

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 2. Pollution [5650 - 5803]

(Chapter 2 enacted by Stats. 1957, Ch. 456.)

ARTICLE 1. General [5650 - 5656]

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

5650.

(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.

(Amended by Stats. 2007, Ch. 130, Sec. 96. Effective January 1, 2008.)

5650.1.

(a) Every 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.

(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 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 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 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 any 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.

(Amended by Stats. 1996, Ch. 1122, Sec. 2. Effective January 1, 1997.)

5651.

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.

(Amended by Stats. 1985, Ch. 1429, Sec. 1. Effective October 1, 1985.)

5652.

(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.

(Amended by Stats. 2007, Ch. 285, Sec. 107. Effective January 1, 2008.)

5653.

(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.

(Amended by Stats. 2015, Ch. 680, Sec. 2. Effective January 1, 2016.)

[5653.1.](#)

(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.

(Amended by Stats. 2012, Ch. 39, Sec. 7. Effective June 27, 2012.)

5653.3.

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.

(Added by Stats. 1988, Ch. 1037, Sec. 2.)

5653.5.

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.

(Added by Stats. 1988, Ch. 1037, Sec. 3.)

5653.7.

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.

(Added by Stats. 1988, Ch. 1037, Sec. 4.)

5653.8.

For purposes of Sections 5653 and 5653.3, "person" does not include a partnership, corporation, or other type of association.

(Added by Stats. 1994, Ch. 1109, Sec. 2. Effective September 29, 1994.)

5653.9.

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.

(Amended by Stats. 1994, Ch. 775, Sec. 2. Effective January 1, 1995.)

5654.

(a) (1) Notwithstanding Section 7715 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 subdivision (ad) of 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.

(Amended by Stats. 2009, Ch. 294, Sec. 13. Effective January 1, 2010.)

5655.

(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.

(Amended by Stats. 2010, Ch. 328, Sec. 68. Effective January 1, 2011.)

5656.

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.

(Amended by Stats. 1995, Ch. 720, Sec. 3. Effective January 1, 1996.)

ARTICLE 2. Shellfish Area Contamination [5669 - 5675]

(Article 2 enacted by Stats. 1957, Ch. 456.)

5669.

For purposes of this chapter, "shellfish" means any bivalve mollusk.

(Added by Stats. 1982, Ch. 1486, Sec. 9.)

5670.

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.

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

5671.

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.

(Amended by Stats. 1977, Ch. 1252.)

5672.

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.

(Amended by Stats. 1977, Ch. 1252.)

5673.

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.

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

5674.

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.

(Amended by Stats. 1977, Ch. 1252.)

5675.

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.

(Added by Stats. 1982, Ch. 1486, Sec. 10.)

ARTICLE 2.5. Purification of Mollusks [5700 - 5702]

(Article 2.5 added by Stats. 1976, Ch. 1019.)

5700.

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.

(Amended by Stats. 1979, Ch. 373.)

5701.

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.

(Amended by Stats. 1979, Ch. 373.)

5701.5.

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.

(Added by Stats. 1982, Ch. 1486, Sec. 11.)

5702.

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.

(Added by Stats. 1976, Ch. 1019.)

ARTICLE 3. Trinity and Klamath River Fish and Game District [5800 - 5803]

(Article 3 enacted by Stats. 1957, Ch. 456.)

5800.

(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.

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

5801.

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.

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

5802.

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.

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

5803.

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.

(Added by Stats. 1970, Ch. 918.)