

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 9. Coho Salmon Habitat Enhancement Leading to Preservation [6950 - 6956]

(Chapter 9 added by Stats. 2012, Ch. 541, Sec. 2.)

6950.

This chapter shall be known and may be cited as the Coho Salmon Habitat Enhancement Leading to Preservation Act or Coho HELP Act.

(Added by Stats. 2012, Ch. 541, Sec. 2. Effective January 1, 2013. Repealed as of January 1, 2018, pursuant to Section 6956.)

6952.

As used in this chapter:

- (a) "Account" means the Coho Salmon Recovery Account created in subdivision (a) of Section 6954.
- (b) "Coho salmon habitat enhancement project" or "project" means a restoration project within a region described in an adopted state or federal coho salmon recovery plan with the primary purpose of accomplishing one or more of the following:
 - (1) Modification of existing water crossings for the purposes of eliminating a barrier to fish passage. Modification includes the removal of road crossings, replacement of culverts, or both.
 - (2) Restoration of eroded or denuded streambanks by utilizing predominantly nonrock bioengineering practices and revegetating stream corridors with native riparian species. Restoration shall be focused on promoting tree establishment along the active channel and on streambanks for the purposes of bank stabilization, bank development, and live wood complexity.
 - (3) Wood placement that benefits naturally reproducing fish stocks by creating or enhancing fish habitat, increasing stream complexity, or both.
- (c) "Coho salmon recovery plans" means the department's Recovery Strategy for California Coho Salmon, the National Marine Fisheries Service's Recovery Plan for the Evolutionary Significant Unit of Central Coast Coho Salmon, the National Marine Fisheries Service's Recovery Plan for the Southern Oregon/Northern California Coast Evolutionary Significant Unit of Coho Salmon, or subsequently adopted coho salmon recovery plans.
- (d) "Fish passage guidelines" means the department's Coho Salmon Stream Restoration Manual, the National Marine Fisheries Service, Southwest Region,

Guidelines for Salmonid Passage at Stream Crossings, either of those documents as they may be subsequently amended or updated, or salmonid fish passage project guidelines subsequently adopted by the department, the National Marine Fisheries Service, or both.

(e) "Project proponent" means a person, public agency, or nonprofit organization seeking to implement a coho salmon habitat enhancement project.

(Added by Stats. 2012, Ch. 541, Sec. 2. Effective January 1, 2013. Repealed as of January 1, 2018, pursuant to Section 6956.)

6953.

(a) Notwithstanding any other provision of law, the director shall approve a coho salmon habitat enhancement project if the project will maintain existing levels of human health and safety protection, including, but not limited to, flood protection, and meets all of the following requirements:

(1) The project is consistent with fish passage guidelines and coho salmon recovery plans.

(2) The primary project purpose is for voluntary restoration.

(3) The project is no larger than five acres or 500 linear feet in size, measured by calculating the direct area of impact.

(4) Completion of all phases of the coho salmon habitat enhancement project will not exceed five years.

(5) The project will not result in cumulative negative environmental impacts that are significant when viewed in connection with the effects of past, current, or probable future projects.

(b) The director's approval of a coho salmon habitat enhancement project pursuant to subdivision (a) shall be in lieu of any other permit, license, or other approval issued by the department, including, but not limited to, those issued pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3, Chapter 10 (commencing with Section 1900) of Division 2, and Chapter 6 (commencing with Section 1600) of Division 2.

(c) The director's approval of a coho salmon habitat enhancement project pursuant to subdivision (a) shall constitute an action taken by a regulatory agency, as authorized by state law, to ensure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment.

(d) Within 60 days after the director receives a written request to approve a coho salmon habitat enhancement project containing the information required pursuant to subdivision (e), the director shall determine whether substantial evidence exists that the coho salmon habitat enhancement project is consistent with subdivision (a).

(e) A written request to approve a coho salmon habitat enhancement project shall contain all of the following:

- (1) The name, address, title, organization, telephone number, and electronic mail address of the natural person or persons who will be the main point of contact for the project proponent.
 - (2) A full description of the coho salmon habitat enhancement project that includes the design criteria used for the project, restoration or enhancement methods, an estimate of temporary restoration or enhancement-related disturbance, project schedule, and how the project will result in a net benefit to coho salmon and other affected species.
 - (3) A map clearly identifying the project location and photographs of the project site.
 - (4) An assessment of the project area that provides a description of existing flora and fauna and the potential presence of sensitive species or habitat.
 - (5) A description of environmental protection measures incorporated into the project design, including, but not limited to, measures to avoid and minimize impacts to water quality and potentially present species protected by state law, so that no potentially significant negative environmental impacts will result from the project.
 - (6) Substantial evidence to support a conclusion that the project meets the criteria set forth in this section. Substantial evidence shall cite relevant design criteria and environmental protection measures that are set forth in the fish passage guidelines and coho salmon recovery plans.
- (f) (1) If the director determines at any time that the project is no longer consistent with subdivision (a), due to a material change between the project as submitted and the project being implemented or a change in environmental circumstances in the area of implementation, the director shall notify the project proponent in writing and project implementation shall be suspended or approval pursuant to this chapter revoked. Written notice from the director shall be delivered in person or by certified mail to the project proponent and shall specify the reasons why ministerial approval of the project was suspended or revoked. The approval for a project shall not be revoked pursuant to this subdivision unless it has first been suspended pursuant to this subdivision.
- (2) Within 30 days of receipt of a notice of suspension, the project proponent may file an objection with the director. Any objection shall be in writing and state the reasons why the project proponent objects to the suspension.
 - (3) The director shall revoke approval or lift the suspension of project implementation within 30 days after the end of the objection period in paragraph (2).

(Added by Stats. 2012, Ch. 541, Sec. 2. Effective January 1, 2013. Repealed as of January 1, 2018, pursuant to Section 6956.)

6954.

- (a) The Coho Salmon Recovery Account is hereby created in the Fish and Game Preservation Fund.
- (b) The department may enter into an agreement to accept funds from any public agency, person, business entity, or organization to achieve the purposes of this

chapter. The department shall deposit any funds so received in the account. The funds received shall supplement existing resources for projects and programs that enhance the recovery of coho salmon.

(c) The department may impose a schedule of fees for projects, based on the cost of a project, sufficient to recover all reasonable administrative and implementation costs of the department relating to the project, but not to exceed fees adopted by the department pursuant to Chapter 6 (commencing with Section 1600) of Division 2 for standard lake or streambed alteration agreements for projects of comparable cost. The department shall deposit fee revenues in the account.

(d) Moneys in the account shall be available to the department, upon appropriation by the Legislature, for the purposes of administering and implementing this chapter.

(Added by Stats. 2012, Ch. 541, Sec. 2. Effective January 1, 2013. Repealed as of January 1, 2018, pursuant to Section 6956.)

6955.

The department may adopt emergency regulations for the implementation of this chapter. Emergency regulations adopted pursuant to this section, any amendment thereto, or subsequent adjustments to the regulations, shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department shall remain in effect until revised by the department.

(Added by Stats. 2012, Ch. 541, Sec. 2. Effective January 1, 2013. Repealed as of January 1, 2018, pursuant to Section 6956.)

6956.

This chapter shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

(Added by Stats. 2012, Ch. 541, Sec. 2. Effective January 1, 2013. Repealed as of January 1, 2018, by its own provisions.)