

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 5. Fish Planting and Propagation [6400 - 6598]

(Chapter 5 enacted by Stats. 1957, Ch. 456.)

ARTICLE 1. General Provisions [6400 - 6403]

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

6400.

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.

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

6400.5.

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.

(Added by Stats. 1984, Ch. 1686, Sec. 4. Effective September 30, 1984.)

6401.

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.

(Amended by Stats. 1982, Ch. 1486, Sec. 15.)

6402.

The department may plant fish in streams passing through, or in lakes on, land on which is located a youth camp for underprivileged children.

(Added by Stats. 1967, Ch. 424.)

6403.

This chapter does not apply to activities governed by Division 12 (commencing with Section 15000).

(Added by Stats. 1982, Ch. 1486, Sec. 15.1.)

ARTICLE 2. Artificial Reefs [6420 - 6425]

(Article 2 added by Stats. 1985, Ch. 1103, Sec. 1.)

6420.

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.

(Amended by Stats. 1999, Ch. 83, Sec. 55. Effective January 1, 2000.)

6421.

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.

(Added by Stats. 1985, Ch. 1103, Sec. 1.)

6422.

The department shall administer the California Artificial Reef Program.

(Added by Stats. 1985, Ch. 1103, Sec. 1.)

6423.

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.

(Added by Stats. 1985, Ch. 1103, Sec. 1.)

6424.

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.

(Added by Stats. 1985, Ch. 1103, Sec. 1.)

6425.

(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.

(Added by Stats. 1985, Ch. 1103, Sec. 1.)

ARTICLE 4. Grass Carp [6440 - 6460]

(Article 4 added by Stats. 1995, Ch. 249, Sec. 2.)

6440.

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.

(Amended by Stats. 2015, Ch. 154, Sec. 81. Effective January 1, 2016.)

6450.

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.

(Amended by Stats. 2001, Ch. 745, Sec. 56. Effective October 12, 2001.)

6451.

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.

(Added by Stats. 1995, Ch. 249, Sec. 2. Effective January 1, 1996.)

6452.

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.

(Added by Stats. 1995, Ch. 249, Sec. 2. Effective January 1, 1996.)

6453.

(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.

(Amended by Stats. 2001, Ch. 753, Sec. 7. Effective January 1, 2002.)

6454.

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.

(Added by Stats. 1995, Ch. 249, Sec. 2. Effective January 1, 1996.)

6455.

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.

(Amended by Stats. 2001, Ch. 753, Sec. 7.5. Effective January 1, 2002.)

6456.

Nothing in this article shall be construed as restricting grass carp programs approved by the department on or before June 1, 1995.

(Added by Stats. 1995, Ch. 249, Sec. 2. Effective January 1, 1996.)

6457.

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.

(Added by Stats. 1995, Ch. 249, Sec. 2. Effective January 1, 1996.)

6460.

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.

(Added by Stats. 1997, Ch. 533, Sec. 7. Effective January 1, 1998.)

ARTICLE 8. Ocean Fishery Research [6590 - 6598]

(Article 8 added by Stats. 1983, Ch. 982, Sec. 1.)

6590.

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.

(Amended by Stats. 1994, Ch. 369, Sec. 1. Effective January 1, 1995.)

6591.

For purposes of this article, "program" means the California Ocean Resources Enhancement and Hatchery Program established by this article.

(Amended by Stats. 1992, Ch. 987, Sec. 2. Effective January 1, 1993.)

6592.

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.

(Amended by Stats. 1998, Ch. 76, Sec. 1. Effective January 1, 1999.)

6593.

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.

(Amended by Stats. 1992, Ch. 987, Sec. 3. Effective January 1, 1993.)

6594.

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.

(Amended by Stats. 1992, Ch. 987, Sec. 4. Effective January 1, 1993.)

6595.

(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.

(Amended by Stats. 1994, Ch. 369, Sec. 2. Effective January 1, 1995.)

6596.1.

(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.

(Amended by Stats. 2012, Ch. 565, Sec. 19. Effective January 1, 2013.)

6597.

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.

(Added by Stats. 1983, Ch. 982, Sec. 1.)

6597.5.

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.

(Added by Stats. 1992, Ch. 987, Sec. 7. Effective January 1, 1993.)

6598.

Any place at which all or a significant part of the program is conducted shall be named the "California Marine Hatchery Institute."

(Added by Stats. 1983, Ch. 982, Sec. 1.)