

FISH AND GAME CODE - FGC

DIVISION 0.5. GENERAL PROVISIONS AND DEFINITIONS [1 - 99.5]

(Division 0.5 heading added by Stats. 1998, Ch. 1052, Sec. 2.)

CHAPTER 1 General Definitions [1. - 89.5]

(Chapter 1 heading added by Stats. 1998, Ch. 1052, Sec. 2.5.)

1.

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

(Enacted by Stats. 1957, Ch. 456.)

2.

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.

(Amended by Stats. 1998, Ch. 1052, Sec. 3. Effective January 1, 1999.)

3.

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.

(Enacted by Stats. 1957, Ch. 456.)

4.

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

(Enacted by Stats. 1957, Ch. 456.)

5.

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.

(Enacted by Stats. 1957, Ch. 456.)

6.

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.

(Enacted by Stats. 1957, Ch. 456.)

7.

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.

(Amended by Stats. 2015, Ch. 154, Sec. 1. Effective January 1, 2016.)

8.

The present tense includes the past and future tenses, and the future, the present.

(Enacted by Stats. 1957, Ch. 456.)

9.

The masculine gender includes the feminine and the neuter.

(Enacted by Stats. 1957, Ch. 456.)

10.

The singular number includes the plural, and the plural, the singular.

(Enacted by Stats. 1957, Ch. 456.)

11.

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.

(Enacted by Stats. 1957, Ch. 456.)

12.

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

(Enacted by Stats. 1957, Ch. 456.)

13.

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.

(Amended by Stats. 1994, Ch. 935, Sec. 1. Effective January 1, 1995.)

13.5.

"Adaptive management," 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.

(Added by Stats. 2012, Ch. 559, Sec. 3. Effective January 1, 2013.)

14.

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

(Added by Stats. 1982, Ch. 1486, Sec. 1.5.)

15.

"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.

(Amended by Stats. 1989, Ch. 318, Sec. 1.)

16.

“Affix” means physically attached to or imprinting an electronic validation to a license document.

(Added by Stats. 2001, Ch. 112, Sec. 1. Effective January 1, 2002.)

17.

“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.

(Amended by Stats. 1983, Ch. 131, Sec. 1. Effective June 27, 1983.)

18.

“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.

(Amended by Stats. 2007, Ch. 285, Sec. 1. Effective January 1, 2008.)

19.

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

(Added by Stats. 2007, Ch. 285, Sec. 2. Effective January 1, 2008.)

22.

“Bird” means a wild bird or part of a wild bird.

(Amended by Stats. 2015, Ch. 154, Sec. 2. Effective January 1, 2016.)

24.

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

(Amended by Stats. 1985, Ch. 1403, Sec. 1.)

27.

“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.

(Amended by Stats. 2015, Ch. 154, Sec. 3. Effective January 1, 2016.)

29.

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

(Amended by Stats. 2015, Ch. 154, Sec. 4. Effective January 1, 2016.)

30.

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

(Enacted by Stats. 1957, Ch. 456.)

32.

“County” includes city and county.

(Enacted by Stats. 1957, Ch. 456.)

33.

“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.

(Added by Stats. 2012, Ch. 559, Sec. 4. Effective January 1, 2013.)

35.

“Day” means calendar day, and “week” means calendar week.

(Enacted by Stats. 1957, Ch. 456.)

37.

“Department” means the Department of Fish and Wildlife.

(Amended by Stats. 2012, Ch. 559, Sec. 5. Effective January 1, 2013.)

39.

“Director” means the Director of Fish and Wildlife.

(Amended by Stats. 2012, Ch. 559, Sec. 6. Effective January 1, 2013.)

41.

“District” means fish and game district.

(Enacted by Stats. 1957, Ch. 456.)

43.

“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.

(Added by Stats. 2012, Ch. 559, Sec. 7. Effective January 1, 2013.)

45.

“Fish” means a wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn, or ovum of any of those animals.

(Amended by Stats. 2015, Ch. 154, Sec. 5. Effective January 1, 2016.)

46.

“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.

(Added by Stats. 1987, Ch. 200, Sec. 1. Effective July 23, 1987.)

48.

“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.

(Enacted by Stats. 1957, Ch. 456.)

51.

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

(Enacted by Stats. 1957, Ch. 456.)

54.

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

(Amended by Stats. 2015, Ch. 154, Sec. 6. Effective January 1, 2016.)

54.5.

"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.

(Added by Stats. 2006, Ch. 36, Sec. 2. Effective January 1, 2007.)

55.

"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.

(Added by Stats. 1992, Ch. 1370, Sec. 1. Effective October 27, 1992.)

56.

"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.

(Enacted by Stats. 1957, Ch. 456.)

57.

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

(Amended by Stats. 2015, Ch. 154, Sec. 7. Effective January 1, 2016.)

60.

“Oath” includes affirmation.

(Enacted by Stats. 1957, Ch. 456.)

61.

“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.

(Added by Stats. 1982, Ch. 1486, Sec. 3.)

62.

“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.”

(Amended by Stats. 2007, Ch. 285, Sec. 3. Effective January 1, 2008.)

64.

“Order,” “rule,” and “regulation” are used interchangeably and each includes the others.

(Enacted by Stats. 1957, Ch. 456.)

67.

“Person” means any natural person or any partnership, corporation, limited liability company, trust, or other type of association.

(Amended by Stats. 1994, Ch. 1010, Sec. 121. Effective January 1, 1995.)

68.

“Purchase” means “buy” as defined in Section 24.

(Added by Stats. 1985, Ch. 1403, Sec. 2.)

70.

“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.

(Amended by Stats. 2001, Ch. 112, Sec. 2. Effective January 1, 2002.)

73.

“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.

(Enacted by Stats. 1957, Ch. 456.)

75.

“Sell” includes offer or possess for sale, barter, exchange, or trade.

(Enacted by Stats. 1957, Ch. 456.)

79.

“Shall” is mandatory and “may” is permissive.

(Enacted by Stats. 1957, Ch. 456.)

80.

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.

(Added by Stats. 2015, Ch. 154, Sec. 8. Effective January 1, 2016.)

81.

“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.

(Enacted by Stats. 1957, Ch. 456.)

82.

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

(Added by Stats. 1992, Ch. 742, Sec. 1. Effective January 1, 1993.)

83.

“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.

(Enacted by Stats. 1957, Ch. 456.)

86.

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

(Enacted by Stats. 1957, Ch. 456.)

88.

“Transport” includes offer or receive for transportation.

(Enacted by Stats. 1957, Ch. 456.)

89.

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.

(Added by Stats. 1995, Ch. 28, Sec. 1. Effective January 1, 1996.)

89.1.

“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.

(Added by Stats. 2007, Ch. 285, Sec. 4. Effective January 1, 2008.)

89.5.

“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.

(Added by Stats. 2015, Ch. 154, Sec. 9. Effective January 1, 2016.)

CHAPTER 2. Marine Life Definitions [90 - 99.5]

(Chapter 2 added by Stats. 1998, Ch. 1052, Sec. 4.)

90.

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

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

90.1.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

90.5.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

90.7.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

91.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

93.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

94.

“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).

(Amended by Stats. 2002, Ch. 559, Sec. 1. Effective January 1, 2003.)

96.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

96.5.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

97.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

97.5.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

98.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

98.2.

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

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

98.5.

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

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)

99.

“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.

(Amended by Stats. 1999, Ch. 483, Sec. 1. Effective January 1, 2000.)

99.5.

“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.

(Added by Stats. 1998, Ch. 1052, Sec. 4. Effective January 1, 1999.)