FISH AND GAME CODE - FGC

DIVISION 6. FISH [5500 - 9101]
   (Division 6 enacted by Stats. 1957, Ch. 456.)

PART 3. COMMERCIAL FISHING [7600 - 9101]
   (Part 3 enacted by Stats. 1957, Ch. 456.)

CHAPTER 2. Particular Varieties of Fish [8140 - 8599.4]
   (Chapter 2 enacted by Stats. 1957, Ch. 456.)

ARTICLE 1. General Season [8140- 8140.]
   (Article 1 enacted by Stats. 1957, Ch. 456.)

8140.

All fish, the taking of which is not otherwise restricted for commercial purposes, by state or federal law or any regulations adopted pursuant to those laws, may be taken at any time for commercial purposes.
(Amended by Stats. 1998, Ch. 1052, Sec. 13. Effective January 1, 1999.)

ARTICLE 2. Sardines [8150.5 - 8154]
   (Article 2 enacted by Stats. 1957, Ch. 456.)

8150.5.

(a) Sardines may not be taken or possessed on any boat, barge, or vessel except pursuant to Section 8150.7.
(b) This section does not prohibit the possession or use of sardines imported into this state under a bill of lading identifying the country of origin.
(c) Imported sardines may be used for dead bait under regulations adopted by the commission.
(Amended by Stats. 2000, Ch. 388, Sec. 5. Effective January 1, 2001.)

8150.7.

It is the intent of the Legislature that the sardine resource be managed with the objective of maximizing the sustained harvest. The department shall manage the sardine resource in conformance with the federal fishery regulations as recommended by the Pacific Fishery Management Council and as adopted by the Secretary of Commerce.
(Amended by Stats. 2000, Ch. 388, Sec. 6. Effective January 1, 2001.)
No person shall receive, possess, or sell sardines for any purpose except for that purpose specified on the fish receipt completed at the time of landing of those sardines pursuant to Section 8043.

(Added by Stats. 1989, Ch. 858, Sec. 4.)

ARTICLE 3. Anchovies [8180 - 8190]

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

8180.

In any district or part of a district lying south of a line drawn east and west through Point Mugu, anchovies may be taken in any quantity for bait or for human consumption in a fresh state, or, by contract with the department, for hatchery food, not to exceed 500 tons per year.

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

8181.

Anchovies taken south of that line in waters not less than three nautical miles from the nearest point of land on the mainland shore, and anchovies taken north of that line in any waters, may be possessed, transported, sold, or otherwise dealt with in any district or part of a district south of that line.

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

8182.

The operator of a boat engaged in taking anchovies in waters south of the line described in Section 8180 shall at all times while operating the boat identify it by displaying on an exposed part of the superstructure, amidships on each side and on top of the house visible from the air, the department registration number of the boat, in 14-inch black numerals on white background.

(Amended by Stats. 2015, Ch. 154, Sec. 90. Effective January 1, 2016.)

8183.

No anchovies may be taken for any purpose in Humboldt Bay, except under the following conditions:
(a) Anchovies may be taken for live bait between May 1 and December 1 and may be taken for dead bait between May 1 and August 31. The operator of a vessel may take anchovies only for use in his or her own fishing operation,
except that the operator may make incidental sales of anchovies so taken to local sport fishermen for their use as bait.

This subdivision does not prevent the cooperative effort of two or more vessel operators or their crews working together with one net if each operator has complied with the notification requirement in subdivision (b).

(b) An observer who is an employee of the department shall inspect any bait operation and may halt that operation if the operation cannot be conducted without adversely affecting the game species of the bay. Notification of all bait operations shall be dispatched so as to be received by the department at least 12 hours prior to the commencement of the operation.

(c) Anchovies may be taken in Districts 8 and 9 only north of a line extending through channel markers 8 and 9 in Humboldt Bay.

(d) Not more than 15 tons of anchovies may be taken between May 1 and August 31 of each year and not more than 15 tons may be taken between September 1 and December 1 of each year.

(e) Only bait nets, as defined in Section 8780, shall be used to take anchovy.

(f) Any game fish caught incidentally in bait nets shall be released by use of a hand scoop net or by dipping the cork line.

An accurate record of all fishing operations shall be kept and is subject to inspection by the department.

The commission shall adopt any other regulation it determines is necessary to protect the Humboldt Bay anchovy resource.

(Added by Stats. 1978, Ch. 897.)

8190.

(a) It is the policy of the State of California that the anchovy resource shall be managed in a manner which insures the continued abundance of the species. To that end, the department shall conduct, or have others conduct, annual anchovy egg-larvae surveys or any other annual surveys, research, and analyses necessary to insure that an accurate biomass estimate is made.

(b) This section shall become operative, and activities shall be carried out pursuant to this section only in the event, and to the extent, that funding is made available for such activities by the federal government.

(Added by Stats. 1978, Ch. 897.)

ARTICLE 4. Salmon [8210.2 - 8226]

( Article 4 enacted by Stats. 1957, Ch. 456. )

8210.2.
Except as modified by the director pursuant to Section 7652, salmon may be taken under authority of a commercial fishing license and a commercial fishing salmon stamp only in Districts 6, 7, 10, 11, 16, 17, 18, and 19. All species of salmon, except silver salmon, may be taken only between April 15 and September 30. Silver salmon may be taken only between May 15 and September 30. No king salmon may be possessed that is less than 26 inches in length and no silver salmon may be possessed that is less than 22 inches. The length of salmon is to be measured from the tip of the snout to the extreme tip of the tail without resorting to any force other than swinging or fanning the tail. Salmon may be taken for commercial purposes only by hook and line and there is no bag limit.

(Amended by Stats. 1988, Ch. 1009, Sec. 1.5.)

8213.

During the period when salmon may not be taken for commercial purposes in any district, salmon may be sold in that district only under the regulations of the commission.

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

8214.

It is unlawful to take salmon for commercial purposes at the mouth of Humboldt Bay in those portions of Districts 6 and 7 within three nautical miles north and south of a line drawn due west for three nautical miles from the center of the mouth of that bay.

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

8215.

Silver salmon may not be sold or possessed in, or transported through, District 6, 7, 10, 11, 16, 17, or 18, during the time when the taking of silver salmon for commercial purposes is unlawful in those districts.

(Amended by Stats. 1988, Ch. 1009, Sec. 2.)

8217.

Salmon may be sold subject to the exceptions and restrictions contained in this article.

(Enacted by Stats. 1957, Ch. 456.)
8218.

It is unlawful to gaff, club, otherwise injure, or possess any king or silver salmon under the legal size.

(Amended by Stats. 1965, Ch. 189.)

8219.

Salmon may not be taken for commercial purposes in District 6 at the mouths of the Smith and Klamath Rivers within three nautical miles north and south of a line drawn due west for three nautical miles from the center of the mouth of each of those streams, or during the months of August and September in District 7 at the mouth of the Eel River within two nautical miles north and south of a line drawn due west for two nautical miles from the center of the mouth of that stream.

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

8226.

(a) Notwithstanding any measurement requirements under this code, and to implement the department’s salmon tagging program, any person in possession of a salmon with a missing adipose fin, the small, fleshy fin on the back of the fish between the back fin and the tail, upon request by an authorized agent or employee of the department, shall immediately relinquish the head of the salmon to the state, at no charge, for recovery of any coded-wire tag. The head may be removed by the fish owner or, if removed by the official department representative, the head shall be removed in a manner to minimize loss of salmon flesh and the salmon shall immediately be returned to the rightful owner.

(b) It is unlawful to intentionally conceal, cull, or release into the waters, a salmon with a missing adipose fin that it is otherwise legal to possess.

(Amended by Stats. 1999, Ch. 502, Sec. 2. Effective September 27, 1999.)

ARTICLE 5. Lobster [8250 - 8259]

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

8250.

As used in this code, “spiny lobster” refers to the species Panulirus interruptus.

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

8250.5.
(a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, a lobster trap, as described in Section 9010, may be used to take lobster for commercial purposes under a lobster permit issued pursuant to Section 8254.

(b) The following species may be taken incidentally in lobster traps being fished under the authority of a lobster permit issued pursuant to Section 8254, and any other species taken incidentally shall be immediately released back to the water:
   (1) Crab, other than Dungeness crab.
   (2) Kellet’s whelk.
   (3) Octopus.

(c) Spiny lobsters taken in the manner commonly known as skindiving or by a person using self-contained underwater breathing apparatus shall not be sold.

8251.

Spiny lobsters may be taken only between the first Wednesday in October and the first Wednesday after the 15th of March. Lobster traps may be set and baited 24 hours in advance of the opening date of the lobster season if no other attempt is made to take or possess the lobsters.

8252.

No spiny lobster less than three and one-quarter inches in length measured in a straight line from the rear edge of the eye socket to the rear edge of the body shell, both points to be on the midline of the back, may be taken, possessed, purchased, or sold.

Every person taking spiny lobster shall carry a measuring device and shall measure any lobster immediately on removal from his trap and if it is found to be undersize the lobster shall be returned to the water immediately.

8253.

It is unlawful to pickle, can, or otherwise preserve any spiny lobster, but spiny lobsters may be preserved by freezing and may be cooked for consumption in the fresh state.

(Enacted by Stats. 1957, Ch. 456.)
8254.

(a) Lobsters shall not be taken for commercial purposes except under a valid lobster permit issued to that person that has not been suspended or revoked, subject to regulations adopted by the commission.
(b) Every person who takes, assists in taking, possesses, or transports lobsters for commercial purposes while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters for commercial purposes, shall have a valid lobster permit.
(c) The permit fee for a lobster permit is two hundred sixty-five dollars ($265).
(d) The fee for a lobster crewmember permit is one hundred twenty-five dollars ($125).
(e) For the purposes of this section, it is prima facie evidence that lobster is taken for commercial purposes if the possession of lobster is more than three times the sport bag limit.

(Amended by Stats. 2007, Ch. 328, Sec. 3. Effective January 1, 2008.)

8254.7.

When a complaint has been filed in a court of competent jurisdiction charging a holder of a commercial lobster permit with a violation of Section 8251 or 8252, and no disposition of the complaint has occurred within 90 days after it has been filed in the court, the department may suspend the commercial lobster permit of the person. The permitholder whose permit was suspended under this section may, within 10 days after the receipt of the suspension notice from the department, request a hearing, and, within 20 days after the request has been made, a hearing shall be held by the commission. A decision shall be made within a reasonable time on whether the suspension of the permit shall be terminated or continued until the disposition of the complaint by the court. In determining whether to terminate or continue the suspension of the permit, the commission shall consider whether or not the violation could have a detrimental effect on the resources and whether or not a continued suspension of the permit is in the best public interest, and shall find whether there is sufficient evidence that a violation has occurred. A failure to make a finding that there is sufficient evidence that a violation has occurred or a finding that there is insufficient evidence shall terminate the suspension of the permit under this section. If the permitholder is acquitted of the charges or the charges against him or her have been dismissed, any suspension of the permit is thereby terminated. No complaint shall be filed in a court charging a commercial lobster permitholder with a violation of Section 8251 or 8252 unless evidence supporting the charge
has been reviewed by the appropriate county or city prosecuting agency and a
criminal complaint has been issued by that agency.
(Amended by Stats. 1986, Ch. 1244, Sec. 9.)

8257.
The permit number of the person owning or in command of any boat used to
take lobster shall be visibly displayed on both sides of the boat in 10-inch black
numbers, one inch wide, on a white background.
(Amended by Stats. 1965, Ch. 195.)

8258.
Lobster traps may be used to take spiny lobster in Districts 18, 19, 20A, and
those portions of District 20 lying on the southerly side of Santa Catalina Island
between Southeast Rock and China Point.
(Added by Stats. 1984, Ch. 1271, Sec. 3.)

8259.
Whenever it is necessary to prevent overutilization or to ensure efficient and
economic operation of the fishery, the commission may limit the number of
permits that may be issued pursuant to this article. As it determines appropriate
to protect the resource, the commission may limit the number of permits on a
statewide basis or within selected geographical areas.
(Added by Stats. 1986, Ch. 934, Sec. 2.)

ARTICLE 6. Crab [8275 - 8284]
(A Article 6 enacted by Stats. 1957, Ch. 456. )

8275.
Unless the provision or context otherwise requires, the definitions in this section
govern the construction of this article.
(a) “Dungeness crab” or “market crab” means crab of the species Cancer
magister.
(b) “Reconstruction” means major work on the hull of a vessel to make that
vessel operable in the California crab fishery if that work may reasonably be
expected to be of a duration that will preclude operation of that vessel in the
crab fishery for the length of the crab season or longer.
(c) “Rock crab” means any crab of the genus Cancer other than Dungeness crab and includes rock crab (Cancer antennarius), red crab (Cancer productus), and yellow crab (Cancer anthonyi).
(d) “Under construction” means having plans and materials and proceeding with work toward the completion of an operational Dungeness crab fishing vessel.

(Amended by Stats. 1996, Ch. 870, Sec. 25. Effective January 1, 1997.)

8276.

Except as provided in Section 8276.2:
(a) Dungeness crab may be taken for commercial purposes in Districts 6, 7, 8, and 9 only between December 1 and July 15.
(b) Dungeness crab may be taken for commercial purposes in all other districts only between November 15 and June 30.
(c) Dungeness crab may not be taken for commercial purposes in any district, or part of a district, lying within the portions of Crescent City Harbor between the south sand barrier and the breakwater.

(Amended by Stats. 1994, Ch. 973, Sec. 1. Effective January 1, 1995.)

8276.2.

(a) The director may order a delay in the opening of the Dungeness crab fishery after December 1 in Districts 6, 7, 8, and 9 in any year. The delay in the opening shall not be later than January 15 of any year.
(b) (1) On or about November 1 of each year, the director may authorize one or more operators of commercial fishing vessels to take and land a limited number of Dungeness crab for the purpose of quality testing according to a testing program conducted by, or on behalf of, the Pacific States Marine Fisheries Commission or an entity approved by the department.
(2) (A) The meat extracted from Dungeness crab tested pursuant to paragraph (1) may be sold by the entity approved by the department and revenues from that sale may be used for purposes of managing the testing program. Revenues shall be deposited in an account managed and overseen by the Pacific States Marine Fisheries Commission.
(B) For purposes of the testing program, the department shall develop guidelines after consulting with representatives of the California Dungeness crab industry, which shall include California delegates to the Tri-State Dungeness Crab Commission or members of the California Dungeness Crab Task Force, or both. The guidelines shall include the following:
(i) Suggested guidelines for the management of the funds received from, but not limited to, the sale of the crab meat pursuant to subparagraph (A), including the
suggested guideline that funds in excess of the program costs may be donated for charitable purposes.

(ii) Guidelines for the testing program.

(iii) Guidelines that establish measures to track crab caught for purposes of the testing program, including, but not limited to, the guideline that all crab caught and sold for the testing program shall be canned.

(c) The director shall order the opening of the Dungeness crab season in Districts 6, 7, 8, and 9 on December 1 if the quality tests authorized in subdivision (b) indicate the Dungeness crabs are not soft-shelled or low quality. The entity authorized to conduct the approved testing program may test, or cause to be tested, crabs taken for quality and soft shells pursuant to the approved testing program. If the tests are conducted on or about November 1 and result in a finding that Dungeness crabs are soft-shelled or low quality, the director shall authorize a second test to be conducted on or about November 15 pursuant to the approved testing program. If the second test results in a finding that Dungeness crabs are soft-shelled or low quality, the director may order the season opening delayed for a period of 15 days and authorize a third test to be conducted on or about November 15. If the third test results in a finding that Dungeness crabs remain soft-shelled or of low quality, the director may order the season opening delayed for a period of an additional 15 days and authorize a fourth test to be conducted. This procedure may continue to be followed, except that tests shall not be conducted after January 1 for that season, and the season opening shall not be delayed by the director later than January 15.

(d) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.


8276.3.

(a) If there is any delay ordered by the director pursuant to Section 8276.2 in the opening of the Dungeness crab fishery in Fish and Game Districts 6, 7, 8, and 9, a vessel shall not take or land crab within Districts 6, 7, 8, and 9 during any closure.

(b) If there is any delay in the opening of the Dungeness crab season pursuant to Section 8276.2, the opening date in Fish and Game Districts 6, 7, 8, and 9 shall be preceded by a 64-hour gear setting period, as ordered by the director.

(c) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or
before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.


8276.4.

(a) The Ocean Protection Council shall make a grant, upon appropriation of funding by the Legislature, for the development and administration of a Dungeness crab task force. The membership of the Dungeness crab task force shall be comprised of all of the following:

1. Two members representing sport fishing interests.
2. Two members representing crab processing interests.
3. One member representing commercial passenger fishing vessel interests.
4. Two nonvoting members representing nongovernmental organization interests.
5. One nonvoting representative of Sea Grant.
6. Two nonvoting members representing the department.
7. Seventeen members representing commercial fishery interests, elected by licensed persons possessing valid Dungeness crab permits in their respective ports and production levels, as follows:
   A. Four members from Crescent City.
   B. One member from Trinidad.
   C. Two members from Eureka.
   D. Two members from Fort Bragg.
   E. Two members from Bodega Bay.
   F. Two members from San Francisco.
   G. Two members from Half Moon Bay.
   H. One member from ports south of Half Moon Bay.
   I. One member who has a valid California nonresident crab permit.

(b) For ports with more than one representative, elected members and their alternates shall represent both the upper and lower, and in some cases middle, production levels. Production levels shall be based on the average landing during the previous five years, of valid crab permitholders who landed a minimum of 25,000 pounds of crab during the same period.

(c) The Dungeness crab task force shall do all of the following:

1. Review and evaluate the Dungeness crab management measures described in Section 8276.5, with initial recommendations to the Joint Committee on Fisheries and Aquaculture, the department, and the commission, no later than January 15, 2015, and final recommendations to those entities no later than January 15, 2017.
(2) Make recommendations by January 15, 2015, on all of the following: the need for a permanent Dungeness crab advisory committee, the economic impact of the program described in Section 8276.5 on permitholders of different tiers and the economies of different ports, the cost of the program to the department, including enforcement costs, the viability of a buyout program for the permitholders described in subparagraph (G) of paragraph (1) of subdivision (a) of Section 8276.5, refining sport and commercial Dungeness crab management, and the need for statutory changes to accomplish task force objectives.

(3) In considering Dungeness crab management options, prioritize the review of pot limit restriction options, current and future sport and commercial fishery effort, season modifications, essential fishery information needs, and short- and long-term objectives for improved management.

(d) The task force may establish subcommittees of specific user groups from the task force membership to focus on issues specific to sport fishing, commercial harvest, or crab processing. The subcommittees shall report their recommendations, if any, to the task force.

(e) The Ocean Protection Council may include in a grant funding to cover department staffing costs, as well as travel costs for task force participants as specified in paragraph (6) of subdivision (a).

(f) Except as otherwise provided in Section 8276.5, a recommendation shall be forwarded to the Joint Committee on Fisheries and Aquaculture, the department, and the commission upon an affirmative vote of at least two-thirds of the task force members.

(g) Eligibility to take crab in state waters and offshore for commercial purposes may be subject to restrictions, including, but not limited to, restrictions on the number of traps utilized by that person, if either of the following occurs:

(1) A person holds a California Dungeness crab permit with California landings of less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive, as reported in California landings receipts.

(2) A person has purchased a Dungeness crab permit on or after July 15, 2008, from a permitholder whose California landings were less than 5,000 pounds between November 15, 2003, and July 15, 2008, inclusive, as reported in California landings receipts.

(h) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

(Added by Stats. 2011, Ch. 335, Sec. 3. Effective January 1, 2012. Inoperative April 1, 2019. Repealed as of January 1, 2020, by its own provisions.)

8276.5.
In consultation with the Dungeness crab task force, or its appointed representatives, the director shall adopt a program, by March 31, 2013, for Dungeness crab trap limits for all California permits. Unless the director finds that there is consensus in the Dungeness crab industry that modifications to the following requirements are more desirable, with evidence of consensus, including, but not limited to, the record of the Dungeness crab task force, the program shall include all of the following requirements:

1. The program shall contain seven tiers of Dungeness crab trap limits based on California landings receipts under California permits between November 15, 2003, and July 15, 2008, as follows:
   - The 55 California permits with the highest California landings shall receive a maximum allocation of 500 trap tags.
   - The 55 California permits with the next highest California landings to those in paragraph (A) shall receive a maximum allocation of 450 trap tags.
   - The 55 California permits with the next highest California landings to those in paragraph (B) shall receive a maximum allocation of 400 trap tags.
   - The 55 California permits with the next highest California landings to those in paragraph (C) shall receive a maximum allocation of 350 trap tags.
   - The 55 California permits with the next highest California landings to those in paragraph (D) shall receive a maximum allocation of 300 trap tags.
   - The remaining California permits with the next highest California landings to those in paragraph (E), which are not described in paragraph (1) or (2) of subdivision (g) of Section 8276.4, shall receive a maximum allocation of 250 trap tags.
   - The California permits described in paragraphs (1) and (2) of subdivision (g) of Section 8276.4 shall receive a maximum allocation of 175 tags. The tags in this tier shall not be transferable for the first two years of the program.

2. Notwithstanding paragraph (1), the director shall not remove a permitholder from a tier described in paragraph (1), if, after an allocation is made pursuant to paragraph (1), an appeal pursuant to paragraph (6) places a permitholder in a tier different than the original allocation.

3. Participants in the program shall meet all of the following requirements:
   - Pay a biennial fee for each trap tag issued pursuant to this section to pay the pro rata share of costs of the program, including, but not limited to, informing permitholders of the program, collecting fees, acquiring and sending trap tags to permitholders, paying for a portion of enforcement costs, and monitoring the results of the program. The fee shall not exceed five dollars ($5) per trap, per two-year period. All of the trap tags allocated to each permit pursuant to subdivision (a) shall be purchased by the permitholder or the permit shall be void.
(B) Purchase a biennial crab trap limit permit of not more than one thousand dollars ($1,000) per two-year period to pay for the department’s reasonable regulatory costs.

(C) Not lease a crab trap tag, and transfer a tag only as part of a transaction to purchase a California permitted crab vessel.

(D) A Dungeness crab trap that is fished shall contain a trap tag that is fastened to the main buoy, and an additional tag provided by the permitholder attached to the trap. The department shall mandate the information that is required to appear on both buoy and trap tags.

(4) The department shall annually provide an accounting of all costs associated with the crab trap limit program. The department shall use excess funds collected to reduce the cost of the crab trap limit permit fee or tag fee in subsequent years of the program.

(5) Permitholders may replace lost tags by application to the department and payment of a fee not to exceed the reasonable costs incurred by the department. The department may waive or reduce a fee in the case of catastrophic loss of tags.

(6) (A) Any Dungeness crab permitholder may submit to the director an appeal of a trap tag allocation received pursuant to this section, by March 31, 2014, on a permit-by-permit basis for the purpose of revising upward or downward any trap tag allocation. Any appeal to revise upward a trap tag allocation shall be based on evidence that a permit’s California landings during the period between November 15, 2003, and July 15, 2008, inclusive, were reduced as a result of unusual circumstances and that these circumstances constitute an unfair hardship, taking into account the overall California landings history as indicated by landing receipts associated with the permit. The director shall initiate the appeal process within 12 months of receiving an appeal request. The appeal shall be heard and decided by an administrative law judge of the Office of Administrative Hearings, whose decision shall constitute the final administrative decision. Except as provided in subparagraph (B), any Dungeness crab permitholder requesting an appeal to revise upward the permitholder’s trap tag allocation shall pay all expenses, including a nonrefundable filing fee, as determined by the department, to pay for the department’s reasonable costs associated with the appeal process described in this paragraph.

(B) Any Dungeness crab permitholder requesting an appeal may apply to the administrative law judge for a waiver of the appeal fees. In making the determination, the administrative law judge may only consider medical hardship or military service occurring during the tier qualifying window period of November 15, 2003, through July 15, 2008.

(C) An appeal to revise downward a trap tag allocation shall be decided by the department.
(b) (1) In addition to criminal penalties authorized by law, a violation of the requirements of the program created pursuant to this section shall be subject to the following civil penalties:
(A) Conviction of a first offense shall result in a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000) per illegal trap or fraudulent tag.
(B) Conviction of a second offense shall result in a fine of not less than five hundred dollars ($500) and not more than two thousand five hundred dollars ($2,500) per illegal trap or fraudulent tag, and the permit may be suspended for one year.
(C) Conviction of a third offense shall result in a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000) per illegal trap or fraudulent tag, and the permit may be permanently revoked.

(2) The severity of a penalty within the ranges described in this subdivision shall be based on a determination whether the violation was willful or negligent and other factors.

(3) The portion of monetary judgments for noncompliance that are paid to the department shall be deposited in the Dungeness Crab Account created pursuant to subdivision (e).

(c) For the purposes of this section, a proposed recommendation that receives an affirmative vote of at least 15 of the non-ex officio members of the Dungeness crab task force may be transmitted to the director or the Legislature as a recommendation, shall be considered to be the consensus of the task force, and shall be considered to be evidence of consensus in the Dungeness crab industry. Any proposed recommendation that does not receive a vote sufficient to authorize transmittal to the director or Legislature as a recommendation shall be evidence of a lack of consensus by the Dungeness crab task force, and shall be considered to be evidence of a lack of consensus in the crab industry.

(d) (1) The director shall submit a proposed program pursuant to this section to the Dungeness crab task force for review, and shall not implement the program until the task force has had 60 days or more to review the proposed program and recommend any proposed changes. The director may implement the program earlier than 60 days after it is submitted to the Dungeness crab task force for review, if recommended by the task force.
(2) After the program is implemented pursuant to paragraph (1), the director may modify the program, if consistent with the requirements of this section, after consultation with the Dungeness crab task force or its representatives and after the task force has had 60 days or more to review the proposed modifications and recommend any proposed changes. The director may implement the modifications earlier than 60 days after it is sent to the Dungeness crab task force for review, if recommended by the task force.
(e) The Dungeness Crab Account is hereby established in the Fish and Game Preservation Fund and the fees collected pursuant to this section shall be deposited in that account. The money in the account shall be used by the department, upon appropriation by the Legislature, for administering and enforcing the program.

(f) For purposes of meeting the necessary expenses of initial organization and operation of the program until fees may be collected, or other funding sources may be received, the department may borrow money as needed for these expenses from the council. The borrowed money shall be repaid within one year from the fees collected or other funding sources received. The council shall give high priority to providing funds or services to the department, in addition to loans, to assist in the development of the program, including, but not limited to, the costs of convening the Dungeness crab task force, environmental review, and the department’s costs of attending meetings with task force members.

(g) (1) It is the intent of the Legislature that the department, the council, and the Dungeness crab task force work with the Pacific States Marine Fisheries Commission and the Tri-state Dungeness Crab Commission to resolve any issues pertaining to moving the fair start line south to the border of California and Mexico.

(2) For the purposes of this subdivision, the resolution of issues pertaining to the fair start line shall be limited to assessing the positive and negative implications of including District 10 in the tri-state agreement, including working with the Tri-state Dungeness Crab Commission to amend Oregon and Washington laws to include District 10 in the regular season fair start clause, and discussion of providing different rules for District 10 with regard to preseason quality testing.

(h) For purposes of this section, “council” means the Ocean Protection Council established pursuant to Section 35600 of the Public Resources Code.

(i) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2012, Ch. 546, Sec. 2. Effective September 25, 2012. Inoperative April 1, 2019. Repealed as of January 1, 2020, by its own provisions.)

8277.

(a) The director may extend the Dungeness crab season in any district or part thereof.

(b) Before extending the Dungeness crab season, the director shall consider written findings of the department regarding the state of the Dungeness crab resource in the district, or part thereof, which consider, but are not limited to, population and maturity. The director may extend the season only if the written
findings do not conclude that the extension will damage the Dungeness crab resource.
(c) The director shall not extend the Dungeness crab season past August 31 in a district, or part thereof, north of the southern boundary of Mendocino County or past July 31 in a district, or part thereof, south of Mendocino County. The director shall order closure of the season at any time during the extension period if the director determines that further fishing will damage the Dungeness crab resource.
(Amended by Stats. 2006, Ch. 538, Sec. 186. Effective January 1, 2007.)

8278.
(a) Except as otherwise provided, no Dungeness crab less than six and one-quarter (6 1/4) inches in breadth, and no female Dungeness crab, may be taken, possessed, bought, or sold, except that not more than 1 percent in number of any load or lot of Dungeness crabs may be less than six and one-quarter (6 1/4) inches in breadth but not less than five and three-quarters (5 3/4) inches in breadth.
(b) Dungeness crab shall be measured by the shortest distance through the body from edge of shell to edge of shell directly from front of points (lateral spines).
(Amended by Stats. 2006, Ch. 538, Sec. 187. Effective January 1, 2007.)

8279.
It is unlawful to sell any Dungeness crab taken in any of the following waters:
(a) The Eel River and its tributaries between the Pacific Ocean and the west line of Sec. 35, T. 3 N., R. 1 W., H. B. & M.
(b) The Pacific Ocean within a radius of one mile from the mouth of the Eel River.
(c) Humboldt Bay, including the entrance of that bay, and the Pacific Ocean within a radius of one mile from the extreme western point of the north jetty at the entrance of the bay and for a radius of one mile from the extreme western point of the south jetty at the entrance of the bay.
(d) Trinidad Bay, that bay being the body of water within the area inclosed by a line running southeasterly from the westernmost point of Trinidad Head to the mouth of Luftenholtz Creek.
(e) Bodega Lagoon.
(Amended by Stats. 1992, Ch. 874, Sec. 2. Effective September 23, 1992.)

8279.1.
(a) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters in District 6, 7, 8, or 9 for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:
(1) The opening of the season has been delayed pursuant to state law in California.
(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes from ocean waters outside of District 6, 7, 8, or 9, prior to the opening of the season in those districts.

(b) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters south of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in California, if both of the following events have occurred:
(1) The opening of the season has been delayed pursuant to state law in California.
(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in Oregon or Washington prior to the opening of the season in California.

(c) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters north of the border between Oregon and California for 30 days after the opening of the Dungeness crab fishing season in Oregon or Washington, if both of the following events have occurred:
(1) The opening of the season has been delayed in Oregon or Washington.
(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in California prior to the opening of the season in ocean waters off Oregon or Washington.

(d) A person shall not take, possess onboard, or land Dungeness crab for commercial purposes from any vessel in ocean waters off Washington, Oregon, or California for 30 days after the opening of the Dungeness crab fishing season in California, Oregon, or Washington, if both of the following events have occurred:
(1) The opening of the season has been delayed in Washington, Oregon, or California.
(2) The person has taken, possessed onboard, or landed Dungeness crab for commercial purposes in either of the two other states prior to the delayed opening in the ocean waters off any one of the three states.

(e) A violation of this section does not constitute a misdemeanor. Pursuant to Section 7857, the commission shall revoke the Dungeness crab vessel permit held by any person who violates this section.

(f) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or
8280.

(a) The Legislature finds and declares that the Dungeness crab fishery is important to the state because it provides a valuable food product, employment for those persons engaged in the fishery, and economic benefits to the coastal communities of the state.
(b) The Legislature further finds that, in order to protect the Dungeness crab fishery, it is necessary to limit the number of vessels participating in that fishery to take Dungeness crab and it may be necessary to limit the quantity and capacity of the fishing gear used on each vessel to take Dungeness crab.
(c) The Legislature further finds and declares that to limit the number of vessels in the Dungeness crab fishery, it is necessary to require that the owner of each vessel participating in the fishery obtain and possess a permit for that vessel and that the initial issuance of permits shall be limited to those persons owning vessels qualifying under Section 8280.1.

8280.1.

(a) A person shall not use a vessel to take, possess, or land Dungeness crab for commercial purposes using Dungeness crab traps authorized pursuant to Section 9011, unless the owner of that vessel has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked.
(b) A Dungeness crab vessel permit may be issued only to the following persons for use on qualifying vessels:
(1) A person, who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) of Chapter 1 that has not been suspended or revoked, who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel. This paragraph includes any person purchasing a vessel qualifying pursuant to this paragraph.
(2) A person who has a commercial fishing license issued pursuant to Section 7852 or Article 7 (commencing with Section 8030) of Chapter 1 that has not been suspended or revoked, who is the owner of a commercial fishing vessel that
has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and a minimum of four landings in one of the Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, have been made from that vessel in this state as documented by landing receipts delivered to the department pursuant to Section 8046, who the department finds to have been unable, due to illness or injury or any other hardship, to make a minimum of four landings in each of two of the previous three Dungeness crab seasons, and who, in good faith, intended to participate in the Dungeness crab fishery in those seasons.

(3) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets the requirements of Section 8101, and who, notwithstanding Section 8101, is, at the time of application, the owner of a fishing vessel that is not equipped for trawling with a net and that has been registered pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years. Not more than one Dungeness crab vessel permit shall be issued to any person qualifying under Section 8101 and all permits issued under Section 8101, notwithstanding subdivision (b) of Section 8280.3, shall be nontransferable. A person qualifying for a permit under this paragraph shall have participated in the Dungeness crab fishery on or before March 31, 1994, as documented by landing receipts that were prepared in that person’s name for not less than four landings of Dungeness crab taken in a crab trap in a Dungeness crab season and were delivered to the department pursuant to Section 8046. A person shall not be issued a permit under this paragraph if that person has been issued a permit under any other provision of this section for another vessel. For purposes of Section 8101, “participated in the fishery” means made not less than four landings of Dungeness crab taken by traps in that person’s name in one Dungeness crab season. The department shall separately identify permits issued pursuant to this paragraph and those permits shall become immediately null and void upon the death of the permittee. The department shall not issue or renew any permit under this paragraph to a person if the person failed to meet the participation requirements of four landings in one season prior to April 1, 1994, or has been issued a Dungeness crab permit for a vessel under any other paragraph of this subdivision.

(4) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who meets one of the following conditions:

(A) The person held a Dungeness crab permit issued pursuant to Section 8280 as it read on April 1, 1994, and participated in the Dungeness crab fishery between November 1, 1984, and April 1, 1994, and is the owner of a vessel that has been registered with the department in each of the 1991–92, 1992–93, and 1993–94 permit years but did not make landings or the department records do not indicate a minimum of four landings per season for three Dungeness crab
seasons from that vessel or in that person’s name because of a partnership or other working arrangement where the person was working aboard another vessel engaged in the Dungeness crab fishery in California.

(B) The person held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, and is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years and from which a minimum of four landings utilizing traps were made in at least one Dungeness crab season in the period between November 1, 1984, and April 1, 1994, and from which either four landings were made utilizing traps or landings in excess of 10,000 pounds were made utilizing traps in each of two other Dungeness crab seasons in that same period, as documented by landing receipts.

(C) The person held a Dungeness crab vessel permit issued under Section 8280 as it read on April 1, 1994, or was an officer in a California corporation that was licensed pursuant to Article 7 (commencing with Section 8030) of Chapter 1 as of April 1, 1994, and began construction or reconstruction of a vessel on or before January 1, 1992, for the purpose of engaging in the Dungeness crab fishery, including the purchase of equipment and gear to engage in that fishery in California. A person may be issued a permit under this condition only if the person intended in good faith to participate in the California Dungeness crab fishery, a denial of a permit would create a financial hardship on that person, and, for purposes of determining financial hardship, the applicant is a nonresident and cannot participate with his or her vessel or vessels in the Dungeness crab fishery of another state because of that state’s limited entry or moratorium on the issuance of permits for the taking of Dungeness crab.

(5) A person who has a commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked, who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings of Dungeness crab taken by traps in each of three Dungeness crab seasons in the period from November 1, 1984, to April 1, 1994, in his or her name in this state from a vessel owned by that person, as documented by landing receipts, who, between April 1, 1991, and January 1, 1995, purchased, contracted to purchase, or constructed a vessel, not otherwise qualifying pursuant to paragraph (1), (2), or (4), who has continuously owned that vessel since its purchase or construction, and who either (A) has used that vessel for the taking of Dungeness crab in this state on or before March 31, 1995, as documented by one or more landing receipts delivered to the department pursuant to Section 8046, or (B) intended in good faith, based on evidence that the department and the review panel may require, including investment in crab gear, to enter that vessel in this state’s Dungeness crab fishery not later than December 1, 1995. Not more than one permit may be issued to any one person under this paragraph.
(6) A person who held a Dungeness crab permit issued under Section 8280 as it read on April 1, 1994, who made a minimum of four landings utilizing traps in this state in each of three Dungeness crab seasons in the period between November 1, 1984, and April 1, 1994, in his or her name from a vessel operated by that person as documented by landing receipts, who currently does not own a vessel in his or her name, and who has not sold or transferred a vessel otherwise qualifying for a permit under this section. A permit may be issued under this paragraph for a vessel not greater in size than the vessel from which the previous landings were made, and, in no event, for a vessel of more than 60 feet in overall length, to be placed on a vessel that the person purchases or contracts for construction on or before April 1, 1996. A permit issued under this paragraph shall be nontransferable and shall not be used for a vessel not owned by that person, and shall be revoked if the person (A) fails to renew the permit or annually renew his or her commercial fishing license issued pursuant to Section 7852 or (B) is or becomes the owner of another vessel permitted to operate in the Dungeness crab fishery pursuant to this section.

(c) The department may require affidavits offered under penalty of perjury from persons applying for permits under subdivision (b) or from witnesses corroborating the statements of a person applying for a Dungeness crab vessel permit. Affidavits offered under penalty of perjury shall be required of an applicant if the department cannot locate records required to qualify under subdivision (b).

(d) A person shall not be issued a Dungeness crab vessel permit under this section for any vessel unless that person has a valid commercial fishing license issued pursuant to Section 7852 that has not been suspended or revoked.

(e) Notwithstanding Section 7852.2 or subdivision (e) of Section 8280.2, the department may issue a Dungeness crab vessel permit that has not been applied for by the application deadline if the department finds that the failure to apply was a result of a mistake or hardship, as established by evidence the department may require, the late application is made not later than October 15, 1995, and payment is made by the applicant of a late fee of two hundred fifty dollars ($250) in addition to all other fees for the permit.

(f) The department may waive the requirement that a person own a commercial fishing vessel that has been registered with the department pursuant to Section 7881 in each of the 1991–92, 1992–93, and 1993–94 permit years for one of those required years under this section only if the vessel was registered and used in the California Dungeness crab fishery during the registration year immediately prior to the year for which the waiver is sought and was registered and used in the California Dungeness crab fishery after the year for which the waiver is sought and if the reason for the failure to register in the year for which the waiver is sought was due to a death, illness, or injury, or other hardship, as
determined by the review panel, that prevented the vessel from being registered and operated in the fishery for that registration year.

(g) (1) If any person submits false information for the purposes of obtaining a Dungeness crab vessel permit under this section, the department shall revoke that permit, if issued, revoke the person’s commercial fishing license that was issued pursuant to Section 7850 for a period of not less than five years, and revoke the commercial boat registration for a period of not less than five years of any vessel registered to that person pursuant to Section 7881 of which that person is the owner.

(2) In addition to criminal penalties authorized by law, a person who fishes without a Dungeness crab vessel permit, or who uses a Dungeness crab vessel permit to fish illegally on another vessel other than the permitted one, shall be subject to a fine not more than twenty thousand dollars ($20,000) and, at the discretion of the department, revocation of the person’s fishing license for a period not to exceed five years and revocation of the commercial boat registration license for a period not to exceed five years.

(h) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2011, Ch. 335, Sec. 6. Effective January 1, 2012. Inoperative April 1, 2019. Repealed as of January 1, 2020, by its own provisions.)

8280.2.

(a) The owner of a Dungeness crab vessel, for purposes of this section, may include a person with a bona fide contract for the purchase of a vessel who otherwise meets all other qualifications for a Dungeness crab vessel permit. If a contract is found to be fraudulent or written or entered into for the purposes of circumventing qualification criteria for the issuance of a permit, the applicant shall be permanently ineligible for a Dungeness crab vessel permit.

(b) A Dungeness crab vessel permit shall be issued only to the person owning the vessel at the time of application for that permit. A person shall not be issued more than one permit for each vessel owned by that person and qualifying for a permit pursuant to Section 8280.1.

(c) A Dungeness crab vessel permit shall be issued only to the owner of a vessel taking crab by traps. A permit shall not be issued to the owner of a vessel using trawl or other nets unless the owner of that vessel qualifies for a permit pursuant to paragraph (1) of subdivision (b) of Section 8280.1. A trawl or other net vessel authorized under this code to take Dungeness crab incidental to the taking of fish in trawl or other nets shall not be required to possess a Dungeness crab vessel permit.
(d) Dungeness crab vessel permits shall not be combined or otherwise aggregated for the purpose of replacing smaller vessels in the fishery with a larger vessel, and a permit shall not be divided or otherwise separated for the purpose of replacing a vessel in the fishery with two or more smaller vessels.

(e) Applications for renewal of all Dungeness crab vessel permits shall be received by the department, or, if mailed, postmarked, by April 30 of each year. In order for a vessel to retain eligibility, a permit shall be obtained each year subsequent to the initial permit year and the vessel shall be registered pursuant to Section 7881. The vessel owner shall have a valid commercial fishing license issued to that person pursuant to Section 7852 that has not been suspended or revoked. Minimum landings of Dungeness crab shall not be required annually to be eligible for a Dungeness crab vessel permit.

(f) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2011, Ch. 335, Sec. 7. Effective January 1, 2012. Inoperative April 1, 2019. Repealed as of January 1, 2020, by its own provisions.)

8280.3.

(a) Notwithstanding Article 9 (commencing with Section 8100) of Chapter 1 and except as provided in this section, a Dungeness crab vessel permit shall not be transferred.

(b) The owner of a vessel to whom a Dungeness crab vessel permit has been issued shall transfer the permit for the use of that vessel upon the sale of the vessel by the permitholder to the person purchasing the vessel. Thereafter, upon notice to the department, the person purchasing the vessel may use the vessel for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year, and that person is eligible for a permit pursuant to Section 8280.1 for the use of that vessel in subsequent years. The person purchasing the vessel shall not transfer the permit for use of that vessel in the Dungeness crab fishery to another replacement vessel during the same permit year.

(c) The owner of a vessel to whom the Dungeness crab vessel permit has been issued may transfer the permit to a replacement vessel of equivalent capacity, except as specified in this section. Thereafter, upon notice to the department and payment of the transfer fee specified in Section 8280.6, the replacement vessel may be used for the taking and landing of Dungeness crab for any and all of the unexpired portion of the permit year and that person is eligible for a permit pursuant to Section 8280.1 for the use of that replacement vessel in subsequent years.
(d) The owner of a permitted vessel may transfer the permit to a vessel of greater capacity that was owned by that person on or before November 15, 1995, not to exceed 10 feet longer in length overall than the vessel for which the permit was originally issued or to a vessel of greater capacity purchased after November 15, 1995, not to exceed 5 feet longer in length overall than the vessel for which the permit was originally issued.

(e) The department may authorize the owner of a permitted vessel to transfer the permit to a replacement vessel that was owned by that person on or before April 1, 1996, that does not fish with trawl nets that is greater than five feet longer in length overall than the vessel for which the permit was originally issued, if all of the following conditions are satisfied:

1. A vessel of a larger size is essential to the owner for participation in another fishery other than a trawl net fishery.
2. The owner held a permit on or before January 1, 1995, for the fishery for which a larger vessel is needed and has participated in that fishery.
3. The permit for the vessel from which the permit is to be transferred qualified pursuant to paragraph (1) of subdivision (b) of Section 8280.1.
4. The vessel to which the permit is to be transferred does not exceed 20 feet longer in length overall than the vessel for which the permit was originally issued and the vessel to which the permit is to be transferred does not exceed 60 feet in overall length.

(f) A transfer of a permit to a larger vessel shall not be allowed more than one time. If a permit is transferred to a larger vessel, any Dungeness crab vessel permit for that permit year or any subsequent permit years for that larger vessel shall not be transferred to another larger vessel. The department shall not thereafter issue a Dungeness crab vessel permit for the use of the original vessel from which the permit was transferred, except that the original vessel may be used to take or land Dungeness crab after that transfer if its use is authorized pursuant to another Dungeness crab vessel permit subsequently transferred to that vessel pursuant to this paragraph.

(g) (1) Upon the written approval of the department, the owner of a vessel to whom the Dungeness crab vessel permit has been issued, which has California Dungeness crab landings made with trap gear documented on department landing receipts and which has had California Dungeness crab landings amounting to not less than 5,000 pounds cumulative for the past two Dungeness crab seasons, may temporarily transfer the permit to a replacement vessel for which use in the Dungeness crab fishery is not permitted pursuant to this section or Section 8280.1 that is of equivalent size and capacity of the originally permitted vessel, no greater than 10 feet longer in length overall than the vessel from which the permit is transferred, for a period of not more than six months during the current permit year if the vessel for which the permit was issued is seriously damaged, suffers major mechanical breakdown, or is lost or destroyed,
as determined by the department, upon approval of the director. The owner of
the vessel shall submit proof that the department may reasonably require to
establish the existence of the conditions of this paragraph. Only the permittee at
the time of the loss, theft, damage, breakdown, or destruction of the vessel may
apply for the transfer of the vessel permit. Proof of loss or destruction shall be
documented by submission of a copy of the report filed with the United States
Coast Guard or any other law enforcement or fire agency that investigated the
loss. In the case of mechanical breakdown, the request shall include an estimate
of the costs to repair the vessel from a marine surveyor or boat repair yard. The
department shall not issue a permit for a replacement vessel pursuant to this
subdivision if the permitted vessel was reported lost, stolen, mechanically broken
down, destroyed, or damaged for fraudulent purposes. Upon approval by the
director, the owner of a vessel granted a six-month temporary transfer under
this section may be granted an additional six-month extension of the temporary
transfer.

(2) Notwithstanding subdivision (e) of Section 8280.2, in the event of loss or
destruction of a vessel for which a Dungeness crab vessel permit was issued, or
serious damage that renders the vessel inoperable, and upon written approval of
the department, the owner of the vessel to whom the permit was issued may
retain the permit and may transfer the permit to another vessel of equivalent
size and capacity of the vessel that was lost or damaged during the period of two
years after the loss or damage of the vessel for which the permit was originally
issued. The owner of the lost or damaged vessel shall submit proof that the
department may reasonably require to establish the loss or damage of the
vessel. Only the permittee at the time of the loss, theft, damage, or destruction
of the vessel may apply for the transfer of the vessel permit. Proof of loss or
destruction shall be documented by submission of a copy of the report filed with
the United States Coast Guard or any other law enforcement or fire agency that
investigated the loss. In the case of mechanical breakdown, the request shall
include an estimate of the costs to repair the vessel from a marine surveyor or
boat repair yard. The department shall not issue a permit for a replacement
vessel pursuant to this paragraph if the lost or damaged vessel was reported
lost, stolen, destroyed, mechanically broken down, or damaged for fraudulent
purposes. The department shall only transfer a permit pursuant to this paragraph
if the lost or damaged vessel has a current permit and the owner of the lost or
damaged vessel makes assurances in the application that any renewal of the
permit that becomes due during the application processing period will be made.
If the permit is not permanently transferred to another vessel owned by the
person to whom the vessel permit was originally issued within two years of the
loss or damage, the permit shall become void by operation of law.

(h) Upon written approval of the department, the owner of a vessel to whom the
Dungeness crab vessel permit has been issued may retain that permit upon the
sale of that permitted vessel for the purpose of transferring the permit to another vessel to be purchased by that individual within one year of the time of sale of the vessel for which the permit was originally issued if the requirements of this section are satisfied, including the payment of transfer fees. If the permit is not transferred to a new vessel owned by the person to whom the vessel permit was originally issued within one year of the sale of the vessel for which it was originally issued, or if the person does not retain ownership of the new vessel to which the permit is transferred for a period of not less than one year, the permit shall become void by operation of law.

(i) In the event of the death or incapacity of a permitholder, the permit shall be transferred, upon application, to the heirs or assigns, or to the working partner, of the permitholder, together with the transfer of the vessel for which the permit was issued, and the new owner may continue to operate the vessel under the permit, renew the permit, or transfer the permit upon sale of the vessel pursuant to subdivision (b). The estate of the holder of a transferable Dungeness crab vessel permit may renew that permit as provided for in statute if needed to keep it valid. The estate of the decedent may transfer that permit pursuant to these regulations no later than two years from the date of death of the permitholder as listed on the death certificate.

(j) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2012, Ch. 546, Sec. 3. Effective September 25, 2012. Inoperative April 1, 2019. Repealed as of January 1, 2020, by its own provisions.)

8280.4.

(a) The commission may revoke the commercial fishing license issued pursuant to Section 7852 of any person owning a fishing vessel engaging in the taking or landing of Dungeness crab by traps for which that person has not obtained a Dungeness crab vessel permit, and the commission may revoke the registration, issued pursuant to Section 7881, for that vessel.

(b) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2011, Ch. 335, Sec. 9. Effective January 1, 2012. Inoperative April 1, 2019. Repealed as of January 1, 2020, by its own provisions.)

8280.5.
(a) The director shall convene a Dungeness crab review panel for the purpose of reviewing applications for Dungeness crab vessel permits pursuant to paragraphs (2) and (4) of subdivision (b) of Section 8280.1 and applications for permit transfers pursuant to Section 8280.3 if the department determines that the additional review and advice of the panel will be helpful in deciding whether to issue a permit or approve a transfer.

(b) The panel shall consist of one nonvoting representative of the department and three public voting members selected by the director to represent the Dungeness crab fishing industry. One public member shall be licensed pursuant to Article 7 (commencing with Section 8030) of Chapter 1 and active in Dungeness crab processing in this state. Two public members shall be licensed pursuant to Section 7852, one from Sonoma County or a county south of Sonoma County, and one from Mendocino County or a county north of Mendocino County, and active in the taking and landing of Dungeness crab in this state. The public members shall be reimbursed for their necessary and proper expenses to participate on the panel. A public member shall serve on the panel for not more than four consecutive years.

(c) The panel may conduct its review of applications referred to it by mail or teleconference.

(d) The panel shall review each application for a permit or permit transfer referred to it by the department and shall consider all oral and written evidence presented by the applicant that is pertinent to the application under review. If the panel recommends issuance of a permit or approval of the transfer, the department may issue a Dungeness crab vessel permit pursuant to Section 8280.1 or approve a permit transfer pursuant to Section 8280.3.

(e) All appeals of denials of Dungeness crab vessel permits shall be made to the commission and may be heard by the commission if the appeal of denial is filed in writing with the commission not later than 90 days from the date of a permit denial. The commission may order the department to issue a permit upon appeal if the commission finds that the appellant qualified for a permit under this chapter.

(f) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2011, Ch. 335, Sec. 10. Effective January 1, 2012. Inoperative April 1, 2019. Repealed as of January 1, 2020, by its own provisions.)
(a) The department shall charge a fee for each Dungeness crab vessel permit of two hundred dollars ($200) for a resident of California and four hundred dollars ($400) for a nonresident of California, for the reasonable regulatory costs of the department.

(b) The department shall charge a nonrefundable fee of two hundred dollars ($200) for each transfer of a permit authorized pursuant to Section 8280.3, for the reasonable regulatory costs of the department.

(c) A vessel owner shall sign an application for transfer and certify that the information included in the application is true to the best of his or her information and belief.

(d) This section shall become inoperative on April 1, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2012, Ch. 546, Sec. 4. Effective September 25, 2012. Inoperative April 1, 2019. Repealed as of January 1, 2020, by its own provisions.)

8280.7.

Notwithstanding Section 8280.1, the owner of a vessel, who has a Dungeness crab vessel permit for that vessel that has not been suspended or revoked, may contract for the use of a vessel that is registered pursuant to Section 7881 and for which a Dungeness crab vessel permit has not been issued for the purpose of assisting the crew of the permitted vessel in the deployment of Dungeness crab traps. An unpermitted vessel used for the purpose of assisting in the deployment of Dungeness crab traps pursuant to this section shall not have on board any equipment for the retrieval of Dungeness crab traps and shall not have on board at any time any Dungeness crab.

(Added by Stats. 1997, Ch. 186, Sec. 6. Effective January 1, 1998.)

8280.9.

Dungeness crab vessel permits are valid only in state waters and in the Pacific Ocean in federal waters south of the border with Oregon.

(Added by Stats. 2006, Ch. 297, Sec. 4. Effective January 1, 2007.)

8281.

Crab meat and frozen crab taken during the open season may be possessed, transported, and sold at any time, subject to the regulations of the commission.
The cost of inspection and marking, under the regulations of the commission, shall be paid by the owner or seller of the crab or crab meat.

(Amended by Stats. 2015, Ch. 154, Sec. 91. Effective January 1, 2016.)

8282.

(a) Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, and subject to the regulation of the commission authorized under subdivision (c), rock crab may be taken in traps in any waters of the state at any time, except in Districts 9, 19A, 19B, and 21 and those portions of District 20 lying on the north and east sides of Santa Catalina Island north of Southeast Rock. Rock crab (Cancer antennarius), red crab (Cancer productus), or yellow crab (Cancer anthonyi), which is less than 4\(\frac{1}{4}\) inches, measured in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, or sold.

(b) Any person taking rock crab shall carry a measuring device and shall measure any rock crab immediately upon removal from the trap. If the person determines that the rock crab is undersize, the person shall return it to the water immediately.

(c) Upon the recommendation of the director regarding rock crab fishery management measures, and following a public hearing on the matter, the commission may adopt regulations to manage the rock crab resource consistent with Part 1.7 (commencing with Section 7050).

(Amended by Stats. 2003, Ch. 610, Sec. 13. Effective January 1, 2004.)

8283.

(a) Crab traps may be set and baited 64 hours prior to the opening date of the Dungeness crab season in Fish and Game Districts 6, 7, 8, and 9. Crab traps may be set and baited in advance of that opening date in those districts if no other attempt is made to take or possess Dungeness crab in those districts.

(b) Except in Fish and Game Districts 6, 7, 8, and 9, crab traps may be set and baited 18 hours in advance of the opening date of the Dungeness crab season, if no other attempt is made to take or possess Dungeness crab.

(Amended by Stats. 2013, Ch. 233, Sec. 7. Effective January 1, 2014.)

ARTICLE 8. Clams and Other Mollusks [8340 - 8346]

( Article 8 enacted by Stats. 1957, Ch. 456. )

8340.
Except as otherwise provided in this article, in Districts 8, 9, and 17, clams may be taken between September 1st and April 30th, and in other districts clams may be taken at any time.

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

8341.

All of the species of clams commonly known as littlenecks, chiones and hard-shell cockles, including thin-shelled littleneck, common littleneck, Japanese littleneck, rough-sided littleneck, smooth chione, wavy chione, and banded chione, may be taken at any time, except in the waters of Marin County, where they may be taken only between September 1st and March 31st.

No such clams measuring less than one and one-half inches in greatest diameter may be taken, possessed, transported, or sold.

The bag limit on such clams is 50 per day, in the aggregate. Not more than one daily bag limit of such clams may be possessed by any person during one day.

Clams of the species herein designated, when legally taken outside the State and brought within the State pursuant to this code, may be possessed, transported, and sold without restrictions, except that all shipments of such clams into this State shall be accompanied by a bill of lading, or invoice, showing the species, total number or weight, and the origin of the clams.

(Amended by Stats. 1963, Ch. 55.)

8342.

In Districts 1½, 8, and 9 the bag limit on Washington clams and gapers, sometimes known as bigneck clams, is 25 in the aggregate. In all other districts the bag limit is 10 Washington clams and 10 gapers.

Not more than the prescribed daily bag limit may be possessed by any person during one day, except that a market or restaurant, where clams are sold to the public, may possess any number of Washington clams and gapers legally taken. In Districts 8 and 9 the holder of a commercial fishing license who has in his possession a current daily written order for clams issued by a fish dealer or restaurant may possess any number of Washington clams and gapers legally taken up to but not exceeding the number specified in the order.

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

8343.
No northern razor clams (Siliqua patula) may be sold; but if taken outside the State and brought within the State, they may be possessed, transported, and sold without restriction.

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

8344.

Mussels (Mytilus californianus) may be taken only in accordance with such regulations as the commission may prescribe.

(Amended by Stats. 1970, Ch. 795.)

8345.

It is unlawful for any person to sell or purchase any rock scallops (Hinnites multirugosus) or scallops (Pecten circularis), except that scallops cultivated pursuant to Division 12 (commencing with Section 15000) which may be sold or purchased subject to regulations of the commission.

(Amended by Stats. 1983, Ch. 1300, Sec. 9.)

8346.

It is unlawful for any person to sell or purchase any pismo clams taken in this State.

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

ARTICLE 9. Salt-water and Anadromous Fish Generally [8370 - 8403]

(Article 9 enacted by Stats. 1957, Ch. 456.)

8370.

(a) Any striped bass, salmon, or sturgeon, if alive, that is taken in any type of net in any district shall be immediately liberated from the net by the fishermen and immediately returned to the water without further harm.

(b) Any striped bass, salmon, or sturgeon that is taken in any type of nets in any district shall be removed from the net by the fisherman and immediately returned to the water, regardless of the condition of the fish.

(c) The holder of a commercial fishing license shall not have in his or her possession, except when releasing fish from the net, any striped bass, salmon, or sturgeon, whether dead or alive, at any time when conducting netting operations or when going to or from those operations.
(d) Fish returned to the water in accordance with this section is not deterioration, waste, or spoilage of fish for purposes of Section 7704.

(Amended by Stats. 1995, Ch. 677, Sec. 3. Effective January 1, 1996.)

8371.

Striped bass and salmon may be sold or offered for sale only under the following conditions:
(a) If the striped bass is taken or possessed by, and is the cultured progeny of, an aquaculturist who is registered under Section 15101, that striped bass may be sold or purchased subject to regulations of the commission.
(b) If the striped bass is taken legally in another state that permits the sale of that fish and if the fish is lawfully imported under Section 2363, the striped bass may be possessed, sold, or purchased.
(c) If the salmon is taken legally in another state that permits the sale of salmon, and is lawfully imported consistent with Section 2361, the salmon may be possessed, sold, or purchased.
(d) If the salmon is taken in accordance with Article 4 (commencing with Section 8210.2), the salmon may be possessed, sold, or purchased.

(Amended by Stats. 2015, Ch. 154, Sec. 92. Effective January 1, 2016.)

8372.

Kelp bass, sand bass, or spotted bass, all of the genus Paralabrax, shall not be sold or purchased, or possessed in any place where fish are purchased, possessed for sale, or sold, or where food is offered or processed for sale, or in any truck, vessel, or other conveyance operated by or for a place so selling or possessing fish; except that those fish may be imported into this state pursuant to Article 1 (commencing with Section 2345) of Chapter 4 of Division 3, and may be sold under regulations as the commission may adopt. It is unlawful to take, possess, or sell any fish less than 10\(\frac{1}{2}\) inches in length of the species specified in this section.

(Amended by Stats. 2007, Ch. 285, Sec. 121. Effective January 1, 2008.)

8373.

No yellowfin croaker, spotfin croaker, or California corbina may be sold or purchased, or possessed in any place where fish are purchased, possessed for sale, or sold, or where food is offered for sale, or in any truck or other conveyance operated by or for a place so selling or possessing fish.

(Amended by Stats. 1985, Ch. 1403, Sec. 9.)
8374.

Yellowfin tuna and bluefin tuna may be taken at any time.
(Enacted by Stats. 1957, Ch. 456.)

8375.

No bluefin tuna weighing less than 7\(\frac{1}{2}\) pounds may be sold, purchased, or processed.
(Amended by Stats. 1976, Ch. 850.)

8376.

Albacore may be taken at any time.
(Enacted by Stats. 1957, Ch. 456.)

8377.

(a) Pacific bonito less than 24 inches fork length or five pounds in weight shall not be taken or possessed on any vessel at any time for any commercial purpose, except as follows:
(1) A load of bonito taken on a vessel by the use of round haul nets may contain 18 percent or less by number of bonito smaller than the minimum size.
(2) A load of fish taken on a vessel by the use of gill nets or trammel nets may contain 1,000 pounds or less of bonito smaller than the minimum size per trip.
(b) Pacific bonito smaller than the minimum size, incidentally taken, may be used for any purpose.
(Amended by Stats. 1987, Ch. 269, Sec. 4.)

8377.5.

Pacific bonito shall be measured from the tip of the lower jaw to the center of the fork of the tail fin.
(Amended by Stats. 1987, Ch. 269, Sec. 5.)

8378.

Skipjack may be taken at any time.
(Enacted by Stats. 1957, Ch. 456.)
(a) Giant seabass (Stereolepis gigas) may not be taken for any purpose, except that not more than one fish per vessel may be possessed or sold if taken incidentally in commercial fishing operations by gill or trammel net. Any fish so taken shall not be transferred to any other vessel.

(b) The restrictions specified in this section shall not apply to 1,000 pounds of giant seabass per trip taken in waters lying south of the International Boundary Line between the United States and Mexico extended westerly into the Pacific Ocean. Fish taken under this provision, however, shall be limited to a maximum aggregate of 3,000 pounds per vessel in any calendar year. A current fishing permit issued by the Mexican government constitutes valid evidence that the giant seabass were taken south of the international boundary.

(8381.)

It is unlawful to take grunion (Leuresthes tenuis) except between June 1st and March 31st.

(8382.)

Barracuda and yellowtail not less than 28 inches in length may be taken with hook and line at any time.

(8383.5.)

It is unlawful to take, possess, sell, or purchase any white sea bass less than 28 inches in length, measured from the tip of the lower jaw to the end of the longer lobe of the tail.

(8384.)

No barracuda or yellowtail less than 28 inches in length may be sold or purchased, except that not more than five barracuda and five yellowtail per day may be possessed by the holder of a commercial fishing license for noncommercial use if taken incidentally in commercial fishing.
8385.

No person holding a commercial fishing license while on any barge or boat which for hire carries any sport fisherman may take or have in his possession in any one day more than the aggregate number of the following kinds of fish permitted in the case of sport fishing: bluefin tuna, yellowfin tuna, skipjack, yellowtail, marlin, broadbill swordfish, black seabass, albacore, barracuda, white seabass, bonito, rock bass, kelp bass, California halibut, California corbina, yellowfin croaker, and spotfin croaker.

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

8386.

Barracuda and yellowtail shall be measured from the tip of the lower jaw to the end of the longer lobe of the tail.

(Amended by Stats. 1992, Ch. 1370, Sec. 26. Effective October 27, 1992.)

8387.

From May 1st to August 31st, inclusive, all of the following are unlawful:
(a) For any one person to have in his or her possession on any boat, barge, or other vessel more than 500 pounds of yellowtail.
(b) For any two or more persons to have in their possession on any boat, barge, or other vessel a combined weight of more than 500 pounds of yellowtail per person.
(c) For any five or more persons to have in their possession on any boat, barge, or other vessel a combined weight of more than 2,500 pounds of yellowtail.

(Amended by Stats. 2002, Ch. 573, Sec. 5. Effective January 1, 2003.)

8388.

(a) No female angel shark measuring less than 42 inches in total length or 15\(\frac{1}{4}\) inches in alternate length and no male angel shark measuring less than 40 inches in total length or 14\(\frac{1}{2}\) inches in alternate length may be possessed, sold, or purchased, except that 10 percent of the angel sharks in any load may measure not more than \(\frac{1}{2}\) inch less than the minimum sizes specified herein.
(b) Angel shark total length shall be measured from the anterior end of the head to the tip of the tail while the fish is lying in a position of natural repose. When measuring total length or alternate length, the tip of the tail may be laid flat against the surface of the measuring device. Angel shark alternate length shall be measured from the point where the leading edge of the first dorsal fin meets the back to the tip of the tail. Angel sharks may be constrained from lateral
movement during measurement by restraining devices approved by the department.

(c) Angel sharks taken in gill or trammel nets shall be landed (brought ashore) with at least one intact pelvic fin and the tail fin attached.

(d) Angel sharks taken in gill or trammel nets shall not be transferred to or from another vessel, except that angel sharks may be transferred to or from vessels with a department observer on board. An observer shall observe and make a written record of that transfer.

(Amended by Stats. 1991, Ch. 873, Sec. 6. Effective October 14, 1991.)

8388.5.

(a) A person shall not take, possess, sell, or purchase for commercial purposes any leopard shark less than 36 inches in total length.

(b) Notwithstanding subdivision (a), leopard sharks less than 36 inches in total length possessed by a person for aquarium display on or before January 1, 1994, may be retained by that person if a letter declaring that the shark was legally obtained prior to January 1, 1994, is provided to the Sacramento office of the department on or before January 1, 1995.

(Added by Stats. 1993, Ch. 1100, Sec. 8. Effective January 1, 1994.)

8389.

(a) Herring eggs may only be taken for commercial purposes under a revocable, nontransferable permit subject to such regulations as the commission shall prescribe. In addition to the license fees provided for in this code, every person taking herring eggs under this section shall pay a royalty, as the commission may prescribe, of not less than fifty dollars ($50) per ton of herring eggs taken.

(b) Whenever necessary to prevent overutilization, to ensure efficient and economic operation of the fishery, or to otherwise carry out this article, the commission may limit the number of permits which are issued and the amount of herring eggs taken under those permits.

(c) In limiting the number of permits, the commission shall take into consideration any restriction of the fishing area and the safety of others who, for purposes other than fishing, use the waters from which herring eggs are taken.

(d) Every person operating under a permit issued pursuant to this section is excepted from the provisions of Chapter 6 (commencing with Section 6650) of Part 1 of Division 6 for aquatic plants taken incidental to the harvest of herring eggs.

(Amended by Stats. 1988, Ch. 1009, Sec. 5.)
California halibut (Paralichthys californicus) may be taken at any time.

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

No California halibut may be taken, possessed, or sold that measures less than 22 inches in total length. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.

(Amended by Stats. 2004, Ch. 431, Sec. 14. Effective January 1, 2005.)

(a) Except where subdivision (b) has been complied with, marlin meat, whether fresh, smoked, canned, or preserved by any means, shall not be bought or sold, or possessed or transported for the purpose of sale.

(b) Notwithstanding the provisions of subdivision (a) of this section, black marlin (Makaira Indica) may be imported into this state for the purpose of processing (manufacturing) a product commonly known as fish cakes for human consumption. All black marlin (Makaira Indica) imported into this state must be in an identifiable condition and accompanied by a bill of lading, showing the name of the consignor, the consignee, and the weight or number of fish shipped. A copy of the bill of lading must be delivered to the nearest office of the department either prior to or no later than two days after receipt of the fish. No black marlin (Makaira Indica) imported into California may leave the premises of the original consignee unless written permission is received from the department, or unless processed into the form of the product commonly known as fish cakes.

(Amended by Stats. 2015, Ch. 154, Sec. 93. Effective January 1, 2016.)

Swordfish shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid swordfish permit. At least one person aboard the boat shall have a swordfish permit issued to that person that has not been revoked or suspended, subject to regulations adopted by the commission.

(Amended by Stats. 1996, Ch. 870, Sec. 35. Effective January 1, 1997.)
The fee for the permit issued pursuant to Section 8394 is three hundred thirty dollars ($330). This permit fee does not apply to the holder of a valid drift gill net shark and swordfish permit required under Article 16 (commencing with Section 8560) of Chapter 2.

(Amended by Stats. 2000, Ch. 388, Sec. 10.5. Effective January 1, 2001.)

(a) Upon the recommendation of the director regarding management measures for surfperch of the family Embiotocidae, the commission may adopt regulations to manage the commercial surfperch resource and fisheries consistent with Part 1.7 (commencing with Section 7050), including, but not limited to, adoption of changes to the prohibitions imposed under subdivision (b).
(b) Except as may be authorized under subdivision (a), surfperch of the family Embiotocidae may be taken only between July 16th and April 30th, except shiner surfperch (Cymatogaster aggregata), which may be taken, sold, or purchased at any time. Surfperch may be sold or purchased only between July 16th and May 10th, except as may be authorized under subdivision (a). South of a line drawn east and west through Point Arguello, barred surfperch, redtail surfperch, and calico surfperch may not be taken for commercial purposes, except as may be authorized under subdivision (a). Surfperch of these three species that have been taken north of the line during the open season and shipped south of the line may be sold or purchased under those regulations that the commission may prescribe.

(Amended by Stats. 2002, Ch. 573, Sec. 6. Effective January 1, 2003.)

It is unlawful to take fish for commercial purposes in that portion of Tomales Bay in District 10 between a line drawn from the most northern tip of Tomales Point northeast, 47° magnetic, to the opposite shore in the vicinity of Dillon Beach, and a line drawn west from the western tip of Tom’s Point, 252° magnetic, to the opposite eastern shore of Tomales Point.
This section does not apply to the taking of oysters by persons licensed under Article 4 (commencing with Section 6480), Chapter 5, Part 1, Division 6, from their allotted areas.

(Added by Stats. 1963, Ch. 1487.)
North of Point Conception, squid may be taken the year around; however, the commission may adopt regulations specifying the days of the week and the times of the day when squid may be taken.

(Added by Stats. 1983, Ch. 131, Sec. 16.5. Effective June 27, 1983.)

8399.1.

(a) In District 10, it is unlawful to engage in the following activities:
(1) Attract squid by a light displayed from any vessel, except a vessel deploying nets for the take, possession, and landing of squid or from the seine skiff of the vessel deploying nets for the take, possession, and landing of squid.
(2) Attract squid by a light displayed from any vessel whose primary purpose is not the deployment, or assisting in the deployment, of nets for the take, possession, and landing of squid.
(3) To encircle any vessel, other than by the seine skiff of a vessel deploying nets for the take, possession, and landing of squid, while that vessel is engaged in the taking of squid.
(b) For purposes of this section, “seine skiff” means a vessel that is not licensed by the federal government or registered by the Department of Motor Vehicles, that is used to assist a larger federally-licensed or state-registered fishing vessel by assisting in the deployment and retrieval of nets and the landing of fish, and that travels with that larger fishing vessel at all times, that is used solely at the direction of the operator of the larger fishing vessel, and that is owned by the owner of the larger fishing vessel.

(Added by Stats. 1993, Ch. 617, Sec. 17. Effective October 1, 1993.)

8400.

(a) California killifish (Fundulus parvipinnis), mudsuckers (Gillichthys mirabilis), and yellowfin gobies (Acanthogobius flavimanus) may only be taken for commercial purposes with baitfish traps in the tidewaters of Districts 3\(\frac{1}{2}\), 4, 4\(\frac{1}{8}\), 4\(\frac{3}{4}\), 16, 17, and 21, in the tidewaters of District 10 south of the City and County of San Francisco, in the Salton Sea, and in Imperial and Riverside Counties.
(b) Shiner perch (Cymatogaster aggregata), staghorn sculpin (Leptocottus armatus), mudsuckers (Gillichthys mirabilis), and yellowfin gobies (Acanthogobius flavimanus) may only be taken for commercial purposes with baitfish traps in Districts 11, 12, and 13 and in the tidewaters of Districts 2 and 2\(\frac{1}{2}\).
(c) Any unauthorized species taken incidentally in baitfish traps in the districts specified in subdivisions (a) and (b) shall be immediately released.
(d) Baitfish traps, as described in Section 9020, may be used subject to Article 1 (commencing with Section 9000) of Chapter 4.

(Amended by Stats. 1988, Ch. 1009, Sec. 7.)

8403.

(a) To the extent not in conflict with Section 8607, marine species of fin fish which are classified as groundfish may be taken under the regulations of the commission.

(b) Marine species of fin fish, including, but not limited to, fin fish which are classified as groundfish, may be taken with fin fish traps, subject to Article 1 (commencing with Section 9000) of Chapter 4, under regulations of the commission. The regulations may limit the number of fin fish traps which any vessel may use, designate the areas in which the traps may be used, and prescribe other limitations on the use of fin fish traps.

(c) Any other species not otherwise prohibited may be taken in a fin fish trap.

(Added by Stats. 1984, Ch. 1271, Sec. 16.)

ARTICLE 9.1. Sea Cucumbers [8405 - 8405.4]

(Article 9.1 added by Stats. 1996, Ch. 585, Sec. 2.)

8405.

(a) Sea cucumbers shall not be taken, possessed aboard a boat, or landed by a person for commercial purposes except under a valid sea cucumber permit issued to that person, which has not been suspended or revoked.

(b) When taking sea cucumbers by diving, every diver shall have a sea cucumber diving permit issued to that person, which has not been suspended or revoked. When taken by means other than diving, at least one person aboard the boat shall have a valid sea cucumber trawl permit issued to that person, which has not been suspended or revoked.

(Added by Stats. 1996, Ch. 585, Sec. 2. Effective January 1, 1997. Section operative April 1, 1997, pursuant to Section 8405.4 as added by Ch. 585. Inoperative April 1, 2020. Repealed as of January 1, 2021, pursuant to Section 8405.4.)

8405.1.

(a) Applicants for a sea cucumber permit shall specify by gear type, either trawl or dive, the method in which the applicant intends to take sea cucumbers. The gear type of a sea cucumber permit, either trawl or dive, shall not be transferable.

(b) The fee for a sea cucumber permit shall be two hundred fifty dollars ($250).
Each permittee shall complete and submit an accurate record of all sea cucumber fishing activities on forms provided by the department.

In order to renew a sea cucumber permit for any permit year, an applicant shall have been issued a sea cucumber permit in the immediately preceding permit year. Applications for renewal of a sea cucumber permit shall be received by the department or, if mailed, postmarked, by April 30 of the permit year.

(Amended by Stats. 2004, Ch. 431, Sec. 15. Effective January 1, 2005. Inoperative April 1, 2020. Repealed as of January 1, 2021, pursuant to Section 8405.4.)

8405.2.

(a) A valid sea cucumber permit may be transferred by the permittee if the permittee has previously held a valid sea cucumber permit for any four permit years and landed at least 100 pounds of sea cucumbers in each of those permit years, as documented by landing receipts with the name of the permittee shown on the receipts.

(b) A valid sea cucumber permit that has not been suspended or revoked may be transferred only to a person who has a valid commercial fishing license issued pursuant to Section 7852, that has not been suspended or revoked. A sea cucumber permit shall not be transferred to a person who has had a sea cucumber permit suspended or revoked while the suspension or revocation is in effect.

(c) An application for transfer of a permit shall be in the form of a notarized letter and shall be submitted to the department, with reasonable proof as the department may require to establish the qualifications of the permitholder and the person the permit is to be transferred to, accompanied by payment to the department of a nonrefundable transfer fee of two hundred dollars ($200). The transfer shall take effect on the date notice of approval of the application is given to the transferee by the department. The sea cucumber permit shall be valid for the remainder of the permit year and may be renewed in subsequent years.

(d) A sea cucumber trawl permit may be transferred to a qualified person as provided in subdivisions (b) and (c) to take sea cucumbers by diving or by use of trawl nets. A sea cucumber dive permit may be transferred to a qualified person as provided in subdivisions (b) and (c) only to take sea cucumbers by diving. The transferee shall specify the gear type, either trawl or dive, that the transferee intends to use to take sea cucumbers. The gear type of the sea cucumber permit, either trawl or dive, shall not be transferable.

(e) (1) Upon the death of a sea cucumber permitholder, the deceased person’s sea cucumber dive or trawl permit may be transferred by his or her heirs, assignees, or estate to a qualified person as provided in subdivision (b), upon payment of the fee described in subdivision (c), and in accordance with subdivisions (a) and (d). The estate of the decedent may transfer the permit
pursuant to this chapter no later than two years from the date of death of the permit holder, as listed on the death certificate.
(2) For purposes of a transfer under this subdivision, the heirs, assignees, or estate shall renew the permit as specified in Section 8405.1 to keep the permit valid until transferred.

(Amended by Stats. 2013, Ch. 472, Sec. 1. Effective January 1, 2014. Inoperative April 1, 2020. Repealed as of January 1, 2021, pursuant to Section 8405.4.)

8405.3.

(a) The commission, upon recommendation of the department or upon its own motion and in consultation with the sea cucumber fishing industry, may adopt regulations, including provisions governing seasons, gear restrictions, hours of operation, and any other measures that it determines may reasonably be necessary to protect the sea cucumber resource and to assure a sustainable sea cucumber fishery or to enhance enforcement activities.
(b) The number of sea cucumber permits issued for the April 1, 1997, to March 31, 1998, inclusive, permit year shall constitute the maximum number of permits available for all subsequent permit years for the sea cucumber fishery. The department may establish by regulation a method, if necessary, to reissue any sea cucumber permit not renewed or transferred. The permit type of a sea cucumber permit, either trawl or dive, that is reissued shall not be transferable.
(c) The commission may permanently revoke the sea cucumber permit of any person convicted of the unlawful taking of any California halibut while operating pursuant to a sea cucumber permit. The commission may revoke the sea cucumber permit of any person convicted of any other violation of this code or regulation adopted pursuant thereto while operating pursuant to a sea cucumber permit. Any revocation of a permit pursuant to this subdivision shall be in addition to any action the department may take pursuant to Section 12000.
(d) Subsequent to the 1997–98 permit year, the department, using existing funds, may determine the actual costs to the department of enforcing this article. The commission, upon recommendation of the department, may adjust the fee for the issuance or transfer of a permit to an amount not to exceed three hundred fifty dollars ($350), to reflect the actual cost of enforcing this article.

(Amended by Stats. 1996, Ch. 585, Sec. 2. Effective January 1, 1997. Section operative April 1, 1997, pursuant to Section 8405.4 as added by Ch. 585. Inoperative April 1, 2020. Repealed as of January 1, 2021, pursuant to Section 8405.4.)

8405.4.
This article shall become inoperative on April 1, 2020, and as of January 1, 2021, is repealed, unless a later enacted statute that is enacted before January 1, 2021, deletes or extends the dates on which it becomes inoperative and is repealed.

(Amended by Stats. 2014, Ch. 444, Sec. 2. Effective January 1, 2015. Repealed as of January 1, 2021, pursuant to Section 8405.4. Note: Termination clause affects Article 9.1, commencing with Section 8405.)

ARTICLE 9.5. Pacific Mackerel [8411 - 8412]

(Article 9.5 added by Stats. 1980, Ch. 121, Sec. 7.)

8411.

The department shall manage the Pacific mackerel resource in conformance with the federal fishery regulations as recommended by the Pacific Fishery Management Council and as adopted by the Secretary of Commerce.

(Amended by Stats. 2000, Ch. 388, Sec. 12. Effective January 1, 2001.)

8412.

Pacific mackerel may be taken under a revocable nontransferable permit issued by the department to boat owners or operators under conditions prescribed by the department.

(Amended by Stats. 2000, Ch. 388, Sec. 13. Effective January 1, 2001.)

ARTICLE 9.7. Market Squid [8420 - 8429.7]

(Article 9.7 added by Stats. 1997, Ch. 785, Sec. 1.)

8420.

(a) The Legislature finds and declares that the fishery for market squid (Loligo opalescens) is the state’s largest fishery by volume, generating millions of dollars of income to the state annually from domestic and foreign sales. In addition to supporting an important commercial fishery, the market squid resource is important to the recreational fishery and is forage for other fish taken for commercial and recreational purposes, as well as for marine mammals, birds, and other marine life. The growing international market for squid and declining squid production from other parts of the world has resulted in an increased demand for California market squid, which, in turn, has led to newer, larger, and more efficient vessels entering the fishery and increased processing capacity.

(b) The Legislature finds that the lack of research on market squid and the lack of annual at-sea surveys to determine the status of the resource, combined with the increased demand for, and fishing effort on, market squid could result in
overfishing of the resource, damaging the resource, and financially harming those persons engaged in the taking, landing, processing, and sale of market squid.

(c) The Legislature further finds that some individuals, vessels, and processing plants engaged in the market squid fishery have no other viable alternative fisheries available to them and that a decline or a loss of the market squid resource would cause economic devastation to the individuals or corporations engaged in the market squid fishery.

(d) The Legislature declares that to prevent excessive fishing effort in the market squid fishery and to develop a plan for the sustainable harvest of market squid, it is necessary to adopt and implement a fishery management plan for the California market squid fishery that sustains both the squid population and the marine life that depends on squid.

(e) The Legislature finds that a sustainable California market squid fishery can best be ensured through ongoing oversight and management of the fishery by the commission. With regard to the market squid fishery, the Legislature urges that any limited entry component of a fishery management plan, if necessary, should be adopted for the primary purpose of protecting the resource and not simply for the purpose of diminishing or advancing the economic interests of any particular individual or group.

(Amended by Stats. 2001, Ch. 318, Sec. 1. Effective January 1, 2002.)

8424.

(a) No person shall purchase squid from a vessel or vessels unless that person holds a license issued pursuant to Section 8032 or 8033, employs a certified weighmaster, and the facilities operated by the person are located on a permanent, fixed location.

(b) Notwithstanding any other provision of law, this section shall not apply to the transfer at sea of squid for live bait in an amount less than 200 pounds in a calendar day.

(Added by Stats. 1997, Ch. 785, Sec. 1. Effective January 1, 1998.)

8425.

(a) On or before December 31, 2002, the commission, after consideration of the report and recommendations prepared by the department pursuant to subdivision (c) of Section 8426, and, after public hearings, shall adopt a market squid fishery management plan and regulations to protect the squid resource and manage the squid fishery at a level that sustains healthy squid populations, taking into account the level of fishing effort and ecological factors, including, but
not limited to, the species’ role in the marine ecosystem and oceanic conditions. The management plan shall be consistent with the requirements of Part 1.7 (commencing with Section 7050). Development of the plan shall be coordinated with the federal Coastal Pelagic Species Fishery Management Plan.

(b) On and after January 1, 2002, the commission shall manage the squid fishery in accordance with the requirements of Part 1.7 (commencing with Section 7050).

(Repealed and added by Stats. 2001, Ch. 318, Sec. 4. Effective January 1, 2002.)

8428.

Commencing April 1, 2003, and annually thereafter, the fees for a commercial market squid vessel permit and for a commercial squid light boat owner’s permit shall be established by the commission. The total amount of fees collected pursuant to this section, including any revenue derived from any other appropriate source, as determined and allocated by the commission, shall not exceed the department’s and the commission’s costs for managing the market squid fishery pursuant to Section 8425. The fees collected pursuant to this article shall be used only for the management of the market squid fishery pursuant to Section 8425.

(Repealed and added by Stats. 2001, Ch. 318, Sec. 6. Effective January 1, 2002.)

8429.

Any statement made to the department, orally or in writing, relating to a permit issued under this article, shall be made under penalty of perjury. The commission shall revoke the commercial fishing license, the commercial boat registration of any vessel, and, if applicable, any licenses issued pursuant to Section 8032, 8033, or 8034 that are held by any person submitting material false statements, as determined by the commission, for the purpose of obtaining a commercial market squid vessel permit or a commercial light boat owner’s permit.

(Amended by Stats. 2001, Ch. 318, Sec. 7. Effective January 1, 2002.)

8429.5.

Notwithstanding any other provision of law, nothing in this article shall prohibit or otherwise limit the authority of the director or the commission under any other law.

(Added by Stats. 1997, Ch. 785, Sec. 1. Effective January 1, 1998.)

8429.7.
Sections 8420.5 to 8423.5, inclusive, and Sections 8426 and 8427 shall become inoperative upon the adoption by the commission of a market squid fishery management plan and the adoption of implementing regulations pursuant to Section 8425, and are repealed six months thereafter.

(Repealed and added by Stats. 2001, Ch. 318, Sec. 9. Effective January 1, 2002. Note: Termination clause affected Sections 8420.5, 8421, 8421.5, 8422, 8423, 8423.5, 8426, and 8427.)

ARTICLE 10. Fresh-water Fish Generally [8430 - 8437.1]

(Article 10 enacted by Stats. 1957, Ch. 456.)

8430.

Except as otherwise provided in this article, it is unlawful to sell or purchase any species of trout.

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

8431.

Dolly Varden or steelhead trout from without the State may be possessed and sold within the State when they are inspected and tagged in accordance with regulations prescribed by the commission. The cost of such inspection and tagging shall be paid by the person submitting the trout for such inspection and tagging.

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

8432.

Steelhead trout from without the State may not be sold or possessed in District 1\(\frac{1}{2}\) in excess of the daily bag limit on steelhead trout for that district.

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

8433.

Nothing in this article applies to trout grown pursuant to Division 12 (commencing with Section 15000).

(Amended by Stats. 1982, Ch. 1486, Sec. 21.)

8434.
It is unlawful to sell or purchase any fresh, canned, or cured fish taken in the Klamath River District or in the waters of the Smith River.

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

8435.

No catfish may be sold, except catfish imported from without the state or catfish grown pursuant to Division 12 (commencing with Section 15000).

*(Amended by Stats. 1982, Ch. 1486, Sec. 22.)*

8436.

Except as provided in Section 8436.5, fish of the family Centrarchidae (Sacramento perch, crappie, black bass, and sunfish) shall not be taken or possessed for commercial purposes, sold, or purchased, other than fish that are cultured pursuant to Division 12 (commencing with Section 15000).

*(Amended by Stats. 2007, Ch. 328, Sec. 5. Effective January 1, 2008.)*

8436.5.

Notwithstanding Section 8436, the commission shall adopt regulations which authorize the importation and sale of dead fish of the family Centrarchidae if the fish have been lawfully taken outside of California, they have been taken in another state or foreign country that permits their sale, and they are brought into California with a bill of lading or similar accountable documentation specifying the origin of the fish.

*(Added by Stats. 1986, Ch. 763, Sec. 5. Effective September 15, 1986.)*

8437.

The following freshwater fish may be taken for commercial purposes pursuant to regulations adopted by the commission:

(a) Threadfin shad (Dorosoma petenense).
(b) Species of the following families:
   (1) Lamprey (Petromyzontidae).
   (2) Smelt (Osmeridae).
   (3) Sucker (Catostomidae).
   (4) Carp or minnow (Cyprinidae).
   (5) Killifish (Cyprinodontidae).
   (6) Livebearer (Poeciliidae).
   (7) Silverside (Antherinidae).
(8) Cichlid (Cichlidae).
(9) Mullet (Mudilidae).
(10) Sculpin (Cottidae).
(11) Stickleback (Casterosteidae).
(12) Goby (Gobiidae).

(Added by Stats. 1980, Ch. 271, Sec. 1.)

8437.1.

The commission may authorize the use of commercial fishing gear and fishing
methods to take any fish listed in Section 8437 in those areas of the state
otherwise closed to that use pursuant to this code.

(Added by Stats. 1988, Ch. 360, Sec. 1.)

ARTICLE 11. Fresh-water Fish for Bait [8460 - 8475]

(Article 11 enacted by Stats. 1957, Ch. 456.)

8460.

Any person engaged for profit in the taking, transporting, or selling of live fresh-
water fish for bait shall first obtain from the department a live fresh-water bait
fish license to possess the fish for those purposes. The commission may
prescribe regulations governing these licenses.
A license shall be issued for a calendar year, or, if issued after the beginning of
such term, for the remainder thereof, and may be revoked for a violation of the
terms thereof.
Such a license is not required for the raising, possession, or sale of live fresh-
water fish for bait under authority of Division 12 (commencing with Section
15000).
The provisions of this code on commercial fishing, packing, or processing
licenses, on reports by persons engaged in the commercial fish industry, and on
statements required by owners or operators of fishing boats, do not apply to the
taking, transporting, or selling of live fresh-water fish for bait.

(Amended by Stats. 1983, Ch. 1300, Sec. 11.)

8461.

The annual license fee for a live freshwater bait fish license is fifty-five dollars
($55) for each person.

(Amended by Stats. 1992, Ch. 701, Sec. 33. Effective September 15, 1992. Operative January 1, 1993, by Sec. 72
of Ch. 701.)
8462.

A license issued under Section 8460 shall authorize the taking of only golden shiners, fathead minnows and such other species as the department may designate, under such regulations as the commission may prescribe. The commission may prohibit in any part or all parts of the State the possession alive of any species of fish which it considers a potential threat to the fisheries of the State by reason of possible escape and establishment.

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

8463.

Traps not over 24 inches in greatest length nor more than 12 inches in greatest depth or width, or seines of not over 1/2-inch mesh stretched measure and not more than 4 x 30 feet in size, may be used for the taking of fish of the carp and minnow family (family Cyprinidae), suckers (family Catostomidae), sculpins (family Cottidae), or mosquito fish (genus Gambusia). Such traps may be used only in lakes and impounded waters. Such seines may be used only in lakes, impounded waters, and conduits.

Fish taken as provided in this section may be sold only as bait. Fish other than those named in this section that may be taken in such traps or seines shall be released and returned unharmed to the water wherein taken.

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

8475.

Notwithstanding Section 200, the commission shall regulate the taking of freshwater clams for commercial purposes.

(Added by Stats. 1985, Ch. 1442, Sec. 5.)

ARTICLE 12. Crayfish [8490 - 8492]

(Article 12 added by Stats. 1970, Ch. 52.)

8490.

The taking of crayfish shall be subject to regulations as prescribed by the commission.

(Added by renumbering Section 8491 by Stats. 2013, Ch. 226, Sec. 2. Effective January 1, 2014.)

8491.
(a) Any allowance for the commercial taking of crayfish in Lake Tahoe or in the Lake Tahoe Basin shall be for the primary purpose of population reduction and control of the signal crayfish, an invasive species. The commercial taking of crayfish may be allowed only to the extent that it is consistent with state goals for management of invasive species and other environmental standards, including an environmental analysis conducted by the Tahoe Regional Planning Agency or another appropriate lead agency for each proposed individual harvest operation.

(b) The commission shall ensure that, with respect to the taking of crayfish for commercial purposes in Lake Tahoe or in the Lake Tahoe Basin, the commission’s regulations are consistent with the Lake Tahoe Region Aquatic Invasive Species Management Plan, as amended.

(Added by Stats. 2013, Ch. 226, Sec. 3. Effective January 1, 2014.)

8492.

The department shall take the steps it determines are necessary to prevent overfishing of crayfish in the Sacramento-San Joaquin Delta. Those steps may include, but are not limited to, submitting to the Legislature proposed legislation to place limitations on the commercial crayfishing in that area.

(Added by Stats. 1990, Ch. 528, Sec. 2.)

ARTICLE 13. Halibut Trawl Grounds [8494 - 8497]

( Article 13 added by Stats. 1971, Ch. 1341. )

8494.

(a) Commencing April 1, 2006, any vessel using bottom trawl gear in state-managed halibut fisheries, as described in subdivision (a) of Section 8841, shall possess a valid California halibut bottom trawl permit that has not been suspended or revoked and that is issued by the department authorizing the use of trawl gear by that vessel for the take of California halibut.

(b) A California halibut bottom trawl vessel permit shall be issued annually, commencing with the 2006 permit year. Commencing with the 2007–08 season, in order to be eligible for that permit, an applicant shall have been issued a California halibut bottom trawl vessel permit in the immediately preceding permit year.

(c) The department shall not issue a California halibut bottom trawl vessel permit pursuant to this section for use in the California halibut fishery unless that vessel has landed a minimum of 200 pounds of California halibut and reported that landing on fish landing receipts as being caught with bottom trawl gear in at least one of the following:
(1) At least two of the calendar years 1995 to 2003, inclusive.
(2) At least one of the calendar years 1995 to 2003, inclusive, and from January 1, 2004, to February 19, 2004, inclusive.

(d) Permits issued pursuant to this section may be transferred only if at least one of the following occur:
(1) The commission adopts a restricted access program for the fishery that is consistent with the commission’s policies regarding restricted access to commercial fisheries.
(2) Prior to the implementation of a restricted access program, the permit is transferred to another vessel owned by the same permitholder of equal or less capacity, as determined by the department, and if the originally permitted vessel was lost, stolen, destroyed, or suffered a major irreparable mechanical breakdown. The department may not issue a permit for a replacement vessel if the department determines that the originally permitted vessel was fraudulently reported as lost, stolen, destroyed, or damaged. Only the permitholder at the time of the loss, theft, destruction, or irreparable mechanical breakdown of a vessel may apply to transfer the vessel permit. Evidence that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard, or any other law enforcement agency or fire department that conducted an investigation of the loss.
(3) Prior to the implementation of a halibut trawl restricted access program, the commission may consider requests from a vessel permitholder or his or her conservator or estate representative to transfer a permit with the vessel if both of the following conditions are met:
(A) The permitholder has died, is permanently disabled, or the permitholder is at least 65 years of age and has decided to retire from commercial fishing.
(B) California halibut landings contributed significantly to the record and economic income derived from the vessel, as determined by regulations adopted by the commission. The commission may request information that it determines is reasonably necessary from the permitholder or his or her heirs or estate for the purpose of verifying statements in the request prior to authorizing the transfer of the permit.
(e) The commission shall establish California halibut bottom trawl vessel permit fees based on the recommendations of the department and utilizing the guidelines outlined in subdivision (b) of Section 711 to cover the costs of administering this section. Prior to the adoption of a restricted access program pursuant to subdivision (d), fees may not exceed one thousand dollars ($1,000) per permit.
(f) Individuals holding a federal groundfish trawl permit may retain and land up to 150 pounds of California halibut per trip without a California halibut trawl permit in accordance with federal and state regulations, including, but not limited to, regulations developed under a halibut fishery management plan.
This section shall become inoperative upon the adoption by the commission of a halibut fishery management plan in accordance with the requirements of Part 1.7 (commencing with Section 7050).

The commission may adopt regulations to implement this section.

(Amended by Stats. 2006, Ch. 538, Sec. 188. Effective January 1, 2007. Inoperative on date prescribed in subd. (g).)

8495.

(a) The following area is designated as the California halibut trawl grounds: The ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello and north and west of a line running due south (180° true) from Point Mugu.

(b) Notwithstanding subdivision (a), the use of trawl gear for the take of fish is prohibited in the following areas of the California halibut trawl grounds:

(1) Around Point Arguello. The area from a line extending from Point Arguello true west (270°) and out three miles, to a line extending from Rocky Point true south (180°) and out three miles.

(2) Around Point Conception. From a point on land approximately one-half mile north of Point Conception at latitude 34° 27.5´ extending seaward true west (270°) from one to three miles, to a point on land approximately 1/2 mile east of Point Conception at longitude 120° 27.5´ extending seaward true south (180°) from one to three miles.

(3) In the Hueneme Canyon in that portion demarked by the IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 and from one mile to the three mile limit of state waters.

(4) In Mugu Canyon, from Laguna Point, a line extending true south (180°) and out three miles, to Point Mugu, a line extending true south (180°) and from one to three miles.

(c) (1) Notwithstanding subdivision (a), commencing April 1, 2008, the following areas in the California halibut trawl grounds shall be closed to trawling, unless the commission finds that a bottom trawl fishery for halibut minimizes bycatch, is likely not damaging sea floor habitat, is not adversely affecting ecosystem health, and is not impeding reasonable restoration of kelp, coral, or other biogenic habitats:

(A) The ocean waters lying between one and three nautical miles from the mainland shore from a point east of a line extending seaward true south (180°) from a point on land approximately 1/2 mile east of Point Conception at longitude 120° 27.5´ to a line extending due south from Gaviota.
(B) The ocean waters lying between one and two nautical miles from the mainland shore lying east of a line extending due south from Santa Barbara Point (180°) and west of a line extending due south from Pitas Point (180°).

(C) Except as provided in subdivision (b), the ocean waters lying between one and three nautical miles from the mainland shore lying south and east of a line running due west (270° true) from Point Arguello to a line extending seaward true south (180°) from a point on land approximately 1/2 mile east of Point Conception at longitude 120° 27.5’, and from the western border of the IMO Vessel Traffic safety zone on NOAA/NOS Chart 18725 in Hueneme Canyon running south and east to a line running due south (180° true) from Point Mugu.

(2) In making the finding described in paragraph (1), the commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts.

(d) Commencing January 1, 2008, the commission shall review information every three years from the federal groundfish observer program and other available research and monitoring information it determines relevant, and shall close any areas in the California halibut trawl grounds where it finds that the use of trawl gear does not minimize bycatch, is likely damaging sea floor habitat, is adversely affecting ecosystem health, or impedes reasonable restoration of kelp, coral, or other biogenic habitats. The commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts in making that finding.

(e) Notwithstanding any other provision of law, the commission shall determine the size, weight, and configuration of all parts of the trawl gear, including, but not limited to, net, mesh, doors, appurtenances, and towing equipment as it determines is necessary to ensure trawl gear is used in a sustainable manner within the California halibut trawl grounds.

(Amended by Stats. 2006, Ch. 538, Sec. 189. Effective January 1, 2007.)

Within the California halibut trawl grounds the following requirements shall apply to the use of trawl nets:

(a) Open season shall be June 16 to March 14, inclusive.

(b) California halibut shall only be taken pursuant to Section 8392.

(c) Not more than 500 pounds of fish other than California halibut may be possessed, except that any amount of sea cucumbers may be possessed by a person who holds a valid sea cucumber permit and who meets any conditions adopted by the commission pursuant to Section 8405.3, and any amount of
sharks, skates, or rays for which the take or possession of that species is not otherwise prohibited by this code may be taken or possessed.

(d) It is unlawful to operate a trawl net in a way that damages or destroys other types of fishing gear which is buoyed or otherwise visibly marked.

(e) Sections 8833 and 8836 do not apply to trawl nets when used or possessed on California halibut trawl grounds.

(f) Trawl nets described in Section 8843 shall only be used within the halibut trawl grounds.

(g) Single bags and cod-ends or double bags and cod-ends may be used within the halibut trawl grounds and may be possessed while a vessel is in transit directly to the halibut trawl grounds or returning directly to port. Double bags shall be hung and tied to each rib line so that the knots of each layer coincide, knot for knot, for the full length of the double layers. The double mesh section shall not measure over 25 meshes or 12 feet in length, whichever is greater. The individual meshes in the double section shall measure not less than \( 7\frac{1}{2} \) inches in length.

(h) No net, whose cod-end meshes are less than prescribed in this section, may be possessed on any vessel that is operating under the authority of this section.

(Amended by Stats. 1998, Ch. 378, Sec. 1. Effective January 1, 1999.)

8497.

If the director determines that the California halibut resource, or existing fishing operations, within the designated California halibut trawl grounds are in danger of irreparable injury, he or she may order the closure of the area, or portions thereof, to trawl net fishing or further restrict the nets that may be used in the area, or portions thereof. Any such closure or restriction order shall be adopted by emergency regulation in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall bring to the attention of the Legislature within 30 calendar days after commencement of the next succeeding regular session of the Legislature any regulation adopted pursuant to this section.

(Amended by Stats. 1983, Ch. 101, Sec. 38.)

ARTICLE 14. Tidal Invertebrates [8500- 8500.]

( Article 14 added by Stats. 1972, Ch. 1248. )

8500.

Except as otherwise expressly permitted in this chapter, no mollusks, crustaceans, or other invertebrates may be taken, possessed aboard a boat, or landed for commercial purposes by any person in any tide pool or tidal area,
including tide flats or other areas between the high tidemark and 1,000 feet beyond the low tidemark, unless a valid tidal invertebrate permit has been issued to that person that has not been suspended or revoked. The taking, possessing, or landing of mollusks, crustaceans, or other invertebrates pursuant to this section shall be subject to regulations adopted by the commission.

(Amended by Stats. 1996, Ch. 870, Sec. 37. Effective January 1, 1997.)

ARTICLE 14.5. Krill [8510-8510.]

(Article 14.5 added by Stats. 2000, Ch. 410, Sec. 10.5.)

8510.

It is unlawful to take or land krill of any species of euphausiid for any purpose except scientific research pursuant to regulations adopted by the commission. This section applies to krill in the waters of this state and up to 200 miles offshore, as long as federal law does not regulate the taking of krill.

(Amended by Stats. 2003, Ch. 218, Sec. 1. Effective January 1, 2004.)

ARTICLE 15. Herring [8550-8559]

(Article 15 added by Stats. 1973, Ch. 733.)

8550.

Herring may be taken for commercial purposes only under a permit, subject to regulations adopted by the commission. The commission may, whenever necessary to prevent overutilization, to ensure efficient and economic operation of the fishery, or to otherwise carry out this article, limit the total number of permits that are issued and the amount of herring that may be taken under the permits.

The commission, in limiting the total number of permits, shall take into consideration any restriction of the fishing area and the safety of others who, for purposes other than fishing, use the waters from which herring are taken.

(Amended by Stats. 1996, Ch. 870, Sec. 38. Effective January 1, 1997.)

8550.5.

(a) A herring net permit granting the privilege to take herring with nets for commercial purposes shall be issued to licensed commercial fishermen, subject to regulations adopted under Section 8550, as follows:

(1) To any resident of this state to use gill nets, upon payment of a fee of two hundred sixty-five dollars ($265).
(2) To any nonresident to use gill nets, upon payment of a fee of one thousand dollars ($1,000).

(b) The commission shall not require a permit for a person to be a crewmember on a vessel taking herring pursuant to this article.

(Amended by Stats. 2000, Ch. 388, Sec. 17. Effective January 1, 2001.)

8552.

(a) It is unlawful to take herring for roe on a vessel unless the operator holds a herring permit issued by the department pursuant to commission regulations.

The permit may be transferred pursuant to Sections 8552.2 and 8552.6.

(b) No person may be issued more than one herring permit, and the department shall not issue a herring permit to more than one person except as provided in Section 8552.6.

(c) Herring permits shall only be issued to and shall be held only by a natural person.

(d) Herring permits shall not be used as any form of security for any purpose, including, but not limited to, financial or performance obligations.

(e) The permittee shall be on board the vessel at all times during herring fishing operations, subject only to exceptions provided for in this code and regulations adopted under this code.

(Amended by Stats. 1988, Ch. 1505, Sec. 3.)

8552.1.

The commission, in consultation with the department and representatives of the commercial roe herring fishery, and after holding at least one public hearing, may adjust the fees charged for permits; including fees for the issuance or transfer of permits, to a level that will not discourage the transfer of permits or limit entry into the fishery, and that will ensure sufficient funds to cover reasonable department costs associated with the management of the fishery, including research and enforcement costs.

(Added by Stats. 2004, Ch. 713, Sec. 3. Effective January 1, 2005.)

8552.2.

Notwithstanding Section 1052, a herring permit may be transferred from a herring permitholder to a nonpermitholder having a minimum of 20 or more herring fishery points, as follows: The permitholder shall mail, by certified or registered mail, to the department and every individual listed on the department’s list of maximum 20 or more point herring fishery participants, his
or her notice of intention to transfer his or her herring permit, which notice shall specify the gear type to be used under the herring permit; the name, address, and telephone number of the transferor and proposed transferee; and the amount of consideration, if any, sought by the transferor. Sixty days after mailing the notice, the transferor may transfer the permit to any person having 20 or more experience points without the necessity for giving further notice if the transfer occurs within six months of the date the original notice was given. Transfers after that six-month period shall require another 60-day notice of intention to be given. No person may hold more than one herring permit. A true copy of the notice of intention to transfer a permit shall be filed with the department by the transferor under penalty of perjury and shall be available for public review.

(Amended by Stats. 1989, Ch. 207, Sec. 4. Effective July 25, 1989.)

8552.3.

The commission may, in consultation with representatives of the commercial herring roe fishery, and after holding at least one public hearing, adopt regulations intended to facilitate the transfer of herring permits, including, but not limited to, regulations that would do the following:
(a) Allow an individual to own a single permit for each of the different herring gillnet platoons in San Francisco Bay.
(b) Eliminate the point system for qualifying for a herring permit.
(c) Allow a herring permit to be passed from a parent to child, or between husband and wife.

(Added by Stats. 2004, Ch. 713, Sec. 4. Effective January 1, 2005.)

8552.4.

Herring permits that are revoked or not renewed may be offered by the department for a drawing to persons having 20 or more experience points in the fishery on the first Friday of August of each year.

(Amended by Stats. 1989, Ch. 207, Sec. 5. Effective July 25, 1989.)

8552.5.

The commission shall revoke any herring permit if the holder of the herring permit was convicted of failing to report herring landings or underreported herring landings or failed to correctly file with the department the offer or the acceptance for a permit transferred pursuant to Section 8552.2.

(Added by Stats. 1988, Ch. 1505, Sec. 6.)
(a) Notwithstanding Section 8552, a herring permit may be issued to two individuals if one of the following criteria is met:

1. The individuals are married to each other and file with the department a certified copy of their certificate of marriage and a declaration under penalty of perjury, or a court order, stating that the permit is community property.

2. The individuals meet both of the following requirements:
   A. They are both engaged in the herring roe fishery either by fishing aboard the vessel or by personally participating in the management, administration, and operation of the partnership’s herring fishing business.
   B. There is a partnership constituting equal, 50 percent, ownership in a herring fishery operation, including a vessel or equipment, and that partnership is demonstrated by any two of the following:
      i. A copy of a federal partnership tax return.
      ii. A written partnership agreement.
      iii. Joint ownership of a fishing vessel used in the herring fishery as demonstrated on federal vessel license documents.

(b) For purposes of this section, a herring permit does not constitute a herring fishing operation. A herring permit may be transferred to one of the partners to be held thereafter in that partner’s name only if that partner has not less than 10 points computed pursuant to paragraph (2) of subdivision (a) of Section 8552.8 and there has been a death or retirement of the other partner, a dissolution of partnership, or the partnership is dissolved by a dissolution of marriage or decree of legal separation. A transfer under this section shall be authorized only if proof that the partnership has existed for three or more consecutive years is furnished to the department or a certified copy of a certificate of marriage is on file with the department and the permit is community property as provided in subdivision (a). The transferor of a permit shall not, by reason of the transfer, become ineligible to participate further in the herring fishery or to purchase another permit.

(c) Notwithstanding subdivision (b), in the event of the death of one of the partners holding a herring permit pursuant to this section, where the partnership existed for longer than six months but less than three years and the surviving partner does not have the minimum points pursuant to subdivision (b) to qualify for a permit transfer, the permit may be transferred on an interim basis for a period of not more than 10 years to the surviving partner if an application is submitted to the department within one year of the deceased partner’s death and the surviving partner participates in the fishery for the purpose of achieving the minimum number of points to be eligible for a permit transfer pursuant to Section 8552.2. The interim permit shall enable the surviving partner to participate in the herring fishery. At the end of the interim permit period, the
surviving partner, upon application to the department, may be issued the permit if he or she has participated in the fishery and gained the minimum number of experience points for a permit.

(Amended by Stats. 2001, Ch. 753, Sec. 20. Effective January 1, 2002.)

8552.7.

The department shall reissue a herring permit which has been transferred pursuant to Section 8552.2 or 8552.6 upon payment of a transfer fee by the transferee of the permit. Before April 1, 1997, the transfer fee is two thousand five hundred dollars ($2,500), and, on and after April 1, 1997, the transfer fee is five thousand dollars ($5,000). The fees shall be deposited in the Fish and Game Preservation Fund and shall be expended for research and management activities to maintain and enhance herring resources pursuant to subdivision (a) of Section 8052.

(Amended by Stats. 1994, Ch. 360, Sec. 1. Effective January 1, 1995.)

8552.8.

(a) For purposes of this article, the experience points for a person engaged in the herring roe fishery shall be based on the number of years holding a commercial fishing license and the number of years having served as a crewmember in the herring roe fishery, and determined by the sum of both of the following:

(1) One point for each year in the previous 12 years (prior to the current license year) that the person has held a commercial fishing license issued pursuant to Section 7852, not to exceed a maximum of 10 points.

(2) Five points for one year of service as a paid crewmember in the herring roe fishery, as determined pursuant to Section 8559, three points for a second year of service as a paid crewmember, and two points for a third year as a paid crewmember, beginning with the 1978–79 herring fishing season, not to exceed a maximum of 10 points.

(b) The department shall maintain a list of all individuals possessing the maximum of 20 experience points and of all those persons holding two points or more, grouped in a list by number of points. The list shall be maintained annually and shall be available from the department to all pointholders and to all herring permittees. All pointholders are responsible for providing the department with their current address and for verifying points credited to them by the department.

(c) A herring permittee may use the department’s list and rely upon that list in making offers for transfer of his or her permit until the date of the annual
distribution of the new list. On and after the date of the annual revision of the list, the permittee shall use the new list.

(d) The point provisions in this section are for purposes of sale of a permit or transfer to a partner of a coowned permit.

(Amended by Stats. 2000, Ch. 388, Sec. 18. Effective January 1, 2001.)

8553.

The commission may make and enforce such regulations as may be necessary or convenient for carrying out any power, authority, or jurisdiction conferred under this article.

(Added by Stats. 1973, Ch. 733.)

8554.

The commission, in adopting regulations for the commercial herring fishery, shall provide for the temporary substitution of a permittee to take herring, if the permittee is ill or injured, by a crewmember aboard the vessel operated by the permittee. The commission may require that proof of the illness or injury be substantiated to the satisfaction of the department.

(Added by Stats. 1986, Ch. 725, Sec. 3.)

8555.

The director shall periodically meet and confer with representatives of the commercial herring roe fishery to review regulations and policies of the commission and the department concerning that fishery and to receive recommendations on the regulation and management of that fishery. In particular, those representatives and their legal counsel may recommend to the department, for recommendation to the commission for adoption by the commission as regulations, requirements for the payment of civil damages that may be imposed in lieu of revoking or suspending a permit issued pursuant to this article or for violations of regulations adopted by the commission pertaining to the herring roe fishery.

(Added by Stats. 1986, Ch. 725, Sec. 4.)

8556.

Notwithstanding any other provision of law, the commission shall determine, by regulation, if drift or set gill nets may be used to take herring for commercial
purposes. The commission may also determine, by regulation, the size of the meshes of the material used to make such gill nets.

(Added by Stats. 1976, Ch. 882.)

8557.

Notwithstanding any other provision of law, the commission shall determine if round haul nets may be used to take herring in Districts 12 and 13 and the conditions under which those nets may be used.

(Amended by Stats. 1987, Ch. 269, Sec. 17.)

8558.

(a) There is established a herring research and management account within the Fish and Game Preservation Fund. The funds in the account shall be expended for the purpose of supporting, in consultation with the herring industry pursuant to Section 8555, department evaluations of, and research on, herring populations in San Francisco Bay and those evaluations and research that may be required for Tomales Bay, Humboldt Bay, and Crescent City and assisting in enforcement of herring regulations. The evaluations and research shall be for the purpose of (1) determining the annual herring spawning biomass, (2) determining the condition of the herring resource, which may include its habitat, and (3) assisting the commission and the department in the adoption of regulations to ensure a sustainable herring roe fishery. An amount, not to exceed 15 percent of the total funds in the account, may be used for educational purposes regarding herring, herring habitat, and the herring roe fishery.

(b) The funds in the account shall consist of the funds deposited pursuant to Sections 8558.1, 8558.2, and 8558.3, and the funds derived from herring landing taxes allocated pursuant to subdivision (a) of Section 8052.

(c) The department shall maintain internal accountability necessary to ensure that all restrictions on the expenditure of the funds in the account are met.

(Added by Stats. 1996, Ch. 584, Sec. 1. Effective January 1, 1997.)

8558.1.

(a) No person shall purchase or renew any permit to take herring for commercial purposes in San Francisco Bay without first obtaining from the department an annual herring stamp. The fee for the stamp shall be one hundred dollars ($100). The revenue from the fee for the herring stamps shall be deposited into the herring research and management account established pursuant to Section 8558.

(b) This section shall become operative on April 1, 1997.
8558.2.

The amount of the difference between fees for nonresidents and resident fees, collected pursuant to Section 8550.5, shall be deposited into the herring research and management account established pursuant to Section 8558, and all fees for San Francisco Bay herring permit transfers, collected pursuant to Section 8552.7, shall also be deposited into the herring research and management account.

(Added by Stats. 1996, Ch. 584, Sec. 2. Effective January 1, 1997.)

8558.3.

One-half of all royalties collected by the department from the roe-on-kelp fishery collected pursuant to paragraph (2) of subdivision (f) of Section 164 of Title 14 of the California Code of Regulations shall be deposited into the herring research and management account established pursuant to Section 8558.

(Added by Stats. 1996, Ch. 584, Sec. 3. Effective January 1, 1997.)

8559.

The commission, in determining experience requirements for new entrants into the herring fishery after January 1, 1987, shall require that any person seeking a permit to operate a vessel to take herring and claiming crew experience shall demonstrate, to the satisfaction of the department, proof of payment as a crewmember in the herring fishery based on tax records or copies of canceled checks offered and accepted as payment for service on a crew in the California herring roe fishery.

(Added by Stats. 1986, Ch. 725, Sec. 5.)

ARTICLE 16. Drift Gill Net Shark and Swordfish Fishery [8561 - 8582]

(Article 16 added by Stats. 1982, Ch. 1078, Sec. 3.)

8561.

(a) Notwithstanding Section 8394, shark and swordfish shall not be taken for commercial purposes with drift gill nets except under a valid drift gill net shark and swordfish permit issued to that person that has not been suspended or revoked and is issued to at least one person aboard the boat.
(b) A drift gill net shark and swordfish permit shall not be required for the taking of sharks with drift gill nets with a mesh size smaller than eight inches in
stretched mesh and twine size no. 18 or the equivalent of this twine size or smaller.

(Amended by Stats. 1996, Ch. 870, Sec. 39. Effective January 1, 1997.)

8561.5.

(a) Notwithstanding Section 8102, a permit issued pursuant to Section 8561 may be transferred by the permittee only if one of the following conditions is met:
(1) The permittee has held the permit for three or more years.
(2) The permittee is permanently injured or suffers a serious illness that will result in a hardship, as determined in a written finding by the director, to the permittee or his or her family if the permit may not otherwise be transferred or upon dissolution of a marriage where the permit is held to be community property.
(3) The permittee has died and his or her surviving spouse, heirs, or estate seeks to transfer the permit within six months of the death of the permittee or, with the written approval of the director, within the length of time that it may reasonably take to effect the transfer.
(b) A permit may be transferred only to a person who holds a valid general gill net permit issued to that person pursuant to Section 8681 that has not been suspended or revoked.
(c) The transfer of a permit shall only become effective upon notice from the department. An application for transfer shall be submitted to the department with such reasonable proof as the department may require to establish the qualification of the person the permit is to be transferred to, the payment to the department of a transfer fee of one thousand five hundred dollars ($1,500), and a written disclosure, filed under penalty of perjury, of the terms of the transfer.
(d) Any restrictions on participation that were required in a permit transferred pursuant to Section 8102 before January 1, 1990, are of no further force or effect.

(Amended by Stats. 1998, Ch. 525, Sec. 9. Effective January 1, 1999.)

8562.

Applications delivered to a department office after April 30, or if mailed, postmarked after April 30, shall not be accepted unless approved by the commission pursuant to Section 8569.

(Amended by Stats. 1998, Ch. 525, Sec. 10. Effective January 1, 1999.)

8563.
(a) Except as provided in subdivision (b), the permittee shall be aboard the vessel and shall be in possession of a valid drift gill net shark and swordfish permit when engaged in operations authorized by the permit.

(b) A permittee may have a person serve in the permittee’s place on the permittee’s vessel and engage in fishing under the permittee’s drift gill net shark and swordfish permit for not more than 15 days in a calendar year, except that a longer period may be allowed in the event of serious illness. A permittee shall notify the department’s Long Beach office of a substitution of 15 days or less per calendar year, by certified letter or telegram at least 24 hours before the commencement of the trip. Written authorization for a substitution of greater than 15 days shall be obtained from the director and shall be given only on the director’s finding that the permittee will not be available to engage in the activity due to serious illness, supported by medical evidence. An application for a substitution of greater than 15 days shall be made to the department’s headquarters office in Sacramento, and shall contain any information the director requires. A denial of the substitution may be appealed to the commission.

(8564)

When the permittee applies for a drift gill net shark and swordfish permit, the permittee shall specify the vessel he or she will use in operations authorized by the permit. Transfer to another vessel shall be authorized by the department upon receipt of a written request from the permittee, accompanied by a transfer fee of one hundred thirty dollars ($130), as follows:

(a) One transfer requested between February 1 and April 30 shall be made by the department upon request and payment of the fee.

(b) Any transfer, except as provided in subdivision (a), shall be authorized by the department only after receipt of proof of a compelling reason, which shall be submitted with the request for transfer, such as the sinking of the vessel specified for use in operations authorized by the permit.

(8567)

The fee for a drift gill net shark and swordfish permit shall be three hundred thirty dollars ($330).

(8568)
Drift gill net shark and swordfish permits shall be issued to any prior permittee who possesses a valid drift gill net shark and swordfish permit issued pursuant to this section, but only if the permittee meets both of the following requirements:
(a) Possesses a valid permit for the use of gill nets authorized pursuant to Section 8681.
(b) Possessed a valid drift gill net shark and swordfish permit during the preceding season and that permit was not subsequently revoked.

(Added by Stats. 2002, Ch. 962, Sec. 5. Effective September 27, 2002.)

8568.5.

Any person holding a valid drift gill net shark and swordfish permit on or after January 1, 2000, who did not make, on or after January 1, 2000, the minimum landings required under subdivision (c) of Section 8568, as amended by Section 11 of Chapter 525 of the Statutes of 1998, is eligible for that permit when that person meets all other qualifications for the permit.

(Added by Stats. 2002, Ch. 962, Sec. 6. Effective September 27, 2002.)

8569.

The commission may establish conditions for the issuance of a permit if the person’s drift gill net shark and swordfish permit was revoked during a preceding season or if the person possessed a valid permit during the preceding season but did not apply for renewal of his or her permit on or before April 30. The applicant for a permit under this section may appeal to the director for the issuance of the permit under those conditions.

(Added by Stats. 2002, Ch. 962, Sec. 7. Effective September 27, 2002.)

8573.

Drift gill nets may be used to take shark and swordfish under the permit provided in this article, subject to Section 8610.3 and all of the following restrictions:
(a) From June 1 to November 15, inclusive, shark or swordfish gill nets shall not be in the water from two hours after sunrise to two hours before sunset east of a line described as follows:
From a point beginning at Las Pitas Point to San Pedro Point on Santa Cruz Island, thence to Gull Island Light, thence to the northeast extremity of San Nicolas Island, thence along the high water mark on the west side of San Nicolas Island to the southeast extremity of San Nicolas Island, thence to the northwest
extremity of San Clemente Island, thence along the high water mark on the west side of San Clemente Island to the southeast extremity of San Clemente Island, thence along a line running 150° true from the southeast extremity of San Clemente Island to the westerly extension of the boundary line between the Republic of Mexico and San Diego County.

(b) (1) The total maximum length of a shark or swordfish gill net on the net reel on a vessel, on the deck of the vessel, and in the water at any time shall not exceed 6,000 feet in float line length. The float line length shall be determined by measuring the float line, as tied, of all the net panels, combined with any other netted lines. The existence of holes, tears, or gaps in the net shall have no bearing on the measurement of the float line. The float line of any net panels with holes, tears, or gaps shall be included in the total float line measurement.

(2) Any shark or swordfish gill net on the reel shall have the float lines of the adjacent panels tied together, the lead lines of the adjacent panels tied together, and the web of the adjacent panels laced together. No quick disconnect device may be used unless the total maximum length of all shark and swordfish gill nets, including all spare gill nets or net panels on the vessel and all gill nets or net panels on the net reels on the vessel, on the deck of the vessel, stored aboard the vessel, and in the water, does not exceed 6,000 feet in float line length as determined under paragraph (1).

(3) Spare shark or swordfish gill net aboard the vessel shall not exceed 250 fathoms (1,500 feet) in total length, and the spare net shall be in separated panels not to exceed 100 fathoms (600 feet) in float line length for each panel, with the float lines and leadlines attached to each panel separately gathered and tied, and the spare net panels stowed in lockers, wells, or other storage space.

(4) If a torn panel is replaced in a working shark or swordfish gill net, the torn panel shall be removed from the working net before the replacement panel is attached to the working net.

(c) Any end of a shark or swordfish gill net not attached to the permittee’s vessel shall be marked by a pole with a radar reflector. The reflector shall be at least six feet above the surface of the ocean and not less than 10 inches in any dimension except thickness. The permittee’s permit number shall be permanently affixed to at least one buoy or float that is attached to the radar reflector staff. The permit number shall be at least one and one-half inches in height and all markings shall be at least one-quarter inch in width.

(d) For the purposes of this article, “shark or swordfish gill net” means a drift gill net of 14-inch or greater mesh size.

(Amended by Stats. 2007, Ch. 285, Sec. 123. Effective January 1, 2008.)

8574.
(a) Drift gill nets with mesh size less than 14 inches in stretched mesh shall not be used to take shark and swordfish by permittees operating under a drift gill net shark and swordfish permit, and the permittee shall not have aboard the vessel or in the water a drift gill net with mesh size less than 14 inches and more than 8 inches in stretched mesh.

(b) No permittee shall deploy a drift gill net of less than 14-inch mesh size at the time that the permittee has a shark or swordfish gill net deployed.

(Amended by Stats. 1985, Ch. 1558, Sec. 3. Effective October 2, 1985.)

Drift gill nets used to take shark and swordfish under the permit provided in this article shall not be used under the following circumstances:

(a) From May 1 through July 31, within six nautical miles westerly, northerly, and easterly of the shoreline of San Miguel Island between a line extending six nautical miles west magnetically from Point Bennett and a line extending six nautical miles east magnetically from Cardwell Point and within six nautical miles westerly, northerly, and easterly of the shoreline of Santa Rosa Island between a line extending six nautical miles west magnetically from Sandy Point and a line extending six nautical miles east magnetically from Skunk Point.

(b) From May 1 through July 31, within 10 nautical miles westerly, southerly, and easterly of the shoreline of San Miguel Island between a line extending 10 nautical miles west magnetically from Point Bennett and a line extending 10 nautical miles east magnetically from Cardwell Point and within 10 nautical miles westerly, southerly, and easterly of the shoreline of Santa Rosa Island between a line extending 10 nautical miles west magnetically from Sandy Point and a line extending 10 nautical miles east magnetically from Skunk Point.

(c) From May 1 through July 31, within a radius of 10 nautical miles of the west end of San Nicolas Island.

(d) From August 15 through September 30, in ocean waters bounded as follows: beginning at Dana Point, Orange County, in a direct line to Church Rock, Catalina Island; thence in a direct line to Point La Jolla, San Diego County; and thence northwesterly along the mainland shore to Dana Point.

(e) From August 15 through September 30, in ocean waters within six nautical miles of the coastline on the northerly and easterly side of San Clemente Island, lying between a line extending six nautical miles west magnetically from the extreme northerly end of San Clemente Island to a line extending six nautical miles east magnetically from Pyramid Head.

(f) From December 15 through January 31, in ocean waters within 25 nautical miles of the mainland coastline.

(Amended by Stats. 1994, Ch. 439, Sec. 8. Effective January 1, 1995.)
8575.5.

Drift gill nets used to take shark and swordfish under the permit provided in this article shall not be used in the following areas:
(a) Within 12 nautical miles from the nearest point on the mainland shore north of a line extending due west from Point Arguello.
(b) East of a line running from Point Reyes to Noonday Rock to the westernmost point of Southeast Farallon Island to Pillar Point.
(Added by Stats. 1986, Ch. 671, Sec. 3.5.)

8576.

(a) Drift gill nets shall not be used to take shark or swordfish from February 1 to April 30, inclusive.
(b) Drift gill nets shall not be used to take shark or swordfish in ocean waters within 75 nautical miles from the mainland coastline between the westerly extension of the California-Oregon boundary line and the westerly extension of the United States-Republic of Mexico boundary line from May 1 to August 14, inclusive.
(c) Subdivisions (a) and (b) apply to any drift gill net used pursuant to a permit issued under Section 8561 or 8681, except that drift gill nets with a mesh size smaller than eight inches in stretched mesh and twine size number 18, or the equivalent of this twine size, or smaller, used pursuant to a permit issued under Section 8681, may be used to take species of sharks other than thresher shark, shortfin mako shark, and white shark during the periods specified in subdivisions (a) and (b). However, during the periods of time specified in subdivisions (a) and (b), not more than two thresher sharks and two shortfin mako sharks may be possessed and sold if taken incidentally in drift gill nets while fishing for barracuda or white seabass and if at least 10 barracuda or five white seabass are possessed and landed at the same time as the incidentally taken thresher or shortfin mako shark. No thresher shark or shortfin mako shark taken pursuant to this subdivision shall be transferred to another vessel before landing the fish. Any vessel possessing thresher or shortfin mako sharks pursuant to this section shall not have any gill or trammel net aboard that is constructed with a mesh size greater than eight inches in stretched mesh and twine size greater than number 18, or the equivalent of a twine size greater than number 18.
(d) Notwithstanding the closure from May 1 to August 14, inclusive, provided by subdivision (b), a permittee may land swordfish or thresher shark taken in ocean waters more than 75 nautical miles from the mainland coastline in that period if, for each landing during that closed period, the permittee signs a written declaration under penalty of perjury that the fish landed were taken more than 75 nautical miles from the mainland coastline. The declaration shall be completed
and signed before arrival at any port in this state. Within 72 hours of the time of arrival, the permittee shall deliver the declaration to the department.

(e) If any person is convicted of falsely swearing a declaration under subdivision (d), in addition to any other penalty prescribed by law, the following penalties shall be imposed:

(1) The fish landed shall be forfeited, or, if sold, the proceeds from the sale shall be forfeited, pursuant to Sections 12159, 12160, 12161, and 12162.
(2) All shark or swordfish gill nets possessed by the permittee shall be seized and forfeited pursuant to Section 8630 or 12157.

(f) From August 15 of the year of issue to January 31, inclusive, of the following year, swordfish may be taken under a permit issued pursuant to this article.

(Added by Stats. 2007, Ch. 285, Sec. 124. Effective January 1, 2008.)

8576.5.

Thresher shark taken with drift gill nets shall not have the pelvic fin severed from the carcass until after the shark is brought ashore.

(Added by Stats. 1988, Ch. 589, Sec. 2.)

8577.

Notwithstanding Section 8394, the director may close the drift gill net shark and swordfish fishery, the swordfish harpoon fishery, or any area where either or both fisheries are conducted, if, after a public hearing, the director determines the action is necessary to protect the swordfish or thresher shark and bonito (mako) shark resources.

The director shall reopen a fishery or any fishing areas previously closed pursuant to this section if the director determines that the conditions which necessitated the closure no longer exist.

(Amended by Stats. 1994, Ch. 439, Sec. 10. Effective January 1, 1995.)

8579.

A permittee shall be subject to the provisions of this article whenever the permittee is using a drift gill net, unless the permittee has surrendered his or her permit to the department. A permittee may surrender his or her permit by notifying the department’s Long Beach office of his or her intentions by telegram or certified letter and by sending or delivering his or her permit to a department office. A permittee may reclaim his or her permit at any time during regular working hours, if the permit has not been suspended or revoked.

(Added by Stats. 1982, Ch. 1078, Sec. 3. Effective September 15, 1982.)
8580.

It is unlawful for any permittee to sell swordfish taken by him or her to other than the persons described in Section 8032 or 8033.

(Amended by Stats. 1988, Ch. 246, Sec. 7.)

8581.

Any license issued pursuant to Sections 8032 to 8036, inclusive, may be revoked or suspended by the commission, when requested by the department, upon a conviction for a violation of Section 8043 for failure to report, or for inaccurately reporting, shark or swordfish landings by fishermen operating under permits issued pursuant to Section 8394 or 8561.

(Amended by Stats. 1988, Ch. 246, Sec. 8.)

8582.

(a) The Legislature finds and declares that the intent of this article is not to permit or encourage the taking of marlin for commercial purposes.
(b) It shall be a misdemeanor for any person operating under a permit pursuant to this article to sell or possess for sale or personal use any marlin. In the event a marlin is taken incidentally in a drift gill net, the permittee shall notify the department immediately that the fish is on the boat. No marlin may be removed from the boat except for delivery to the department.

ARTICLE 18. Prawns and Shrimp [8590 - 8595]

(Article 18 added by Stats. 1984, Ch. 1271, Sec. 18.)

8590.

For the purposes of this article, “prawns” or “shrimp”, or both, include all of the following species:
(a) Spot prawn (Pandalus platyceros).
(b) Ridgeback prawn (Sicyonia ingentis).
(c) Coonstrip prawn (Pandalus danae).
(d) Pacific ocean shrimp (Pandalus jordani).
(e) Bay shrimp (Crangon franciscorum and Crago sp.).
(f) Red rock shrimp (Lysmata californica).

(Amended by Stats. 1985, Ch. 1442, Sec. 6.)

8591.
Prawns or shrimp may be taken for commercial purposes under the regulations of the commission.

(Added by Stats. 1984, Ch. 1271, Sec. 18.)

8593.

Except as provided in this article, prawns or shrimp may be taken in any waters of the state.

(Added by Stats. 1984, Ch. 1271, Sec. 18.)

8594.

From Point Conception south to the Mexican border, prawns or shrimp may be taken with prawn or shrimp traps only in waters 50 fathoms or greater in depth.

(Amended by Stats. 1994, Ch. 935, Sec. 12. Effective January 1, 1995.)

8595.

(a) Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3, or in either a prawn trap or a shrimp trap, subject to Article 1 (commencing with Section 9000) of Chapter 4.

(b) No other species shall be taken in a prawn trap or a shrimp trap. Any other species taken incidentally with a prawn trap or a shrimp trap shall be immediately released.

(Amended by Stats. 1985, Ch. 1442, Sec. 7.)

ARTICLE 19. Marine Aquaria Pets [8596 - 8598.6]

(Article 19 added by Stats. 1992, Ch. 742, Sec. 14.)

8596.

The following definitions govern the construction of this article:

(a) “Marine aquaria pet trade” means any activities connected with collecting, holding, selling, and displaying live aquatic marine life for pet, hobby, curio, or display purposes. “Marine aquaria pet trade” does not include activities connected with collecting, holding, selling, or displaying live aquatic marine life by, or for, scientific institutions exempted from permits pursuant to subdivision (e) of Section 2150.
(b) "Drop net" means a small, circular net with weights attached along the perimeter and with a single float attached at the center. A drop net is not more than 48 inches in its greatest diameter.

(Added by Stats. 1992, Ch. 742, Sec. 14. Effective January 1, 1993.)

8597.

(a) It is unlawful for any person to take, possess aboard a boat, or land for marine aquaria pet trade purposes any live organisms identified in subdivision (b), unless that person has a valid marine aquaria collector’s permit that has not been suspended or revoked. At least one person aboard the boat shall have a valid marine aquaria collector’s permit.

(b) Except as provided in Section 8598.2, and unless otherwise prohibited in this code, or regulations made pursuant thereto, specimens of the following groups or species may be taken, possessed aboard a boat, or landed under a marine aquaria collector’s permit:

1. Marine plants:
   A. Chlorophyta.
   B. Phaeophyta.
   C. Rhodophyta.
   D. Spermatophyta, all species.

2. Invertebrates:
   A. Polychaeta—worms; all species.
   B. Crustacea—shrimp, crabs; all species, except the following:
      i. Dungeness crab—Cancer magister.
      ii. Yellow crab—Cancer anthonyi.
      iii. Red crab—Cancer productus.
      iv. Sheep crab—Loxorhynchus grandis.
      v. Spot prawn—Pandalus platyceros.
      vi. Ridgeback prawn—Sicyonia ingentis.
      viii. Sand crab—Emerita analoga.
      ix. Redrock shrimp—Lysmata californica.
      x. Bay shrimp—Cragon sp. and Palaemon macrodactylus.
      xi. Ghost shrimp—Callianassa sp.
   C. Asteroidea—Sea stars; all species.
   D. Ophiuroidea—Brittle stars; all species.
   E. Gastropoda—snails, limpets, sea slugs; all species, except Kellet’s whelk—Kelletia kelleti.
   F. Bivalvia—clams and mussels; all species.
   G. Polyplacophora—Chitons; all species.
(H) Cephalopoda—Octopuses and squids; all species, except two spot octopuses—Octopus bimaculatus and Octopus maculoides—and market squid—Loligo opalescens.

(I) Tunicata—Sea squirts; all species.

(3) Vertebrates:
(A) Osteichthy—Finfishes; all species, except the following:
(i) Rockfish—Sebastes sp. larger than six inches total length.
(ii) Sheephead—Semicossyphus pulcher larger than six inches total length.
(iii) Anchovy—Engraulis mordax.
(iv) Sardine—Sardinops sagax.
(v) Pacific/chub mackerel—Scomber japonicus.
(vi) Jack mackerel—Trachurus symmetricus.
(vii) Queenfish—Seriphus politus.
(viii) White Croaker—Genyonemus lineatus.
(ix) Top smelt—Atherinops affinis.
(x) Grunion—Leuresthes tenuis.
(xi) Shiner surf perch—Cymatogaster aggregata.
(xii) Longjawed muddsucker—Gillichthys mirabilis.
(B) Chondrichthyes—sharks, rays, and skates; all species less than 18 inches total length, except that leopard shark (Triakis semifasciata) shall be 36 inches or larger in total length.

(c) The holder of a permit issued pursuant to this section is not required to obtain or possess a kelp harvester’s license issued pursuant to Section 6651, a tidal invertebrate permit issued pursuant to Section 8500, or a general trap permit issued pursuant to Article 1 (commencing with Section 9000) of Chapter 4, when taking, possessing, or landing live organisms for marine aquaria pet trade purposes pursuant to subdivision (b), subject to regulations governing the taking of tidal invertebrates. The commission shall adopt regulations to implement this subdivision, and, for that purpose, may incorporate other regulations by reference.

(Amended by Stats. 2007, Ch. 285, Sec. 125. Effective January 1, 2008.)

8598.

(a) Notwithstanding Section 8140 or subdivision (b) of Section 8597, specimens of the following groups or species shall not be taken, possessed aboard a boat, or landed for commercial purposes. Taking, possessing, or landing of any of the following species in a commercial operation is prima facie evidence that it was taken, possessed, or landed for commercial purposes:
(1) Invertebrates:
(A) Phylum Porifera—all sponges.
(B) Genus Pelagia sp.—jellyfish.
(C) Coelenterata—corals, anemones; all species.
(D) Order Gorgonacea—all gorgonians.
(E) Order Pennatulacea—all species, except Renilla kollikeri.
(F) Feather-duster worm—Eudistylia polymorpha.
(G) Fiddler crab—Uca crenulata.
(H) Umbrella crab—Cryptolithodes sitchensis.
(I) Stalked or goose barnacles—Pollicipes sp.
(J) Giant acorn barnacle—Balanus nubilus or B. aguila.
(K) Owl limpet—Lottia gigantea.
(L) Coffee bean shells—Trivia sp.
(M) Three-winged murex—Pteropurpura trialata.
(N) Vidler’s simnia—Simnia vidleri.
(O) Queen tegula—Tegula regina.
(P) Opisthobranchia (including nudibranchs)—all subclass Opisthobranchia species except:
   (i) Sea hares—Aplysia californica and Aplysia vaccaria.
   (ii) Hermissenda crassicornis.
   (iii) Lion’s mouth—Melibe leonina.
   (iv) Aeolidia papillosa.
   (v) Spanish shawl—Flabellina iodinea.
(2) Vertebrates:
   (A) All shark and ray eggcases.
   (B) Brown smoothhound sharks—Mustelus hinlei—that are less than 18 inches in a whole condition or dressed with head and tail removed.
   (C) Family Agonidae—all poachers.
   (D) Wolf-eel—Anarrhichthys ocellatus.
   (E) Juvenile sheephead—Semicossyphus pulcher (under six inches).
   (F) Garibaldi—Hypsypops rubicundus.
(3) Live rocks.
   (A) Rocks with living organisms attached, commonly called “live rocks,” shall not be taken or possessed except as provided in subparagraph (C).
   (B) Rocks shall not be broken to take marine aquaria species, and any rock displaced to access any of those species shall be returned to its original position.
   (C) Rocks cultured under the authority of an aquaculture registration may be possessed.
   (b) No organisms may be taken, possessed, or landed for marine aquaria pet trade purposes under the terms of a marine aquaria collector’s permit in any of the following areas:
      (1) On the north side of Santa Catalina Island from a line extending three nautical miles 90 degrees true from Church Rock to a line extending three nautical miles 270 degrees true from the extreme west end of the island.
(2) On the south or “back” side of Santa Catalina Island from a line extending three nautical miles 90 degrees true from Church Rock to a line extending three nautical miles 270 degrees true from the extreme west end of the island.

(3) Marine life refuges, marine reserves, ecological reserves, and state reserves.

(Amended by Stats. 2007, Ch. 285, Sec. 126. Effective January 1, 2008.)

8598.2.

(a) Marine organisms identified in subdivision (a) of Section 8597 shall not be taken except by the following methods:

(1) Hook and line.
(2) Drop net.
(3) Dip Net.
(4) Trap.
(5) Hand.
(6) Slurp gun.
(7) Spatula.

(b) Chemical anesthetics, poisons, or irritants shall not be used or possessed by any person taking or possessing fish, plants, or other marine organisms for the marine aquaria industry. For the purposes of this section, chemicals commonly used aboard vessels for insect and rodent control may be possessed if no means of delivering those chemicals, including, but not limited to, squirt bottles, used to target those marine organisms is possessed.

(c) Appliances shall be used so that rocks or other mineral matter, aquatic plants, fish, or other aquatic life not listed in subdivision (b) of Section 8597 are not removed from the bottom or otherwise disturbed.

(Added by Stats. 1992, Ch. 742, Sec. 14. Effective January 1, 1993.)

8598.3.

(a) The fee for a marine aquaria collector’s permit shall be three hundred thirty dollars ($330).

(b) A person engaged in taking, possessing, or landing marine species under a marine aquaria collector’s permit shall not take, possess aboard a boat, or land any species under the authority of a scientific collector’s permit issued pursuant to Section 1002, 5515, or 10660 on the same fishing trip.

(c) The commission shall adjust the amount of the fees specified in subdivision (a) 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. 559, Sec. 24. Effective January 1, 2013.)
8598.4.

Notwithstanding any other provision of this code, the director may close any portion of the fishery established under this article or any area in which this fishery is conducted, if, upon written finding, the director determines the action is necessary to protect any organisms listed in subdivision (a) of Section 8597 or the environment in which those organisms are located. The director shall reopen a fishery or any fishing areas previously closed pursuant to this section if the director determines that the conditions which necessitated the closure no longer exist.

(Added by Stats. 1992, Ch. 742, Sec. 14. Effective January 1, 1993.)

8598.6.

Notwithstanding Section 12000, a violation of this article or any regulation adopted thereunder is punishable by a fine of not less than two thousand dollars ($2,000) or more than five thousand dollars ($5,000).

(Added by Stats. 1992, Ch. 742, Sec. 14. Effective January 1, 1993.)

ARTICLE 20. White Sharks and Basking Sharks [8599 - 8599.4]

( Heading of Article 20 amended by Stats. 1999, Ch. 483, Sec. 24. )

8599.

(a) It is unlawful to take any white shark (Carcharodon carcharias) for commercial purposes, except under permits issued pursuant to Section 1002 for scientific or educational purposes or pursuant to subdivision (b) for scientific or live display purposes.

(b) Notwithstanding subdivision (a), white sharks may be taken incidentally by commercial fishing operations using set gill nets, drift gill nets, or roundhaul nets. White shark taken pursuant to this subdivision shall not have the pelvic fin severed from the carcass until after the white shark is brought ashore. White shark taken pursuant to this subdivision, if landed alive, may be sold for scientific or live display purposes.

(c) Any white shark killed or injured by any person in self-defense may not be landed.

(Added by Stats. 1993, Ch. 1174, Sec. 3. Effective January 1, 1994.)

8599.3.
The department shall cooperate, to the extent that it determines feasible, with appropriate scientific institutions to facilitate data collection on white sharks taken incidentally by commercial fishing operations.

(Added by Stats. 1993, Ch. 1174, Sec. 3. Effective January 1, 1994.)

8599.4.

The commission may adopt regulations to manage basking sharks. A basking shark may not be taken commercially unless the commission adopts regulations for that activity and the taking is in accordance with those regulations.

(Added by Stats. 1999, Ch. 483, Sec. 25. Effective January 1, 2000.)