

FISH AND GAME CODE - FGC
DIVISION 6. FISH [5500 - 9101]

(Division 6 enacted by Stats. 1957, Ch. 456.)

PART 1. GENERALLY [5500 - 6956]

(Part 1 enacted by Stats. 1957, Ch. 456.)

CHAPTER 1. Miscellaneous [5500 - 5522]

(Chapter 1 enacted by Stats. 1957, Ch. 456.)

5500.

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.

(Amended by Stats. 1985, Ch. 121, Sec. 1.)

5501.

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.

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

5503.

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.

(Amended by Stats. 1982, Ch. 1486, Sec. 8.)

5505.

Mollusks, crustaceans, and amphibia may be used for bait or released in the same waters wherein taken.

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

5507.

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.

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

5508.

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.

(Amended by Stats. 1967, Ch. 534.)

5509.

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.

(Amended by Stats. 1974, Ch. 1078.)

5510.

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.

(Added by Stats. 1976, Ch. 362.)

5511.

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.

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

5514.

(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.

(Amended by Stats. 2007, Ch. 285, Sec. 105. Effective January 1, 2008.)

5515.

(a) (1) Except as provided in this section, Section 2081.6, Section 2081.7, or Section 2835, a fully protected fish 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 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 (*Catostomus luxatus*).

(5) Modoc sucker (*Catostomus microps*).

(6) Shortnose sucker (*Chasmistes brevirostris*).

(7) Humpback sucker (*Xyrauchen texanus*).

(8) Owens River pupfish (*Cyprinoden radiosus*).

(9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).

(10) Rough sculpin (*Cottus asperimus*).

(Amended by Stats. 2015, Ch. 620, Sec. 3.5. Effective October 8, 2015. Operative January 1, 2016, pursuant to Sec. 4, Stats. 2015, Ch. 620.)

5516.

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.

(Added by Stats. 1974, Ch. 524.)

5517.

It is unlawful to take any white shark (*Carcharodon carcharias*), except under permits issued pursuant to Section 1002 for scientific or educational purposes.

(Amended by Stats. 1997, Ch. 186, Sec. 1. Effective January 1, 1998.)

5520.

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.

(Added by Stats. 1997, Ch. 787, Sec. 1. Effective January 1, 1998.)

5521.

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.

(Added by Stats. 1997, Ch. 787, Sec. 2. Effective January 1, 1998.)

5521.5.

(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.

(Amended by Stats. 2007, Ch. 328, Sec. 1. Effective January 1, 2008.)

5521.6.

Notwithstanding Sections 5521 and 5521.5, a registered aquaculturist may collect abalone for broodstock, in accordance with subdivision (b) of Section 15301.

(Added by Stats. 1999, Ch. 483, Sec. 6. Effective January 1, 2000.)

5522.

(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.

(Added by Stats. 1997, Ch. 787, Sec. 4. Effective January 1, 1998.)