

# **CALIFORNIA OCEAN PROTECTION ACT**

(as amended through January 2011)

## **§ 35500. Citation of division**

This division shall be known, and may be cited, as the California Ocean Protection Act.

## **§ 35505. Legislative findings and declarations; protection and conservation of coastal waters**

The Legislature finds and declares all of the following:

- (a) California's coastal and ocean resources are critical to the state's environmental and economic security, and integral to the state's high quality of life and culture. A healthy ocean is part of the state's legacy, and is necessary to support the state's human and wildlife populations. Each generation of Californians has an obligation to be good stewards of the ocean, to pass the legacy on to their children.
- (b) The ocean and coastal waters offshore of the state are unique and valuable natural resources that the state holds in trust for the people of California. The state of our ocean's health is well documented. Reports such as the 1997 Resources Agency report, "California's Ocean Resources: An Agenda for the Future," the 2003 Pew Oceans Commission report, "America's Living Oceans: Charting a Course for Sea Change," and the United States Commission on Oceans Policy's 2004 preliminary report, document degraded ocean values, due to coastal and ocean development, onshore and offshore pollution, certain fishing and aquaculture practices, and invasive species, among other things.
- (c) The preservation of the state's ocean resources depends on healthy, productive, and resilient ocean ecosystems. The governance of ocean resources should be guided by principles of sustainability, ecosystem health, precaution, recognition of the interconnectedness between land and ocean, decisions informed by good science and improved understanding of coastal and ocean ecosystems, and public participation in decisionmaking.
- (d) Good governance and stewardship of ocean resources necessitate more efficient and effective use of public funds.
- (e) The state needs to coordinate governance and stewardship of the state's ocean, to identify priorities, bridge existing gaps, and ensure effective and scientifically sound approaches to protecting and conserving the most important ocean resources.
- (f) The California Ocean Resources Management Act of 1990 (Division 27 (commencing with Section 36000)) establishes the California Ocean Resources Management Program. The mission of the program is to ensure comprehensive and coordinated management, conservation, and enhancement of the state's ocean resources, for their intrinsic value and the benefit of current and future generations.
- (g) Terrestrial sources of ocean pollution in the state contribute to significant water quality degradation, causing deleterious impacts to public health and marine ecosystems, as well as coastal and recreational economics that are essential to the state's future.

**§ 35510. Legislative findings and declarations; ocean ecosystems**

The Legislature finds and declares all of the following:

(a) The coastal waters offshore of the state and the ocean ecosystems associated with those waters are natural resources that the state holds in trust for the people of the state.

(b) It is the state's policy that all public agencies shall consider the following principles in administering the laws established for the protection and conservation of coastal waters:

(1) State decisions affecting coastal waters and the ocean environment should be designed and implemented to conserve the health and diversity of ocean life and ecosystems, allow and encourage those activities and uses that are sustainable, and recognize the importance of aesthetic, educational, and recreational uses.

(2) The ocean ecosystem is inextricably linked to activities on land and all public agencies should consider the impact of activities on land that may adversely affect the health of the coastal and ocean environment.

(3) It is the state's policy to incorporate ecosystem perspectives into the management of coastal and ocean resources, using sound science, with a priority of protecting, conserving, and restoring coastal and ocean ecosystems, rather than managing on a single species or single resource basis.

(4) A goal of all state actions shall be to improve monitoring and data gathering, and advance scientific understanding, to continually improve efforts to protect, conserve, restore, and manage coastal waters and ocean ecosystems.

(5) State and local actions that affect ocean waters or coastal or ocean resources should be conducted in a manner consistent with protection, conservation, and maintenance of healthy coastal and ocean ecosystems and restoration of degraded ocean ecosystems.

(6) Improving the quality of coastal waters and the health of fish in coastal waters should be a priority for the state.

**§ 35515. Legislative findings and declarations; purpose to integrate state laws and institutions; objectives**

The Legislature finds and declares that the purpose of this division is to integrate and coordinate the state's laws and institutions responsible for protecting and conserving ocean resources, including coastal waters and ocean ecosystems, to accomplish all of the following objectives:

(a) Provide a set of guiding principles for all state agencies to follow, consistent with existing law, in protecting the state's coastal and ocean resources.

(b) Encourage cooperative management with federal agencies, to protect and conserve representative coastal and ocean habitats and the ecological processes that support those habitats.

(c) Improve coordination and management of state efforts to protect and conserve the ocean by establishing a cabinet level oversight body responsible for identifying more efficient methods of protecting the ocean at less cost to taxpayers.

(d) Use California's private and charitable resources more effectively in developing ocean protection and conservation strategies.

(e) Provide for public access to the ocean and ocean resources, including to marine protected areas, for recreational use, and aesthetic, educational, and scientific purposes, consistent with the sustainable long-term conservation of those resources.

(f) Identify scientific research and planning that is useful for the protection and conservation of coastal waters and ocean ecosystems, and coordinate and assist state agencies in addressing those needs.

**§ 35550. Governing terms**

Unless the context requires otherwise, the following definitions govern this division:

(a) "Council" means the Ocean Protection Council established pursuant to Section 35600.

(b) "Fund" means the California Ocean Protection Trust Fund established pursuant to Section 35650.

(c) "Internationally accepted standards for sustainable seafood" means standards that meet all of the following criteria:

(1) Meet or exceed the Guidelines for the Ecolabeling of Fish and Fishery Products from Marine Capture Fisheries promulgated by the Food and Agriculture Organization of the United Nations (FAO).

(2) Conform to all of the following principles:

(A) A fishery must be conducted in a manner that does not lead to overfishing or depletion of the exploited populations and, for those populations that are depleted, the fishery must be conducted in a manner that demonstrably leads to their recovery.

(B) Fishing operations should allow for the maintenance of the structure, productivity, function, and diversity of the ecosystem, including habitat and associated dependent and ecologically related species on which the fishery depends.

(C) The fishery is subject to an effective management system that respects local, national, and international laws and standards and incorporates institutional and operational frameworks that require use of the resource to be responsible and sustainable.

(d) "Public agency" means a city, county, city and county, district, or the state or any agency or department of the state.

(e) “Sustainable” and “sustainability” mean both of the following:

(1) Continuous replacement of resources, taking into account fluctuations in abundance and environmental variability.

(2) Securing the fullest possible range of present and long-term economic, social, and ecological benefits, while maintaining biological diversity.

**§ 35600. Establishment; membership; public members; compensation and reimbursements**

(a) The Ocean Protection Council is established in state government. The council consists of the Secretary of the Resources Agency, the Secretary for Environmental Protection, the Chair of the State Lands Commission, and two members of the public appointed by the Governor.

(b) The two public members shall each serve a term of four years, and may each be reappointed to one additional term. The public members of the board shall be appointed on the basis of their educational and professional qualifications and their general knowledge of, interest in, and experience in the protection and conservation of coastal waters and ocean ecosystems. One of the public members shall have a scientific professional background and experience in coastal and ocean ecosystems.

(c) Except as provided in this section, members of the council shall serve without compensation. A member shall be reimbursed for actual and necessary expenses incurred in the performance of his or her duties, and in addition shall be compensated at one hundred dollars (\$100) for each day during which the member is engaged in the performance of official duties of the council. Payment for actual and necessary expenses shall be paid only to the extent that those expenses are not provided or payable by another public agency. The total number of days for which a member shall be compensated may not exceed 25 days in any one fiscal year.

**§ 35605. Chair of council**

At the council's first meeting in a calendar year, the council shall elect a chair from among its voting members.

**§ 35610. Nonvoting, ex officio members; appointment**

One Member of the Senate, appointed by the Senate Committee on Rules, and one Member of the Assembly, appointed by the Speaker of the Assembly, shall meet with the council as nonvoting, ex officio members.

**§ 35612. Open meetings; public forums**

(a) The council's meetings shall be open to the public.

(b) The council may sponsor conferences, symposia, and other public forums, to seek a broad range of public advice when establishing priorities for ocean resource protection, enhancement, and restoration.

**§ 35615. Duties and activities of council**

The council shall do all of the following:

(a)(1) Coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations, consistent with Sections 35510 and 35515.

(2) Establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies.

(3)(A) Establish a science advisory team of distinguished scientists to assist the council in meeting the purposes of this division. At the request of the council, the science advisory team may convene to identify, develop, and prioritize subjects and questions for research or investigation, and review and evaluate results of research or investigations to provide information for the council's activities.

(B) The science advisory team shall include scientists from a range of disciplines that are a part of the council's purview.

( contract with the state.

(4) Contract with the California Ocean Science Trust and other nonprofit organizations, ocean science institutes, academic institutions, or others that have experience in conducting the scientific and educational tasks that are required by the council.

(5) Transmit the results of research and investigations to state agencies to provide information for policy decisions.

(6) Identify and recommend to the Legislature changes in law needed to achieve the goals of this section.

(b)(1) Identify changes in federal law and policy necessary to achieve the goals of this division and to improve protection, conservation, and restoration of ocean ecosystems in federal and state waters off the state's coast.

(2) Recommend to the Governor and the Legislature actions the state should take to encourage those changes in federal law and policy.

**§ 35617. Voluntary sustainable seafood promotion program; development and implementation; components; accepted sustainability standards**

(a) The Ocean Protection Council shall develop and implement a voluntary sustainable seafood promotion program for the state.

(b) The program shall consist of all of the following:

(1) A protocol to guide entities on how to be independently certified to internationally accepted standards for sustainable seafood. The protocol must be developed in a transparent process and adopted by the council in a public meeting. The council shall identify in a public document that the provisions of subdivision (c) of Section 35550 have been met.

(2)(A) A marketing assistance program for seafood caught in California that is independently certified to internationally accepted standards for sustainable seafood. The council shall consult with the Department of Food and Agriculture in implementing this paragraph.

(B) Consistent with subparagraph (A), the marketing assistance program shall consist of competitive grants and loans for discrete and limited activities to benefit participants in the fishing industry in California.

(3) A competitive grant and loan program, only in years in which funds are appropriated by the Legislature to the California Ocean Protection Trust Fund, for eligible entities, including, but not limited to, fishery groups and associations, for the purpose of assisting California fisheries in qualifying for certification to internationally accepted standards for sustainable seafood. This program may be implemented in coordination with other state and private programs to maximize its effectiveness.

(4) The design of a label or labels that may be used exclusively to identify seafood caught in California that is certified to internationally accepted standards as sustainable seafood.

(c) Seafood produced through aquaculture or fish farming shall not be certified as sustainable under this division until nationally or internationally accepted sustainability standards have been developed and implemented.

**§ 35620. Sharing of scientific and geospatial information between various agencies; enumerated council actions; mandated cooperation with council**

(a) Consistent with this chapter, and subject to the availability of funding, the council shall support state agencies' use and sharing of scientific and geospatial information for coastal- and ocean-relevant decisionmaking, including marine spatial planning, by taking all of the following actions:

(1) Assess the needs of California's public agencies with respect to their abilities to gather, manage, use, and share information and decision-support tools relevant to ecosystem-based management in the coastal and ocean environment.

(2) Subject to a determination of need in paragraph (1) and in consultation with the relevant coastal or ocean management agency, increase the amount of baseline scientific and geospatial information that is available to public agencies in a publicly accessible, electronic, and geospatial format with respect to the following aspects of coastal and ocean ecosystems:

(A) Ecosystem health, structure, functioning, productivity, resilience, and vulnerability to threats.

(B) The effects of climate change.

(C) The cumulative effects of human-caused and natural sources of stress.

(D) Existing and predicted patterns of human activities, including activities that present conflicting or compatible demands on coastal and ocean ecosystems or those that require the use of a precautionary approach.

(E) Social, economic, and cultural values, including the value of coastal and ocean ecosystems for providing ecosystem services.

(F) Distinguishing ecological characteristics, including habitat heterogeneity, species abundance, and biodiversity.

(G) Other physical, biological, economic, social, and cultural information that the council determines is relevant to marine spatial planning.

(3) Support public agencies' collaborative management and use of scientific and geospatial information relevant to ecosystem-based management.

(4) Help identify decision-support tools relevant to ecosystem-based management, and, where appropriate, support the adaptation of those tools or the creation of new tools to serve the state's needs.

(b) Subject to available funding, and consistent with their individual mandates, each agency, board, department, or commission of the state with ocean or coastal management interests or regulatory authority shall cooperate with the council to achieve all of the goals described in subdivision (a).

**§ 35621. Powers granted to the council to coordinate activities associated with sharing of scientific and geospatial data to protect ocean resources**

Consistent with the council's authority and responsibility under this chapter to coordinate activities of state agencies with ocean or coastal management interests or regulatory authority, to improve the effectiveness of state efforts to protect ocean resources, and to establish policies to coordinate the collection and sharing of scientific data related to coastal and ocean resources among agencies, the council may award grants, enter into interagency agreements, and provide assistance to public agencies and nonprofit organizations to support this effort, including grants to improve geospatial data collection, interagency data sharing and collaboration, and tools for visualizing and analyzing these data. In allocating grants and assistance, the council shall give preference to public agencies that are meeting the goals described in Section 35620.

**§ 35625. Secretary; administration and staffing; appropriations**

(a) Under the direction of the Secretary of the Resources Agency, the executive officer of the State Coastal Conservancy shall act as secretary to the council, administer its affairs, and provide the staff services that the council needs to carry out this division, including, but not limited to, both of the following:

(1) Administering grants and expenditures authorized by the council from the fund or other sources, including, but not limited to, block grants from other state boards, commissions, or departments.

(2) Arranging meetings, agendas, and other administrative functions in support of the council.

(b) The Legislature may make appropriations to be used for the purposes of this division directly to the State Coastal Conservancy, for expenditures authorized by the council. If an expenditure has been approved by the council for the purposes of this division, approval of the State Coastal Conservancy is not required, except in the case of block grants provided by the council to be administered by the State Coastal Conservancy.

**§ 35650. Establishment; permitted expenditures; grants or loans**

(a) The California Ocean Protection Trust Fund is established in the State Treasury.

(b) Moneys deposited in the fund may be expended, upon appropriation by the Legislature, for both of the following:

(1) Projects and activities authorized by the council consistent with Chapter 3 (commencing with Section 35600).

(2) Upon authorization by the council, for grants or loans to public agencies, nonprofit corporations, or private entities for, or direct expenditures on, projects or activities that do one or more of the following:

(A) Eliminate or reduce threats to coastal and ocean ecosystems, habitats, and species.

(B) Improve the management of fisheries through grants or loans for the development and implementation of fishery management plans pursuant to Part 1.7 (commencing with Section 7050) of Division 6 of the Fish and Game Code, a part of the Marine Life Management Act of 1998, that promote long-term stewardship and collaboration with fishery participants to develop strategies that increase environmental and economic sustainability. Eligible projects and activities include, but are not limited to, innovative community-based or cooperative management and allocation strategies that create incentives for ecosystem improvement. Eligible expenditures include, but are not limited to, costs related to activities identified in subdivisions (a), (b), and (d) of Section 7075 of the Fish and Game Code, fishery research, monitoring, data collection and analysis to support adaptive management, and other costs related to the development and implementation of a fishery management plan developed pursuant to this subparagraph.

(C) Foster sustainable fisheries, including grants or loans for one or more of the following:

(i) Projects that encourage the development and use of more selective fishing gear.

(ii) The design of community-based or cooperative management mechanisms that promote long-term stewardship and collaboration with fishery participants to develop strategies that increase environmental and economic sustainability.

(iii) Collaborative research and demonstration projects between fishery participants, scientists, and other interested parties.

(iv) Promotion of value-added wild fisheries to offset economic losses attributable to reduced fishing opportunities.

(v) The creation of revolving loan programs for the purpose of implementing sustainable fishery projects.

(D) Improve coastal water quality.

(E) Allow for increased public access to, and enjoyment of, ocean and coastal resources, consistent with sustainable, long-term protection and conservation of those resources.

(F) Improve management, conservation, and protection of coastal waters and ocean ecosystems.

(G) Provide monitoring and scientific data to improve state efforts to protect and conserve ocean resources.

(H) Protect, conserve, and restore coastal waters and ocean ecosystems, including any of the following:

(i) Acquisition, installation, and initiation of monitoring and enforcement systems.

(ii) Acquisition from willing sellers of vessels, equipment, licenses, harvest rights, permits, and other rights and property, to reduce threats to ocean ecosystems and resources.

(I) Address coastal water contamination from biological pathogens, including collaborative projects and activities to identify the sources of pathogens and develop detection systems and treatment methods.

(J)(i) Provide funding for adaptive management, planning, coordination, monitoring, research, and other necessary activities to minimize the adverse impacts of climate change on California's ocean ecosystem, including, but not limited to, the effects of sea level rise, changes in ocean productivity, and ocean acidification on coastal and ocean habitat, wildlife, fisheries, chemistry, and other key attributes of ocean ecosystems and to increase the state's understanding of the ocean's role in carbon sequestration. Adaptive management strategies, planning, research, monitoring, or other activities shall be designed to improve the management of coastal and ocean resources or aid the state to adapt to climate change impacts.

(ii) Information or activities developed under clause (i), to the extent appropriate, shall provide guidance to the State Air Resources Board for the adoption of early action measures for the elimination or reduction of emissions from sources or categories of sources pursuant to the California Global Warming Solutions Act (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(c) Grants or loans may be made to a private entity pursuant to this section only for projects or activities that further public purposes consistent with Sections 35510, 35515, and 35617.

(d) Consistent with the purposes specified in Section 35515, and in furtherance of the findings in Sections 7059 and 7060 of the Fish and Game Code, the council, in authorizing grants or loans for projects or expenditures pursuant to this section, shall promote coordination of state programs and activities that protect and conserve ocean resources to avoid redundancy and conflicts to ensure that the state's programs and activities are complementary.