

FISH AND GAME CODE - FGC

DIVISION 12. AQUACULTURE [15000 - 15703]

(Division 12 added by Stats. 1982, Ch. 1486, Sec. 25.)

CHAPTER 1. General Provisions [15000 - 15008]

(Chapter 1 added by Stats. 1982, Ch. 1486, Sec. 25.)

15000.

(a) The business of aquaculture is governed by this division and is exempt from Part 3 (commencing with Section 7600) of Division 6 and any other provision of this code relating to commercial fishing, harvesting, processing, and marketing.

(b) Except as provided in Sections 15005, 15200, 15201, and 15202, the business of aquaculture processing, distribution, and marketing is administered by the Secretary of Food and Agriculture.

(c) The director may enter into an agreement with the Secretary of Food and Agriculture for the resolution of any conflict that arises under subdivision (b).

(d) Any costs incurred by the department in implementing Sections 15005, 15200, 15201, and 15202 shall be recovered pursuant to this division.

(Amended by Stats. 1995, Ch. 810, Sec. 4. Effective January 1, 1996.)

15001.

The cultured progeny of wild plants and animals lawfully obtained under Section 15300 are the exclusive property of that person who cultured them or that person's successor in interest.

(Added by Stats. 1982, Ch. 1486, Sec. 25.)

15002.

Any person who takes aquaculture products without lawful entitlement is subject to prosecution for theft.

(Added by Stats. 1982, Ch. 1486, Sec. 25.)

15003.

(a) The department may assess a fee on persons growing aquaculture products on public lands and in public waters based on the price per pound of the products sold. The fees, if imposed, shall be set at amounts necessary to defray the costs of the commission and the department in administering this division. However, the fees if any, may not exceed the tax rates as provided in Section 8051.

(b) The price per pound for these taxation purposes shall be based on the whole product weight or its equivalent as taken by the lessee.

(c) The privilege tax imposed by this section shall be paid monthly to the department within 30 days after the close of each month. If not paid within 60 days after the close of the month in which it is due, a 10 percent penalty shall be paid.

(Amended by Stats. 1987, Ch. 1065, Sec. 1.)

15004.

(a) Commencing in 1992, the department shall, at least once every five years, analyze the fees and taxes authorized by this division to ensure that the amount of the appropriate fee or tax is sufficient to fully fund the aquaculture program.

(b) The department shall, as appropriate, recommend fee or tax changes to the Legislature or the commission.

(c) Aquaculturists operating under this division shall pay all costs incurred by the department when conducting any inspections of plants, animals, facilities, or culture areas required by this division, or by regulations adopted pursuant to this division, when requested by the aquaculturists.

(Amended by Stats. 1992, Ch. 701, Sec. 44. Effective September 15, 1992.)

15005.

(a) When necessary for the protection of native wildlife, the commission may regulate the transportation, purchase, possession, and sale of specific aquaculture products as provided for in this section.

(b) The commission may determine that aquaculture products shall be accompanied by a document containing any of the following information:

(1) The name, address, and registration number of the aquaculture producer.

(2) The species.

(3) The weight, volume or count within the container.

(4) The date of the shipment.

(5) The name and address of the intended receiver.

(c) The commission may require that certain aquaculture products shall be additionally identified as being aquaculture produced, except for the following:

- (1) Trout.
- (2) Catfish.
- (3) Kelp and aquatic plants.
- (4) Frogs and amphibia.
- (5) All bivalve mollusks (except little neck clams).
- (6) All members of the family Centrarchidae.
- (7) Crayfish.
- (8) Sea urchins.
- (9) Shrimp and fresh water prawns.
- (10) Crab.

(Amended by Stats. 1983, Ch. 1300, Sec. 19.)

15006.

Nothing in this division applies to authorized 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.

(Added by Stats. 1983, Ch. 131, Sec. 20. Effective June 27, 1983.)

15007.

(a) In the waters of the Pacific Ocean that are regulated by this state, it is unlawful to spawn, incubate, or cultivate any species of finfish belonging to the family Salmonidae, transgenic fish species, or any exotic species of finfish. Except as authorized pursuant to subdivision (d), it is unlawful to spawn, incubate, or cultivate any transgenic species of finfish belonging to the family Salmonidae in this state. This section does not apply to salmon or steelhead trout reared from native California stocks that are propagated and cultured for either of the following:

- (1) Research conducted by, or on behalf of, the department.
- (2) Release into ocean waters for the purpose of recovery, restoration, or enhancement of California's native salmon and steelhead trout populations pursuant to Chapter 8 (commencing with Section 6900) of Part 1 of Division 6.

(b) Nothing in this section authorizes artificial propagation, rearing, or stocking of transgenic freshwater and marine fishes, invertebrates, crustaceans, or mollusks.

(c) Research or experimentation for the commercial production of transgenic salmonids is prohibited.

(d) (1) Medical or scientific research conducted on transgenic finfish species by accredited California academic institutions or private entities for research only and not for commercial production may be authorized pursuant to a permit issued by the department pursuant to Section 671 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

(2) At a minimum, research activities conducted pursuant to this subdivision shall be conducted in a closed system that has eliminated the risk of escape of transgenic finfish species and any potential disease they may transmit.

(3) A permit application applied for pursuant to this subdivision shall include a research plan specifying the objectives and goals of the proposed research.

(4) Nothing in this subdivision shall be construed to require the disclosure of proprietary information.

(e) The department shall notify the Joint Committee on Fisheries and Aquaculture and the commission upon receipt of a permit application applied for pursuant to subdivision (d) at least 30 days prior to the approval or disapproval of the permit.

(f) As used in this section, the following definitions shall apply:

(1) "Exotic species" means a fish that is not native to California waters and that does not currently exist as a viable population in a wild condition in the state.

(2) "Transgenic" has the same meaning as in Section 1.92 of Title 14 of the California Code of Regulations, as that section read on May 14, 2003.

(Amended by Stats. 2014, Ch. 444, Sec. 3. Effective January 1, 2015.)

15008.

(a) The department shall, in consultation with the Aquaculture Development Committee, prepare programmatic environmental impact reports for existing and potential commercial aquaculture operations in both coastal and inland areas of the state if both of the following conditions are met:

(1) Funds are appropriated to the department for this purpose.

(2) Matching funds are provided by the aquaculture industry. For the purpose of this section, "matching funds" include, but are not limited to, any funds expended by the aquaculture industry before January 1, 2006, for the preparation of a programmatic environmental impact report.

(b) If the final programmatic environmental impact report is prepared pursuant to subdivision (a) for coastal marine finfish aquaculture projects and approved by the commission under the California Environmental Quality Act set forth in Division 13 (commencing with Section 21000) of the Public Resources Code, the report shall provide a framework for managing marine finfish aquaculture in an environmentally sustainable manner that, at a minimum, adequately considers all of the following factors:

- (1) Appropriate areas for siting marine finfish aquaculture operations to avoid adverse impacts, and minimize any unavoidable impacts, on user groups, public trust values, and the marine environment.
- (2) The effects on sensitive ocean and coastal habitats.
- (3) The effects on marine ecosystems, commercial and recreational fishing, and other important ocean uses.
- (4) The effects on other plant and animal species, especially species protected or recovering under state and federal law.
- (5) The effects of the use of chemical and biological products and pollutants and nutrient wastes on human health and the marine environment.
- (6) The effects of interactions with marine mammals and birds.
- (7) The cumulative effects of a number of similar finfish aquaculture projects on the ability of the marine environment to support ecologically significant flora and fauna.
- (8) The effects of feed, fish meal, and fish oil on marine ecosystems.
- (9) The effects of escaped fish on wild fish stocks and the marine environment.
- (10) The design of facilities and farming practices so as to avoid adverse environmental impacts, and to minimize any unavoidable impacts.

(Added by Stats. 2006, Ch. 36, Sec. 3. Effective January 1, 2007.)