of the wetlands habitat remaining in California have been significantly reduced; thus, maintenance and restoration are essential to meet the needs of the public for fish and wildlife resources and related beneficial uses. In addition, the protection, preservation, restoration, enhancement and expansion of wetlands as migratory bird breeding and wintering habitat are justly recognized as being critical to the long-term survival of such species. Wetland habitat is also recognized as providing habitat for over half of the listed endangered and threatened species in California.

III. Projects which impact wetlands are damaging to fish and wildlife resources if they result in a net loss of wetland acreage or wetland habitat value.

IV. Through the passage of Senate Concurrent Resolution 28 (January 1, 1983), the Legislature, in recognition of the importance of wetlands, indicated its "intent to

preserve, protect, restore and enhance California's wetlands and the multiple resources which depend upon them for the benefit of the people of the State". In addition, on August 23, 1993, Governor Wilson issued the California Wetlands Conservation Policy which established a specific goal of "no net loss of wetlands." To achieve this goal, the policy emphasizes program elements that reduce procedural complexity with wetland conservation programs, and encourages landowner incentive programs and cooperative planning efforts such as Central Valley Joint Venture.

Therefore, it is the policy of the Fish and Game Commission to seek to provide for the protection, preservation, restoration, enhancement and expansion of wetland habitat in California.

Further, it is the policy of the Fish and Game Commission to strongly discourage development in or conversion of wetlands. It opposes, consistent with its legal authority, any development or conversion which would result in a reduction of wetland acreage or wetland habitat values. To that end, the Commission opposes wetland development proposals unless, at a minimum, project mitigation assures there will be "no net loss" of either wetland habitat values or acreage.

The Commission strongly prefers mitigation which would achieve expansion of wetland acreage and enhancement of wetland habitat values.

(Amended: 08/04/94; 08/18/05)

DEPARTMENT OF FISH AND GAME RECOMMENDED WETLAND DEFINITION, MITIGATION STRATEGIES, AND HABITAT VALUE ASSESSMENT METHODOLOGY

Introduction

At the March 9, 1987 Fish and Game Commission hearing during which the Commission adopted a wetlands policy, the Commission assigned the Department two tasks. These tasks were: 1) to recommend a wetland definition for use in the implementation of the Commission's adopted policy, and 2) to recommend a means by which retention of wetland habitat values may be assured when it becomes necessary to compensate for the loss of wetland acreage and/or wetland habitat values resulting from the implementation of projects or other activities. This report is intended to respond to the Commission's request.

The Commission's wetland policy is not a regulatory program. The Department and the Commission possess only limited regulatory authority over potential uses within remaining wetlands not currently owned by the Department. Our role in wetland protection, as we have explained in our March 9, 1987 report to the Commission, is primarily advisory in nature. Therefore, this report identifies a wetland definition and an implementable procedure by which wetland acreage and habitat values will be retained when it has been determined that projects, plans or other activities will occupy or otherwise adversely impact wetlands.

Wetland Definition

It is apparent that the adequacy of the Commission's wetland policy is directly related to the adequacy of the wetland definition to which the policy relates. As we indicated in our previous report to the Commission, the Department has found the U.S. Fish and Wildlife Service (USFWS) wetland definition and classification system to be the most biologically valid of those definitions and classification systems presently utilized in California.

The USFWS definition utilizes hydric soils2, saturation or inundation, and vegetative criteria, and requires the presence of at least one of these criteria (rather than all three) in order to classify an area as a wetland. The USFWS definition has been employed in project review nationwide for over 8 years. It has been well tested and proven to be adequate. Further, because it requires the application of the same array of biological and physical parameters, it exhibits a degree of consistency and uniformity which is advantageous to biological and developmental planners alike. The Department's use of the USFWS wetland definition as the principal means of wetland identification, combined with on-site inspections to establish actual wetland acreage and habitat values, will sub-

stantially increase the consistency of our wetland determinations. This improved level of consistency should subsequently alleviate the past uncertainties and frustrations experienced by the development community. Lastly, and as will be explained in greater detail later, if a wetland compensation site is to be located within or adjacent to the project site, assurances regarding the establishment and long-term retention of fish and wildlife habitat values must be provided.

The USFWS definition is as follows:

"Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes3; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of each year." (*Classification of Wetlands and Deepwater Habitats of the United States;* FWS/OBS 79/31; December 1979).

The USFWS wetland classification publication also describes the upper (landward) and lower (waterward) limits of wetlands. These limits are described as follows:

"The upland limit of wetland is designated as (1) the boundary between land with predominantly hydrophytic cover and land with predominantly mesophytic or xerophytic cover; (2) the boundary between soil that is predominantly hydric and soil that is predominantly non-hydric; or (3) in the case of wetlands without vegetation or soil, the boundary between land that is flooded or saturated at some time each year and land that is not." (*Ibid*, page 4).

The lower limit of wetlands in estuarine or marine areas (i.e., those wetlands which are subject to the ebb and flow of the tide) is established as coincident with the extreme low spring tide.

The lower limit of wetlands in an inland setting (i.e., those wetlands associated with lakes, rivers, ponds, vernal pools, etc.) is established at a depth of two meters (6.6 feet) below low water; however, if emergents, shrubs, or trees grow beyond this depth at any time, then the deepwater edge of such vegetation is the boundary.

The USFWS definition includes, swamps; freshwater, brackish water, and saltwater marshes; bogs; vernal pools; periodically inundated saltflats; intertidal mudflats; wet meadows; wet pastures; springs and seeps; portions of lakes, ponds, rivers and streams; and all other areas which are periodically or permanently covered by shallow water; or dominated by hydrophytic vegetation, or in which the soils are predominantly hydric in nature. Therefore, for all of the reasons set forth above, the Department recommends the USFWS definition as its principal means of wetland identification in conjunction with on-site inspections for implementation of the Fish and Game Commission's policy.

Retention Of Wetland Acreage And Habitat Values

The Commission's wetland policy contains essentially two considerations for offsetting adverse impacts to wetland resources. The policy stresses the need to compensate for the loss of wetland habitat on an acre-for-acre basis. That is, for every acre of wetland lost, no less than an acre of wetland must be created from non-wetland habitat. Compensation for the loss of wetland habitat values to fish and wildlife resources requires the creation of habitat values at the compensation site which at least duplicates those habitat values which are lost to project implementation. Requisite assurance that habitat values will, in fact, be at least retained shall be the subject of the remainder of this discussion.

Mitigation for habitat values lost to the implementation of a project may be accomplished in four ways taking into consideration mitigation site location and wetland type to be created. The term "out-o-kind" as used in mitigation scenarios 3 and 4 refers to different types of wetlands and does not include the replacement of wetland habitat with nonwetland habitat. These mitigation alternatives, in descending order of general acceptability are:

I. "*In-kind, On-site*": This form of mitigation would seek to duplicate the physical nature of the wetland area to be negatively impacted within or adjacent to a project site. This mitigation technique, if properly applied, would tend to assure that the habitat

derived from wetland creation is essentially identical to that which was lost to development; would concentrate on benefiting those fish and wildlife species and local populations adversely impacted by development; and would tend to provide a greater degree of certainty that the benefits provided by the impacted wetland to associated plant and animal communities in the project vicinity are retained.

II. "*In-kind, Off-site*: This form of mitigation would be selected when "in-kind, on-site" mitigation would result in the creation of wetlands of demonstrably inferior quality to those which could be created elsewhere. In general, "in-kind, off-site" mitigation should be located as near to the impact site as is feasible. The advantage of "in-kind, off- site" mitigation is that it would, through duplication of the physical nature of the wetland area to be negatively impacted, tend to benefit those fish and wildlife species which would be adversely impacted at the project site and would also tend to maintain their population levels. This form of mitigation does not necessarily assure retention of the local fish and wildlife populations affected by the project.

III. "*Out-of-kind, On-site*": It is conceivable that situations could exist where fish and wildlife resources would be better served from a regional standpoint if creation of wetlands of a different type than those adversely impacted through development were selected as mitigation. For example, it could be that, from a management perspective, a freshwater marsh is more valuable to fish and wildlife resources in a given region than an equivalent area of saltmarsh. In such a situation, the Department believes that an alternative to mandatory in-kind replacement of habitat values can be desirable. However, out-of-kind mitigation is generally inferior to in-kind mitigation, since it does little to provide assured benefit to those species which would be negatively impacted as a result of development. Therefore, only if a compelling biologically-based rationale exists for acceptance of out-of-kind mitigation should such a form of mitigation be employed. Application of out-of-kind compensation on-site would generally provide values which relate geographically to those values lost through development, and would generally result in benefiting that ecosystem, or collection of communities, with which the developed wetland was associated.

IV. "*Out-of-kind, Off-site*": This form of mitigation would not result in the maintenance of those fish and wildlife values lost through development nor would it necessarily have any bearing upon the ecosystem involved at the project site. For these reasons, "out-of-kind, off-site" mitigation is a less acceptable means of compensating for adverse impacts to wetlands. However, if mitigation approaches 1, 2, and 3 cannot be employed, and if the choice is retention of wetland acreage through "out-of-kind, off-site" compensation or a net loss of wetland acreage, then, and only then, would the Department accept "out-of-kind, off-site" compensation.

For the reasons explained above, the Department will normally seek to compensate for adverse impacts to wetland through in-kind compensation. The controlling assumptions involved in this mitigation approach are: (1) Given duplication of the physical features associated with wetlands to be impacted, the vegetative component of the wetland to be impacted can also be duplicated either through a planting program or through natural colonization; and (2) If the physical feature and the vegetational components of the impacted area are duplicated, then fish and wildlife resources should become established at the mitigation site at levels which compensate for losses sustained at the project site. Physical features include substrate contours, water depth, duration of inundation, periodicity of inundations, salinity, and soil type.

When dealing with in-kind compensation, it is essential to consider each of the representative species or species groups present at a project site and to assure that those representative species or species groups will not be negatively affected. This can be accomplished by taking into consideration existing values provided at the project site and comparing those to the values which would be provided at the compensation site. A habitat evaluation procedure, such as that used by the USFWS, could be used to assure no reduction in habitat value for any of the representative species or species groups present at the project site, provided that such a procedure presumes that there shall be no net loss of wetland acreage. When dealing with out-of-kind compensation, it is neither de-

sirable nor reasonable to attempt to show equivalency between values foregone at the project site and those different values to be generated at the compensation site. As we have previously indicated, the rationale for acceptance of out-of-kind compensation shall be based upon a biological determination that, from a regional perspective, out-of-kind compensation is demonstrably superior to in-kind compensation.

Buffers between existing or proposed development and existing wetlands or wetland compensation sites should be included as an integral component of all mitigation plans in order to assure the attainment and maintenance of habitat values sufficient to compensate for project impacts. Buffers should be of sufficient width and should be designed to eliminate potential disturbance of fish and wildlife resources from noise, human activity, feral animal intrusion, and any other potential sources of disturbance. The size and character of buffers shall ultimately be determined by the requirements of the affected species most sensitive to such disturbances. When feasible, buffers should be designed in a manner which complements the habitat values associated with adjacent wetland. For example, a buffer located near freshwater ponds could be planted with those grasses and forages known to support high density nesting by waterfowl. In no case shall such buffers be credited as wetland acreage necessary to achieve compliance with the requirements of the Commission's policy regarding retention of wetland acreage.

The loss of wetland acreage and habitat values to project implementation is permanent. Therefore, it is necessary to maintain the mitigation area in perpetuity in order to compensate for the permanent effects of development. It follows then that the project sponsor and his successor(s) must be responsible for the acquisition, development, and permanent maintenance of the compensation site in a manner which fully mitigates the projects impacts to fish and wildlife resources. For this reason, the Department recommends that permanent maintenance of compensation sites be required as a condition of the granting of any permits which might be required for project construction.

As was pointed out by several public speakers at the Commission's March 9, 1987 hearing, the art of wetland creation and enhancement is not yet a science. The Department is confident that wetlands can be created in such a manner as to duplicate or exceed the acreage and those habitat values associated with wetland areas which may, in the future, be developed. However, we are also aware of the possibility that wetland creation sites may not develop all of those fish and wildlife values which were projected at their inception. Therefore, the Department recommends the universal application of requirements that fish and wildlife values at compensation sites shall be thoroughly assessed after their construction pursuant to appropriate permit conditions; that these values be compared to the values which were lost through project development; and that the project sponsor or his successor(s) be required to take such actions as may be necessary to offset any habitat value shortfall which may be discovered as a result of follow-up studies.

The foregoing discussion relates primarily to individual project review, and provides a framework for assuring retention of wetland habitat values lost through project implementation. However, a related, but somewhat less obvious, problem threatens the preservation of wetland habitat values on a statewide basis. This problem involves the direct impacts of large-scale urban expansion upon upland plant communities, and the indirect impact of such upland development upon wetland habitat values. The problem revolves around the fact that wetlands generally exist as biologically valuable components of larger aggregations of biological communities including a variety of upland communities. Wetlands and associated uplands complement one another. Numerous animals found in wetland areas are, nevertheless, at least partially dependent upon associated uplands. For example, waterfowl, which rest and forage in wetlands, are also, at times, dependent upon associated upland areas for nesting. If, in this example, we protected the wetland but lost the associated upland to development, then the wetland would provide reduced habitat values for waterfowl. So it is with many animals. In spite of the fact that elimination of the ecological bond between wetlands and associated uplands often reduces the value of wetlands to fish and wildlife resources, relatively little regulatory authority exists for dealing with this issue on a project review, or permit review, basis.

FISH AND GAME COMMISSION POLICIES

It seems that the most effective means of addressing this ongoing problem is to place increased emphasis upon the future review of county general plans in an attempt to steer unavoidable future urban expansion into patterns which provide for retention of upland/wetland relationships. Failure to retain this ecological bond between wetland and associated uplands will result in the creation of isolated wetland enclaves scattered throughout highly urbanized areas, and will result in indirect loss of wetland habitat values. The Commission should be aware that no universal regulatory framework exists for effectively dealing with this issue. Nevertheless, the Department shall attempt to address this issue through county general plan review and the review of other long-range planning documents and actions by local, state, and federal agencies.

The Department believes that a concerted effort to protect California's remaining wetlands can result in achieving compliance with the Commission's wetland policy. In order to retain and to expand California's wetland acreage and wetland habitat values, it will be necessary, in light of the non-regulatory nature of the Commission's policy, to work closely with the development community and various local, state, and federal governmental entities. Given a mutual commitment on the part of all concerned parties, maintenance of wetland acreage and attendant fish and wildlife values is possible. Through a combination of such cooperation and a continuation of ongoing wetland acquisition, enhancement, and creation activities by local, state, and federal agencies as well as similar efforts by various sportsmen's groups and other conservation organizations, the Department is optimistic that expansion of California's wetland acreage and considerable increases in attendant wetland habitat values are both achievable.

The Department wishes to thank the Commission for the opportunity to recommend a comprehensive wetland definition and identification process, and to recommend the means by which the Commission's wetland policy may be implemented.

FISH AND GAME COMMISSION COMMENT TO THE DEPARTMENT OF FISH AND GAME ON THE WETLAND POLICY IMPLEMENTATION PROPOSAL

Principles Of Application

The Fish and Game Commission accepts the wetland definition, mitigation strategies and habitat value assessment methodologies recommended by the Department in its report submitted to the Commission Wetland Subcommittee on June 24, 1987. The Commission expects the Department of Fish and Game to apply the Commission's wetland policy and the Department's proposed implementing procedures with scientific accuracy; sound judgment; and in a manner which assures the protection and enhancement of the state's wetland resources. The Department, in its application of the policy and implementation procedures to specific situations, should strive to maximize the long-term interests of the fish and wildlife resources involved and to make recommendations that are both timely and appropriate to this end. The Department may depart from the letter of the policy only when such departure will better serve the long-term interests of wetland resource protection. The Department shall report such departure and the rationale for such departure to the Commission at its next scheduled meeting.

Scope Of Policy

The Commission has found the policy and implementation procedures to be nonregulatory in nature. Their intended application is in those circumstances where the Department's role is advisory, as in, but not limited to, the application of the California Environmental Quality Act, National Environmental Protection Act, California Coastal Act, Clean Water At, and other applicable state and federal laws and regulations.

The Commission does not wish the policy and the implementing procedures to be applied to projects or actions previously reviewed and commented upon by the Department and for which relevant permits have been issued. However, when further Department review is authorized or required due to project modification or additional public actions, the Department should consider any prior recommendations or agreements when applying the Commission's wetland policy.

FISH AND GAME COMMISSION POLICIES

Definition

The Commission concurs with the Department's recommendation to use the U.S. Fish and Wildlife Service's (USFWS) definition as the basis for wetland identification. When all three wetland indicators (i.e., hydric soils, wetland vegetation, and hydrology) are present, the presumption of wetland existence shall be conclusive. Where less than three indicators are present, policy application shall be supported by the demonstrable use of wetland areas by wetland associated fish or wildlife resources, related biological activity, and wetland habitat values.

The USFWS wetland identification system should be applied by professionals trained in its methodology. The accuracy of existing wetland inventory mapping should not necessarily be assumed. The Commission supports the Department's current practice of on-site inspections of projects which would impact wetlands and strongly encourages the Department to conduct on-site inspections of such projects and particularly whenever requested to do so by project proponents or concerned public agencies.

Landowner Cooperation

Both the Commission and the Department recognize that the response of landowners, private and public, is an important factor in the success or failure of any State policy to create, protect, restore or enhance wetland habitat. The Commission acknowledges that landowners are not normally obligated to either create or enhance wetlands on their property except as may be otherwise required by law, thus, many wetlands and wetland values exist primarily because of voluntary actions taken by landowners. Therefore, the Commission urges the Department to proceed with the development and implementation of a comprehensive program of incentives that will encourage and facilitate landowner cooperation with the State in achieving its wetland objectives, including the voluntary retention of existing wetlands and the creation of new wetlands and enhanced habitat values, and the elimination of disincentives to accomplishing these objectives. This program should b viewed as an important component of the Commission's wetland policy, and a desirable complement to programs based directly or indirectly on regulatory authority.

(Adopted: 12/03/87; Amended: 08/04/94; 08/18/05)

WILDERNESS AREAS

It is the policy of the Fish and Game Commission to:

I. Support selected habitat management programs when they are vital to the perpetuation of fish and wildlife populations. Such programs must be conducted in such a manner as to have minimum impact on the natural resource values of the wilderness area.

II. Support restrictions on the opening of any primitive wilderness or wild areas in California to commercial interests of any kind that will adversely affect the natural resource values of such areas.

(Amended: 08/04/94)

JOINT POLICIES – CALIFORNIA STATE BOARD OF FORESTRY AND FIRE PROTECTION AND THE CALIFORNIA FISH AND GAME COMMISSION

JOINT POLICY STATEMENT ON PACIFIC SALMON AND ANADROMOUS TROUT

I. FINDINGS

The Fish and Game Commission (Commission) and the Board of Forestry and Fire Protection (Board) find:

1. That the four species of Pacific salmon and anadromous trout found in California streams: Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), anadromous rainbow trout (*Oncorhynchus mykiss*) (commonly known as steelhead), and anadromous coastal cutthroat trout (*Oncorhynchus clarkii*) (herein jointly

referred to as salmonids) are vitally important ecological and economic resources in California.

2. That there is considerable scientific, commercial, and public concern over the decline of salmonids in California. Several actions have been taken by the State and the Federal government to provide legal protective status for salmonids. Under the California Endangered Species Act (CESA), the Commission has listed runs of Chinook salmon and coho salmon, while under the Federal Endangered Species Act (ESA) the National Marine Fisheries Service (NMFS) has listed runs of Chinook salmon, coho salmon and stocks of anadromous rainbow trout (Appendix 1).

3. That forestry practices interact with watershed and riparian processes and can positively or negatively affect upstream and downstream freshwater habitat for salmonids. Properly implemented forestry practices can reduce the risk of catastrophic fires that impact water quality and other habitat elements important to salmonids. Sound forestry practices can help maintain and restore the riparian functions that are linked to salmonid habitats. This Joint Policy encourages positive forest management practices, particularly those associated with roads, unstable areas, and riparian areas, that protect salmonid habitat by: 1) reducing stream temperatures; 2) reducing sediment levels in streams; 3) enhancing composition and abundance of fish species and aquatic macroinvertebrates; 4) stabilizing stream banks and streamside areas; 5) increasing instream structural complexity; 6) increasing large woody debris recruitment; and 7) increasing base flows in streams.

4. That strong pressures for parcelization, fragmentation, and land use conversion exist. The loss of forestland to other uses can degrade habitat. The retention and active management of forested lands in a manner compatible with the freshwater life histories of salmonids is vital to maintaining salmonid habitat that is in good condition and to restoring degraded habitat. Retention of viable, working forest landscapes is therefore essential to salmonids.

5. That this Joint Policy is intended to focus on the recovery, conservation, preservation, and restoration of salmonid populations and their habitats by the Department of Fish and Game and the Department of Forestry and Fire Protection (departments) utilizing their respective authorities in the implementation of watershed-based forest management actions.

6. The Joint Policy emphasizes that these species are in great peril and that forest management practices based on sound science and coupled with other federal and state programs have the potential to assist in their recovery.

7. That adequate staffing and funding are necessary to implement the actions of this Joint Policy. The Commission and the Board, along with their respective departments, will seek appropriate funding for the implementation of the actions identified in this Joint Policy. Given the uncertainty for consistent staffing and funding, efficient regulatory systems must be developed that address environmental protection and overlapping review. Funding priority will be given to programmatic, watershed-scale restoration activities to provide the greatest benefit to salmonids on forested lands.

Therefore, the Commission and the Board establish these goals;

1. to recover salmonid populations to meet delisting standards,
2. maintain and restore watersheds,
3. retain managed working forests on timberlands,
4. encourage watershed-scale programmatic approaches to achieve these goals,
5. and so contribute to building healthy communities.

II. JOINT POLICY OF THE BOARD AND COMMISSION FOR THEIR RESPECTIVE DEPARTMENTS

The Commission and Board adopt the following Joint Policy for the Department of Fish and Game (DFG) and the Department of Forestry and Fire Protection (CALFIRE) (herein jointly referred to as departments):

A. The departments will administer all programs consistent with this policy statement;

B. The departments will report annually to the Commission and the Board: 1) progress on implementation of this policy; 2) progress on implementation of strategies to recover listed salmonids 3) the status of salmonid populations and habitat, and 4) actions to be taken in the coming year;

C. In the event of disagreement over implementation of this policy, the departments will inform the Commission and Board of the disagreement;

D. The departments will be guided by the understanding that it is the desire of the State of California to: 1) recover salmonid populations to viable self-sustaining levels; 2) maintain wild populations where they exist; 3) re-establish populations where feasible; 4) sustain the social, economic, and cultural uses that depend on working forest landscapes and salmonids; and 5) support actions that will lead to delisting of listed salmonids;

E. In accordance with laws and regulations protecting listed species, the departments will use their respective authorities to ensure that any project that the departments are notified of and that may result in take of listed salmonids either avoids take or is authorized for such take;

F. The departments will actively cooperate with each other and with other State and Federal agencies, private landowners, academic institutions and the public to facilitate and encourage feasible forest management activities which 1) implement the Recovery Strategy for California Coho Salmon, approved by the Commission in February 2004 (see Appendix 2 for timber management related recommendations); 2) implement the Steelhead Restoration and Management Plan for California, approved by DFG in 1996; 3) integrate federal recovery strategies and plans for listed or candidate anadromous species into forest management activities. Programmatic approaches to achieve these goals are encouraged;

G. Using best available science, the departments will continue to work with the Board to assess the effectiveness of existing Forest Practice Rules and, as necessary, assist the Board in developing new forest practice regulations that avoid or mitigate adverse individual and cumulative impacts on salmonid habitat;

H. In cooperation with other agencies and in conjunction with the Board's ongoing work with its Research and Science Committee (RSC), both the departments will review the potential effects of global climate changes on forestry-fisheries interactions and the suite of potential options and actions necessary to protect forest lands and salmonid populations;

I. The departments will assist the Board in developing or revising existing monitoring programs for evaluating the effectiveness of adopted forest practice regulations and the effectiveness of mitigation measures for protecting and, when applicable, restoring anadromous salmonid habitat. Two such programs already receive support by the departments: the Interagency Mitigation Monitoring Program (IMMP) and the Forest Practice Rules Implementation and Effectiveness Monitoring Program (FORPRIEM) (see Appendix 3);

J. The departments will assist the Commission and the Board in developing and implementing salmonid monitoring programs and regional watershed assessments in order to assess the status of recovery and restoration efforts. These programs will be based on scientifically sound methodologies for determining fish population attributes; habitat status and trends, and progress toward restoration and recovery. Appendix 4 contains a description of the components for monitoring and adaptive management programs that may be appropriate to consider for any forested watershed with salmonids;

K. The departments will participate in and assist the Board's Monitoring Study Group (MSG). This group promotes information sharing, cooperation, and trust among state agencies, the public, and the timber industry, so that 1) state agencies collect sound, scientifically-based monitoring data in an efficient and effective manner; 2) data analyses are properly undertaken; and 3) data is presented in a user-friendly fashion on a web-based server;

L. In order to achieve the Coho Recovery Plan goals outlined in Alternative C, numbers 6, 7, 10, 16, and 17 and conserve listed salmonids and the habitats that support

them, the departments will use their respective authorities to 1) continue evaluating the Forest Practice Rules and DFG regulations, using scientific research and monitoring data, in order to make recommendations for changes to regulations; 2) ensure that any project that the departments are notified of and that may result in take of listed species either avoids take or is authorized for such take in accordance with laws and regulations protecting listed species; 3) take all feasible steps for the recovery, conservation, preservation, and restoration of listed salmonid populations and their habitats; and 4) give due consideration to those actions that are identified in recovery plans;

M. The departments will consult with National Marine Fisheries Service (NMFS) to further evaluate, and where feasible, to develop, Habitat Conservation Plan(s) for all applicable forestry practices state-wide in a timely fashion, and where forest landowners are interested, joint HCP/Natural Community Conservation plans.

III. SPECIFIC POLICY FROM THE COMMISSION TO THE DEPARTMENT OF FISH AND GAME

In addition, the Commission specifically charges DFG as follows:

A. Implement fisheries restoration grant programs and other restoration programs consistent with the availability of funding to implement high priority recovery activities in an efficient and effective manner. The Commission acknowledges that such grant and restoration programs cannot guarantee instream flows or "safeguard" habitat from additional damages to watershed processes stemming from past land use practices. Grant and restoration funding can help to restore past physical habitat damages and initiate plans for watershed-scale restoration activities on forested lands;

B. Review timber harvesting plans and, where appropriate, recommend to CALFIRE: 1) measures which will either avoid, minimize or fully mitigate impacts to listed salmonids and salmonid habitat; and 2) measures that will facilitate recovery of listed salmonid populations and the habitats that support them;

C. Provide an active liaison to the Board and CALFIRE on issues related to timber harvest, forestry practices, and fire protection for landscapes occupied by salmonids;

D. Ensure implementation of salmonid population and habitat monitoring programs to assist in the conservation, preservation, and enhancement of these species; and

E. Assist the Board and CALFIRE in developing monitoring programs necessary for evaluating the effectiveness of mitigation measures and forest practice rules in preventing, or minimizing adverse impacts to salmonids, and the effectiveness of measures intended to facilitate recovering and restoring salmonids in forested watersheds.

IV. SPECIFIC POLICY FROM THE BOARD TO THE DEPARTMENT OF FORESTRY AND FIRE PROTECTION

In addition, the Board specifically charges CALFIRE as follows:

A. Address potential impacts to salmonids and anadromous trout, consistent with state and federal recovery strategies, in CALFIRE's project review processes and consult with DFG when projects are submitted in planning watersheds containing salmonid habitats;

B. Support a Technical Advisory Committee (TAC) in order for the Board to adopt permanent rules for protection of listed salmonids based upon a study of factors that significantly effect the present and future condition of timberlands (ref. PRC § 4552) and through consultation with various groups including agencies and educational institutions (ref. PRC § 4553). In collaboration with fisheries experts, the TAC will collect and evaluate scientific information and knowledge about salmonids and forest management activities in relation to protection, recovery, preservation, and conservation of listed species;

C. Provide staff support to the Board's Research and Science Committee (RSC), to consistently provide independent credible scientific information for Forest Practice Rule development or modification. The RSC will provide technical recommendations to the Board for monitoring projects and provide sound technical advice to the Board regarding watershed-related resource issues.

D. Provide support to the Monitoring and Tracking Sub-Committee of the MSG. This sub-committee will collaborate with DFG and others to assist in:

1) Reviewing the effectiveness and appropriateness of monitoring being conducted on non-federal timberlands, and make recommendations for improvements.

2) Evaluating effectiveness of monitoring conducted to assess potential impacts of timber harvest operations on the beneficial uses of water related to salmonids.

3) Evaluating costs and benefits of monitoring metrics and techniques to aid the Board, timberland owners, regulatory agencies, and the public in selecting technically adequate, efficient, and effective monitoring that will ensure protection and facilitate recovery of listed salmonids.

E. Provide support for development of risk-based approaches to cumulative watershed effects analyses. Additionally, work to improve programmatic long-term management models. Scientifically based models need to be expanded and improved to provide sound science-based reliable information that include considerations for the protection, recovery, preservation, conservation, and restoration of salmonid populations and the habitats that support them; and

F. CALFIRE's Fire and Resource Assessment Program will assist the Board in developing a web-based long term repository for science based monitoring information and scientific research to maintain quality control and allow for the dissemination of information to agencies and the interested public contingent upon availability of staff, funding and logistical support.

G. Appendix 1. State and Federal listings of salmonids in California

Species Statutory Act- Geographic Range	**Status**	**Effective Date**
Coho Salmon		
CESA- South of San Francisco	endangered	12/31/1995
CESA- San Francisco to Punta Gorda	endangered	3/30/2005
CESA- Punta Gorda to Oregon border	threatened	3/30/2005
ESA- Central California Coastal	endangered (threatened)	8/29/2005 (12/2/1996)
ESA- Southern Oregon~-Northern California Coasts	threatened	6/5/1997
Chinook Salmon		
CESA - Sacramento River Winter-Run	endangered	9/22/1989
CESA - Sacramento River Drainage Spring-Run	threatened	2/5/1999
ESA – Sacramento River Winter-Run	endangered (threatened)	2/3/1994 (11/1990)
ESA - Central Valley Spring-Run	threatened	11/15/1999
ESA - California Coastal	threatened	11/15/1999
Anadromous Rainbow Trout (Steelhead)		
ESA - Southern California	endangered	10/17/1997
ESA - South-Central California Coast	threatened	10/17/1997
ESA - Central California Coast	threatened	10/17/1997
ESA - Central Valley, California	threatened	5/18/1998
ESA - Northern California	threatened	8/7/2000

Appendix 2 Timber Management Recommendations (Excerpted from Recovery Strategy for California Coho Salmon, pages 7.15 – 7.18. DFG, February 2004)

Department as used in Appendix 2 means Department of Fish and Game

ALT-C-01 California Range-wide Coho Salmon Recovery Team (CRT) recommends government commitment of adequate financial, material, and personnel support for the life of the Recovery Strategy for on-the-ground recovery actions, identified in the Recovery Strategy. Possible funding mechanisms may include:

a. Legislation specifically identifying funding for recovery;

b. Cost-share programs with private landowners, stakeholder groups and local governments; and

c. Endowment and/or grant programs cooperatively with private sources.

ALT-C-02 The Department should provide technical expertise to support appropriate cooperatively undertaken recovery actions, which may include:

a. Technical advisors to assist in the development of restoration proposals;

b. Technical expertise to assist in the implementation of recovery activities on-the-ground; and

c. Technical expertise to assist in training and education on coho restoration projects.

ALT-C-03 The Department should develop and implement a program to design and implement a coho salmon recovery plan for individual CALWATER Planning Watersheds. The program should promote and enable cooperative working relationships between agencies, landowners and residents. This program should include:

a. Federal and State funding to assist landowners in performing watershed analysis in a manner usable by the Department;

b. A systematic evaluation at the watershed level to identify key limiting factors for the recovery of coho salmon;

c. Identification of site-specific sources and locations of the key limiting factors;

d. Identification of restoration projects for watershed transportation systems, fish passage, slope stabilization measures, erosion control measures and drainage structures;

e. Identification of beneficial management practices to protect existing values;

and

f. Use of these plans and the data that support them as the principle reference document, which would save landowners and/or project proponents additional costs associated with repetitive analysis and paperwork for each project.

ALT-C-04 The Department should develop an information repository system for individual Planning Watersheds that utilizes and builds upon existing information, adding new information as it becomes available, while ensuring adequate confidentiality for information specifically pertaining to an individual's private property.

ALT-C-05 The Department should promote and support programmatic approaches to address key limiting factors in each CALWATER Planning Watershed with a watershed plan. Include these components:

a. Where appropriate and where costs to landowners are offset by monetary assistance, technical assistance or regulatory incentives, encourage landowners to develop and implement Road Management Plans that contribute to the restoration of coho salmon habitat;

b. Where appropriate and where the costs to landowners are offset by incentives, encourage the use of a licensed engineer to assist in the design and construction of watercourse crossings;

c. Continuing education and training (classroom and field) to ensure watercourse crossings are appropriately designed, constructed and maintained;

d. Cooperative habitat restoration projects that extend across ownerships to address habitat restoration efforts in a coordinated and cost effective manner; and

e. State funding to assist landowners to implement coordinated watershed riparian vegetation improvement programs that:

i. Identify areas within the riparian zone where planting of riparian vegetation, including conifers, to improve coho salmon habitat is appropriate and

ii. Promote vegetation modification (e.g., thinning, removal of undesired competitive vegetation) to accelerate riparian vegetation recovery and enhancement for coho salmon habitat.

ALT-C-06 The Department should set up a long term monitoring system that measures the implementation and effectiveness of Forest Practice Rules in effect at the time of the monitoring. The monitoring shall measure the effectiveness of the rules for maintenance and recovery of coho salmon habitat.

ALT-C-07 Encourage California Department of Forestry and Fire Protection (CDF) and California Geological Survey in concert with the Board of Forestry (through the Monitoring Study Group) to develop a monitoring program to evaluate whether mitigation measures implemented by Registered Professional Foresters as part of Timber Harvest Plans (THPs) are effectively reducing the risk of mass soil movement associated with harvesting operations, including road and landing construction. Any monitoring system should be designed to compare harvested areas to non-harvested areas so it can be determined whether harvesting, road and landing construction activities increase the likelihood of mass soil movement. The THP work completion report and the Monitoring Study Group's Hillslope Monitoring Program, as well as periodic air photo flights and photo interpretation, could provide the basis for monitoring and evaluation.

ALT-C-08 CDF document voluntary efforts taken by forest landowners beneficial to coho salmon that:

a. Provide mitigation measures that exceed FPRs requirements; and/or

b. Are identified in specific CALWATER Watershed Recovery Plans.

ALT-C-09 The Department should develop a system to evaluate implementation and effectiveness of voluntary efforts to recover coho salmon populations.

ALT-C-10 The Department should develop, with appropriate peer review, a long-term consolidation and analysis of resource assessments and monitoring data.

ALT-C-11 The Department should collaborate with CDF and appropriate industry groups to provide watercourse training and roads assessment watershed academy.

ALT-C-12 Acquire conservation easements or land in fee title from willing landowners to protect coho salmon habitat.

ALT-C-13 The Department should seek funding for staff to improve effectiveness of the Department timberland conservation program.

ALT-C-14 Continue participation in full review of THPs and participation and other timberland conservation activities associated with managing timberlands.

ALT-C-15 In watersheds with coho salmon, the Department will prepare a "coho salmon biological assessment" when acting as a Lead or Responsible agency under the California Environmental Quality Act (CEQA) for timberland conservation activities, including but not limited to the review of timber harvesting plans. A "coho salmon biological assessment" is an assessment by the Department of project effects, if any, on coho salmon. The biological assessment will include conclusions by the Department regarding potential for the project to "jeopardize" the long-term survival of or "take" coho salmon. It will also include the Department's assessment of the significance of project impacts for purposes of "mandatory findings of significance" under 14 CCR §15065 (a), (b), and (c).

ALT-C-16 In conjunction with CDF, qualified landowners representatives and experts, and qualified independent scientists with appropriate expertise, and consistent with the availability of staff, the Department will monitor for five years (or more if necessary to develop an adequate sampling regime) the implementation of the FPR in effect at the time to determine whether these rules are consistent with the long-term survival of coho salmon.

ALT-C-17 If results of monitoring, based on substantial evidence as the term is defined by 14 CCR §15384, conclude that the implementation of the FPRs are not providing adequate protection for the long-term survival of coho salmon, the Department in cooperation with CDF and interested stakeholders will develop recommendations to ensure adequate protection for the long-term survival of coho salmon.

[There is no number 18]

ALT-B-19 Recommend that a "proof of concept" pilot program be developed and implemented to test a mathematical or scientific method of cumulative effects analysis as was suggested in the 2001 report, "A Scientific Basis for the Prediction of Cumulative Watershed Effects" (otherwise known as the "Dunne Report"), by the U.C. Committee on Cumulative Watershed Effects. The pilot program would be developed and implemented by a panel of experts such as those at U.C. in cooperation with the Department, CDF, and SWRCB.

ALT-B-20 Recommend that CDF and the Board of Forestry work with the Department and other interested agencies and stakeholders to establish a procedure for THPs to document and evaluate the implementation and effectiveness of coho-related mitigation measures prior to the official completion inspection by CDF and other agencies.

Appendix 3 Existing Monitoring Programs

Forest Practice Rules Implementation and Effectiveness Monitoring (FORPRIEM) Program. FORPRIEM provides sound science based data on the adequacy of the implementation and effectiveness of Forest Practice Rules specifically designed to protect water quality and riparian habitat. It uses information collected during THP Work Completion Inspections and Erosion Control Maintenance Inspections. FORPRIEM collects information on randomly located road segments, WLPZ segments, and watercourse crossings and uses a random 10 percent sample of THPs throughout the state. It is a continuation of monitoring that was previously completed under the MCR monitoring program, with data collection beginning in the fall of 2007. Data is primarily obtained by CALFIRE Forest Practice Inspectors, but other agency personnel are invited to participate in this monitoring program. Data collected in this Program will complement data obtained in the IMMP monitoring program.

Interagency Mitigation Monitoring Program (IMMP). This program will build on what has been learned in CALFIRE/Board's earlier Hill Slope Monitoring Program, Modified Completion Report, and other monitoring efforts. The IMMP will emphasize data collection and evaluation of high risk plans and the effectiveness of practices implemented at high risk locations within a plan to protect water quality and aquatic habitats. Effectiveness here refers to determining if prescribed measures applied during the plan operations resulted in the intended conditions (MOU Monitoring Workgroup 2005). The Program results will be reported to the Board. The primary monitoring related objectives of the IMMP are:

- Determine how often practices designed to reduce impacts to water quality at high risk locations within a plan are properly implemented (including but not limited to mitigation measures developed by the Registered Professional Forester (RPF) and/or an interagency team).
- Determine how often these practices, when properly implemented, are effective in protecting water quality on non-federal timberlands in California.
- Provide a feedback loop to RPFs, CALFIRE Forest Practice Inspectors, state and federal agency personnel, the public, and others regarding what forestry-related practices at high risk sites require improvement to protect water quality.

Appendix 4 Example of Comprehensive Monitoring and Adaptive Management Programs (Excerpted from 14 CCR § 916.11.1 (936.11.1))

The Board, with the assistance of the Department of Forestry and Fire Protection, will implement a comprehensive monitoring and adaptive management program for timber harvesting operations in watersheds with salmonid. Four types of monitoring will be addressed under this program including compliance, implementation, effectiveness, and validation monitoring.

The monitoring program will:

1. Determine whether the operational Forest Practice Rules and associated hill slope and instream mitigation measures afford a level of protection that is both appropriate and adequate to ensure protection and meet the recovery goals for listed salmonids and the habitat that supports them;

2. Provide monitoring and analyses necessary to ensure all Forest Practice Rules are being implemented fully and correctly consistent with the CESA;

3. Provide timely results for the Board to assess effectiveness in meeting the stated policy goals; and

4. Evaluate the effectiveness of minimization and mitigation measures and identify when site-specific rules should be revised to accomplish the program purpose.

The adaptive management program will have five elements addressing:

1. Identification of substantial necessary new information;

2. Collection of substantial new information;

3. Evaluation of substantial new information; and

4. Determination regarding the necessity or benefit of adjustments and improvements to mitigation and protective measures, including the Forest Practice Rules, based upon the substantial new information.

5. Regular reports to the Board and to joint meetings of the Board and Commission about program results.

Adopted: 05/09/94
Amended/Adoption: State Board of Forestry and Fire Protection: 08/09/01
Adopted: State Fish and Game Commission: 08/23/01
Amended/Adoption: State Board of Forestry and Fire Protection: 02/03/2009
Adopted: State Fish and Game Commission: 03/05/2009

INTERIM JOINT POLICY ON PRE, DURING, AND POST FIRE ACTIVITIES AND WILDLIFE HABITAT

PREFIRE

I. INTRODUCTION

A. In California, fuel loads are very high. It is known that hot wildfires can do great damage to habitat. Prefire activities such as vegetation management activities, including both prescribed burning and mechanical approaches, are designed to reduce high fuel loads and in other ways reduce the risk of wildfire. Compared to the damage from uncontrolled wildfire, it is advantageous to use prescribed, more controlled, fires or mechanical methods whenever appropriate. In many places wildlife habitat is already badly fragmented. Accordingly, each unique plant community may have different fire cycles and respond according to appropriately timed prescribed burns. Hence there are conditions under which prescribed fires may be more desirable and other conditions under which such fires may have undesirable effects on plant communities. Within this framework, evaluations should be based on available data, supplemented to the extent feasible with site-specific information and analysis developed within a time frame necessary to carry out vegetation management objectives.

B. Complex habitat interrelationships make prefire species-by-species analysis inefficient and costly. Project-by-project analysis is also expensive and inefficient given wildlife dependence on specific ecosystems that cover larger areas and themselves are spatially interrelated and often fragmented. Within this framework, evaluations of agency prefire programs should be made at the largest geographical scale possible to deal with ecosystem and wildlife interrelationships while taking into account sensitive habitats and species.

C. The fundamental problem complicating effective fire protection in California is the existing and rapidly growing linear distance of the developed/wildland interface within a fire prone ecosystem. This represents a logistical challenge for state and local fire agencies and is also an issue in managing wildland ecosystems to be self-sustaining. Consequently, it is critical that fire protection, including fire prevention, requirements be addressed at the earliest stage feasible in both development planning and in the design and maintenance of wildlife reserves. This should be done through the local community planning process with multidisciplinary representation.

D. Vegetation clearance near residences reduces damage to habitat from fires which originate near the residence. It also provides a defensible space from which to protect residences from wildfires burning from adjacent wildland areas. Hence Public Resources Code Section 4291 requires clearance of up to 100 feet around homes and fire safe regulations emphasize the use of fuel breaks. However, clearance may damage small portions of habitat, such as fragile areas like riparian zones, nesting sites, and rare plant popu-

lations. Provision for clearance should be made as part of subdivision or reserve design consistent with state laws and local ordinances. For existing homes, clearance may be an essential part of a fire safe strategy and must be completed, giving care to avoiding, reducing, or mitigating adverse impacts on sensitive plant and wildlife communities.

E. Fire breaks, and to a lesser extent fuel breaks, may exacerbate the fragmentation of sensitive habitat, depending on the location, size, and number of breaks, as well as the method of clearance (ie. discing, mowing, blading, etc.).

II. JOINT POLICY FROM BOARD AND COMMISSION TO THEIR RESPECTIVE DEPARTMENTS

A. The Department of Forestry and Fire Protection (CDF) has established a working group and policy task force to review the current vegetation management program; the Department of Fish and Game (DFG) is participating. This review should be completed by late summer and a report should be submitted to the Board and Commission. Until CDF and DFG report to the Board and Commission, the Departments shall follow the Board's existing Vegetation Management Policy.

B. Consistent with this policy, for 1994 and 1995 the Departments shall complete as many vegetation management activities as possible on the urban interface, especially in Southern California. CDF and DFG should facilitate such projects on the highest priority. The Departments shall coordinate existing data and surveys, consult as appropriate with federal wildlife agencies, and assign additional staff as needed to facilitate completion of this task. To the extent feasible given staff, funds, fire season dates, and program time frames, the Departments should seek to obtain additional biological data needed to fill information gaps; however, this charge should not delay implementation of an aggressive vegetation management program.

C. For 1996 and beyond, the Departments shall develop or update a joint (CDF, DFG, and other agencies) five year vegetation management program that delineates proposed activities for this time frame consistent with the goals in the Board of Forestry Fire Plan. This process shall: 1) encourage early consultation between fire management agencies and other wildlife agencies; 2) identify all areas that may be candidates for prescribed fire or other pre-fire activities; and 3) assess the resources at stake and the anticipated effect of prefire activities.

D. The Departments shall aggressively seek to incorporate fire protection requirements for both development and wildlife reserve planning. The Departments should coordinate such efforts and seek to have fire protection issues addressed at the earliest planning stage possible, including integrated planning for management of wildlife habitat and defensible space.

E. Consistent with their statutory mandates, the Departments shall support enforcement of clearance laws and recognize that property owners are legally required to provide clearance around structures as specified in Section 4291 of the Public Resources Code; and that communities in high fire hazard areas need to have an aggressive fire safe program, including clearance and fuel breaks around existing structures. The Departments shall aggressively seek to involve the private sector in assuming greater responsibility for fire prevention.

III. POLICY FROM THE COMMISSION TO THE DEPARTMENT OF FISH AND GAME

A. Prior to the start of fire season, DFG shall meet with and keep CDF informed at the regional level regarding the location of important plant and animal communities and their related ecosystems. To the extent that resources permit, the Department shall provide information regarding the location of the plant and animal communities and related ecosystems. The Department shall report to the Commission at its May meeting on the outcome of the sessions, including any issues that could not be resolved.

IV. POLICY FROM THE BOARD TO THE DEPARTMENT OF FORESTRY AND FIRE PROTECTION

A. Prior to the start of fire season, CDF shall meet with DFG at the regional level and keep them informed of the status of the upcoming fire season, the location of areas where fire hazards are especially great, the availability of fire fighting personnel, and other

relevant factors. To the extent feasible, CDF shall incorporate the information into the dispatch and Incident Command System planning information bases and make certain that field personnel are familiar with this information and its application to suppression activities. The Department shall report to the Board at its May meeting on the outcome of the sessions, including any issues that could not be resolved.

DURING FIRE

I. INTRODUCTION

A. Some ecosystems are very fragile to intense fires, such as a backfire at the wrong period of the year, or to mechanical disturbance which may increase erosional events or irreparably damage the habitat integrity. The greatest ability to be sensitive to habitat impacts is in presuppression activities. After a fire starts and increases in size and intensity, options usually decrease. After a fire is contained, options may again increase.

II. JOINT POLICY OF THE BOARD AND COMMISSION TO THEIR RESPECTIVE DEPARTMENTS

A. When there is a conflict between protecting human life and other values, human life should receive top priority. Protection of property, habitat of sensitive, threatened, and endangered species, timber, and watershed values should receive careful consideration in choice of suppression tactics from an integrated values at risk approach consistent with the Board's Fire Plan. The Departments shall work together to facilitate this direction and shall report annually to the Board and Commission on operation of this policy.

B. The Departments shall jointly evaluate during fire activities and report to the Board and Commission at their January meetings.

III. POLICY FROM THE COMMISSION TO THE DEPARTMENT OF FISH AND GAME

A. As part of the Incident Command System (ICS), the Department shall make available a local plant, wildlife, and fisheries specialist during large fires or on burns that threaten important wildlife or plant communities to provide advice.

B. The Department shall train appropriate field personnel in use of the Incident Command System and periodically renew this training.

C. The Department shall work with CDF to identify fire suppression tactics on wildfires that could have long term effects on ecosystems at the regional or local level.

IV. POLICY FROM THE BOARD TO THE DEPARTMENT OF FORESTRY AND FIRE PROTECTION

A. On fires that have the potential to become major fires, CDF's ICS structure shall involve DFG and others as technical specialists to advise the planning section regarding sensitive habitat. In the event that DFG cannot provide appropriate specialists, CDF shall seek alternative specialists as necessary to deal with concerns related to plants, fish, and wildlife.

B. Sensitivity should be taken with fire suppression tactics in some ecosystems, where such activities could harm the long term maintenance of the plant or animal communities. CDF incident commanders shall be aware of and consider the impacts of practices listed by DFG as having potential long term effects on ecosystems.

POST FIRE

I. INTRODUCTION

A. By law, revegetation efforts following wildfire focus on rehabilitating watershed lands to conserve water and soil and to prevent destructive floods. Historically, flood related erosional events have been a major issue. Recent studies suggest that seeding with rye grass may not be particularly effective in slowing erosion, at least in some sites and in some places in California. Seeding with native grasses from outside the local area of the burn has raised questions about contamination of local gene pools. Native grasses may also be more persistent than rye grass and prevent the recovery of the on-site vegetation species; these factors could be especially important in critical wildlife habitat areas. Emergency revegetation work may be necessary, but should be evaluated site-by-site. Cost of native grass seed is a significant factor to be examined. Mechanical and structural methods shall also be considered as they may be an effective and cost efficient way of dealing with erosion control and be less damaging to the ecosystem.

B. Under Sections 4675 and 4676 of the Public Resources Code the CDF is authorized to perform specified acts to protect the public interest, including activities related to watershed rehabilitation. Under the California Environmental Quality Act and various Fish and Game Code sections, DFG is charged with protection of fish and wildlife and related habitat, including viability of habitat following wildfire.

II. JOINT POLICY FROM THE BOARD AND COMMISSION TO THEIR RESPECTIVE DEPARTMENTS

A. Emergency watershed protection are those actions taken to assist in the recovery of the on-site vegetation and to protect downstream values of urban and wildland watersheds from excessive erosion and flooding following wildfire. These actions shall recognize the distinct differences between environmental impacts which are suppression-related and human-caused, and those which are wildfire-related and naturally occurring.

B. Program objectives shall be achieved by utilizing the Incident Command System (ICS) to obtain an evaluation of impacts to a watershed for fires occurring in areas of State Responsibility (SRA). This should be done in such a way to:

1. Keep damage to a minimum during mop-up;

2. Have emergency watershed work initiated during the active suppression stage of the fire and have work completed shortly thereafter but before the first heavy rainfall.

C. Emergency revegetation shall be limited to critical areas as defined by the Departments and should consider long term ecosystem health and processes.

D. Mechanical methods of erosion control shall be considered during the evaluation of emergency watershed work. When revegetation actions are determined to be the most appropriate for the site, efforts shall consider enhancing natural plant recovery and succession. In determining the most appropriate watershed treatment, the long-term protection of the environment shall be evaluated along with the costs and benefits.

E. CDF has established a working group and policy task force, including DFG staff, to review the current watershed rehabilitation program and all available related information. The study, among other things, shall specify appropriate limits to where reseeding can occur and how it should be carried out. The study should be completed prior to the end of the next fire season and reports made to the Board and the Commission.

F. The Departments shall evaluate the effectiveness of their efforts in attaining the intent of this policy and report to the Board and Commission at their May meeting.

III. POLICY FROM THE COMMISSION TO THE DEPARTMENT OF FISH AND GAME

A. The Department shall participate in the development of rehabilitation/watershed work response plans.

B. The Department shall report to the Commission annually on the implementation of this policy, including any areas of disagreement with CDF.

IV. POLICY FROM THE BOARD TO THE DEPARTMENT OF FORESTRY AND FIRE PROTECTION

A. Until the Department completes its study, CDFs current policies shall apply.

B. The Department shall report annually to the Board on the implementation of this policy, including any areas of disagreement with DFG.

C. CDF staff shall advise DFG of rehabilitation efforts and request appropriate staff to participate.

(Adopted: 05/09/94)

POLICY ON HARDWOODS

I. INTRODUCTION

The Fish and Game Commission (Commission) and the State Board of Forestry (Board) find that the hardwood resources on hardwood-rangelands and timberlands of California are a vitally important natural and economic resource.

Over 30 species of hardwood trees in California, including oaks of the genus Quercus, occur widely as individual trees and distinct habitat types throughout the State. Hardwoods themselves and hardwood-dominated habitats are extremely important to the fish, wildlife, and natural resources of California. Hardwoods throughout California sup-

port a wide variety of wildlife species by providing habitat with feeding, breeding, cover, and related needs. In addition, some hardwoods benefit fishery resources by preventing the erosion of hillsides and stream banks, moderating water temperatures by shading and contributing nutrients and food-chain organisms to waterways.

Hardwoods also provide substantial worth to landowners in the form of aesthetic, open space, recreational, wood products, range and property values and these same values also provide certain public benefits.

California has grown rapidly in population; homes and recreational use have intensified greatly in many formerly rural areas--including those dominated by hardwoods. Lands have been subdivided and ownerships fragmented. Hence, the Board and Commission have determined that human uses in hardwood habitats, such as development and fuelwood harvesting, have produced controversy related to public impacts to water quality, fish and wildlife, and other resources. The Board and Commission are also concerned about the adequate regeneration of some hardwood species.

The Board and Commission recognize that there are local differences in land use conditions, pressures and patterns, and management goals and practices that affect conservation needs that include, firewood harvest in the northern Sacramento valley and development in Southern California, the San Francisco Bay Area, and the Sierra-Nevada foothills. The Board and Commission also recognize that there is local variation in the hardwood resource between larger geographic areas. This variation should be addressed with an array of management approaches for different hardwood species, wildlife habitats, and vegetative communities.

The Board has been concerned with the impacts of population growth and various associated land uses on hardwood resources since 1981. The Commission has had a hardwoods policy since 1985. In 1987, the Board, the Commission, the Department of Forestry and Fire Protection (CDF), the Department of Fish and Game (DFG), and University of California Cooperative Extension started an Integrated Hardwood Range Management Program designed to provide for research, education, and monitoring of the hardwood resource. This program has received the support of landowners, governmental agencies, and the public. Since its inception, substantial research and educational efforts have taken place.

In May of 1993, the Board reviewed the results of the Integrated Hardwood Range Program to see if it was accomplishing its goals. This review took place after complaints of the impact of firewood harvesting in a few Northern Sacramento Valley counties and the continued development of hardwood lands in other parts of the state. The Board reviewed the need for statewide regulation of hardwoods and decided that such controls are not warranted at this time. Rather the Board opted for a renewed effort to encourage local government and citizens to design strategies that will address local hardwood management and conservation. Should this fail, the Board, in consultation with the Commission, Department of Fish and Game, Department of Forestry and Fire Protection, Integrated Hardwood Range Management Program, the Range Management Advisory Committee and any interested parties, will examine the need for statewide legislation and take regulatory action, if necessary, to control harvesting and conversion of hardwood-rangelands using existing statutes.

II. JOINT POLICY OF BOARD AND COMMISSION FOR THEIR RESPECTIVE DEPARTMENTS

The Board and the Commission recognize the need to work together to provide for a unified policy for California's hardwood resource. To this end, the following joint policy is established for CDF and DFG:

A. The hardwood resources of California should be managed for the long-term perpetuation of their local and broader geographic representation and to continue to provide for their inherent natural and biological values and processes. These values and processes may include, but are not limited to, regeneration, plant species composition, vegetation structure and age class distribution, water quality, and other biotic and abiotic resources. Management should also address soil resources, air quality, rangeland improvement practices, recreational opportunities, and other benefits. Consistent with

such conservation of the hardwood resource, state and local incentive policies should be designed to promote ecological viability as well as economic return from hardwood resource management.

B. The Board and the Commission support continued implementation of the Integrated Hardwood Range Management Program.

C. The Board and Commission support the desire of local government to be able to utilize their expertise in selecting locally appropriate conservation options and encourage them to seek early project review by Departmental personnel.

D. If issues related to hardwood conservation cross county lines, the Board and Commission will encourage multicounty and local approaches and if necessary will rovide for assessment, information, and suggested standards. As appropriate, the Board and Commission will encourage collection of data that can assist local government in addressing issues related to hardwoods and which can be aggregated to provide information across larger geographic areas or statewide.

E. To the extent that agency staff are involved with hardwoods, the Board and Commission adopt the following joint policies for their respective Departments:

1. Departmental personnel should be guided by the position that hardwood harvesting and other land uses should be conducted in a sustainable manner which secures regeneration of all hardwood species, enhances the protection of fish, wildlife and plants of hardwood habitats, allows adequate recruitment of other native vegetation in hardwood habitats and meets state and federal water quality standards. The Departments should also consider private landowners goals, property rights, and community economics.

2. Department personnel should cooperate with other state and federal agencies, local governments, University of California Cooperative Extension and other academic programs, non-profit organizations, landowners, groups representing landowners, and the public to provide for necessary research, information, and education programs related to hardwoods;

3. In cooperation with the Integrated Hardwood Range Management Program and Private landowner, Departmental personnel should jointly establish a process, which includes both satellite imagery and ground checking, to monitor the status of the hardwood resource, to examine the effectiveness of local policies with respect to hardwoods, and to evaluate the performance of the Integrated Hardwood Range Management Program; staff should report annually, in joint session, to the Commission and the Board.

III. JOINT PROGRAM REVIEW

The Board and Commission will meet periodically to review implementation of this policy and to clarify and resolve issues that arise from overlapping interests of their respective departments.

IV. SPECIFIC POLICY FROM THE COMMISSION TO THE DEPARTMENT OF FISH AND GAME

In addition to the joint policy, the Commission specifically charges the Department of Fish and Game with the following:

A. Contingent upon funding and staffing availability, the Department conduct, contract and/or support studies involving assessing the effects of the distribution and densities of the following hardwoods on terrestrial and aquatic vertebrates, including: (1) blue oak and associated plant species in blue oak-dominated habitats; (2) black oak and associated plant species in black oak-dominated habitats; (3) valley oak and associated plant species in valley oak-dominated habitats; and (4) Engelmann oak and associated plant species in Engelmann oak-dominated habitats;

B. The Department continue to review proposed timber harvesting activities and, when appropriate, recommend measures which will mitigate significant adverse impacts upon fish and wildlife resources;

C. Relative to the removal of hardwoods, the Department shall recommend, seek and support the adoption of proposals appropriate for the protection and enhancement of fish and wildlife resources;

D. The Department periodically reassess the terms and conditions of existing regulations, permit processes and other administrative measures which affect conservation of

hardwood resources and, where feasible, seek corrective action when the original terms and conditions have proven inadequate;

E. If after consulting with the sponsors on project modification, and based on scientific evidence, the Department still opposes the proposed project affecting hardwood resources, it will notify the Commission of its opposition. This opposition may include, but not be limited to, the issuance of permits or licenses, authorization or programs, and the appropriation of funds which it determines will result in the removal of hardwoods and other modifications of hardwood habitats and communities in a manner that will result in significant adverse effects to fish, wildlife, or plant resources for which mitigation and compensation measures are judged to be inadequate;

F. In the event of disagreement over implementation of this policy with the Department of Forestry and Fire Protection, the Department shall inform the Commission of the disagreement;

G. The Department shall provide active liaison to the Board and Range Management Advisory Committee in issues related to hardwoods, fish, wildlife, endangered plant and animal species, and the impacts of vegetation management and wildfire on wildlife; and

H. Annually, the Department will include a statement in the Director's report to the Commission addressing the status of hardwood conservation.

V. SPECIFIC POLICY FROM THE BOARD TO THE DEPARTMENT OF FORESTRY AND FIRE PROTECTION

In addition to the joint policy, the Board of Forestry charges the Department of Forestry and Fire Protection with the following:

A. Administer Departmental programs consistent with the terms of this joint policy statement;

B. Implement the Forest Practice Act, other statutes and this policy consistent with mitigation of adverse impacts to fish, wildlife and with this policy;

C. Continue to implement the Integrated Hardwood Range Management Program;

D. Conduct a program of vegetation management, fire prevention, and Fire Safe to minimize the impact of wildfire on life and property, and where possible at the same time, maximize fire's natural beneficial effects on hardwood ecosystems;

E. As part of the Board and Departmental Fire Plan, and in consultation with the Department of Fish and Game regarding the impacts on fish, wildlife, and plant resources, address issues related to the role of fire in hardwood-dominated ecosystems and the impacts of pre-fire, during-fire, and post-fire agency activities;

F. Support research and development for hardwood utilization and manufacturing;

G. Consistent with available staff and funding, provide for a thorough assessment of the status of the hardwood resource at least once every five years, commencing with 1995;

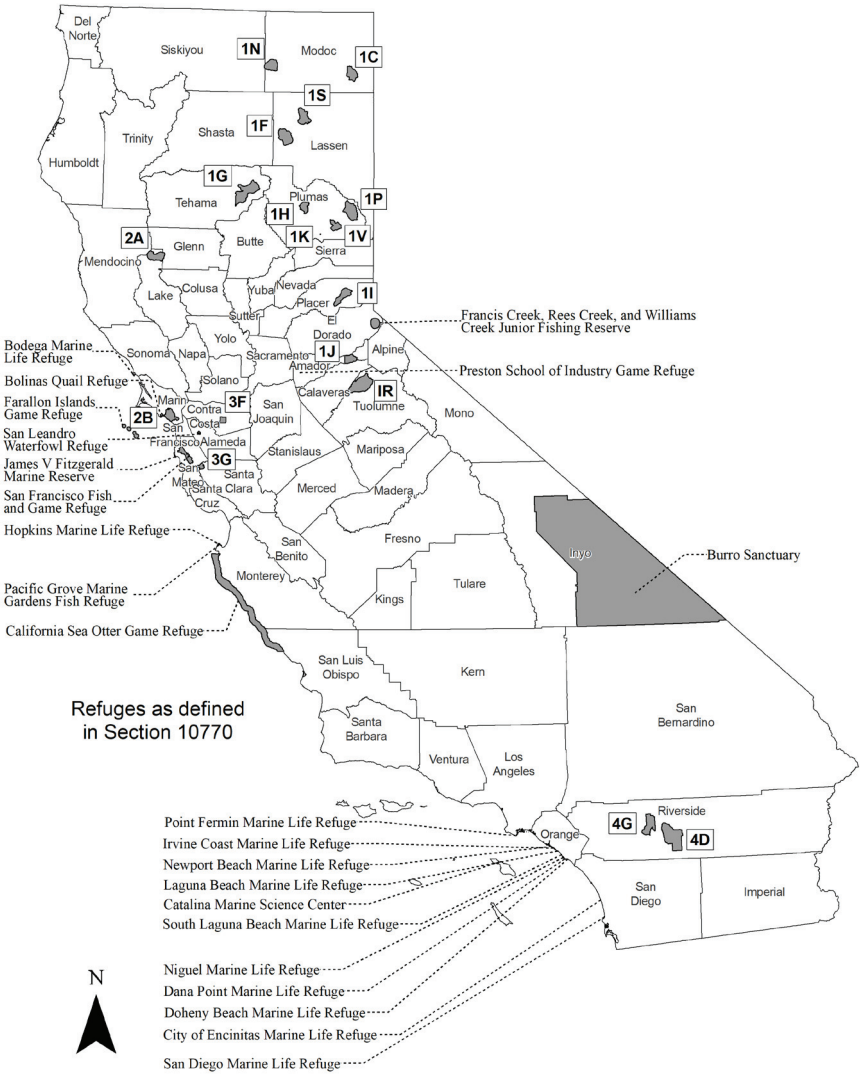
H. Consistent with available personnel, provide staff support to the Range Management Advisory Committee;

I. In the event of disagreement over implementation of this policy with the Department Fish and Game, inform the Board of the disagreement; and

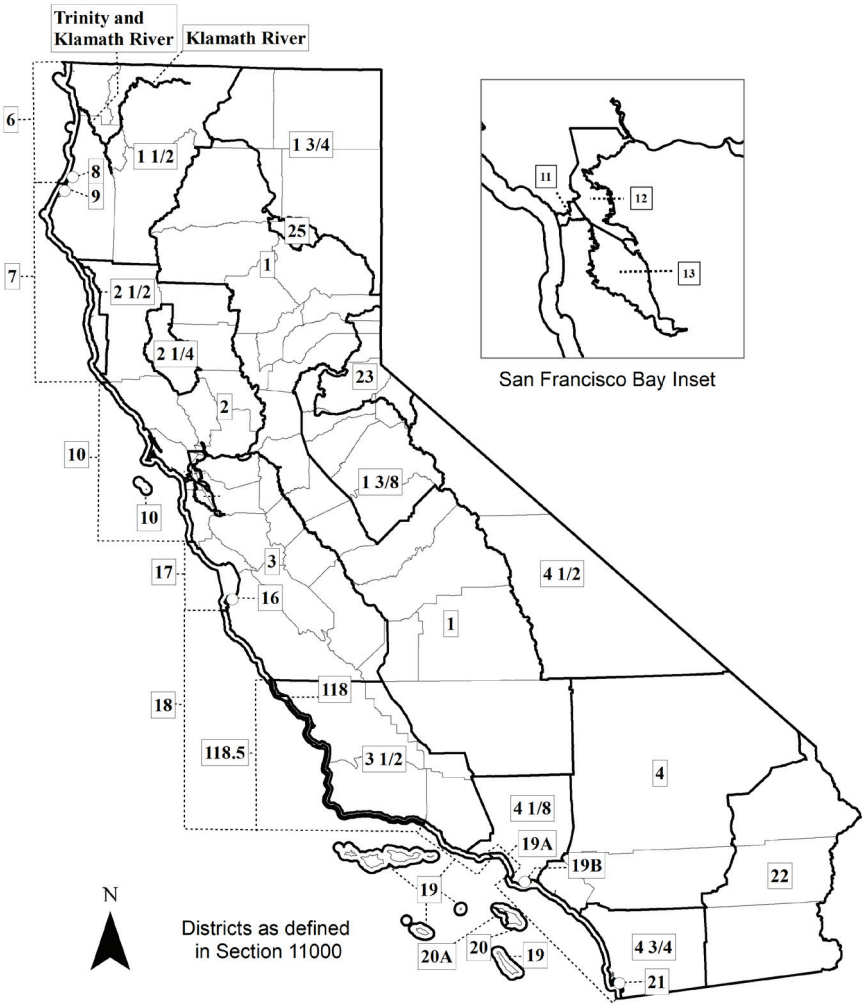
J. Provide active liaison to the Commission and Range Management Advisory Committee on issues related to forest and vegetation management, wildfire protection and prevention, and the assessment of hardwood resources.

(Adopted: 05/09/94)

STATE GAME REFUGES



CALIFORNIA FISH AND GAME DISTRICTS



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California Fish and Game Code references are noted as F&G. Addenda references are noted as follows: CC-Civil Code, Fd&Ag-Food and Agricultural Code, Gov-Government Code, Har&N-Harbors and Navigation Code, H&S-Health and Safety Code, Pen-Penal Code, PubRes-Public Resources Code, Veh-Vehicle Code, Water-Water Code.

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