

MARINE LIFE MANAGEMENT ACT
(As Amended to July 2004)
FISH AND GAME CODE SECTIONS:
90 - 99.5, 105, 7050 - 7090, 8585 - 8589.7, 8842, and 9001.7
GOVERNMENT CODE SECTION 11125.6

FISH AND GAME CODE:

CHAPTER 2. MARINE LIFE DEFINITIONS

90. Definitions

The definitions in this chapter govern the construction of Chapter 7 (commencing with Section 1700) of Division 2 and Division 6 (commencing with Section 5500) and all regulations adopted pursuant to those provisions.

90.1. Adaptive management

"Adaptive management," in regard to a marine fishery, means a scientific policy that seeks to improve management of biological resources, particularly in areas of scientific uncertainty, by viewing program actions as tools for learning. Actions shall be designed so that even if they fail, they will provide useful information for future actions. Monitoring and evaluation shall be emphasized so that the interaction of different elements within the system can be better understood.

90.5. Bycatch

"Bycatch" means fish or other marine life that are taken in a fishery but which are not the target of the fishery. "Bycatch" includes discards.

90.7. Depressed

"Depressed," with regard to a marine fishery, means the condition of a fishery for which the best available scientific information, and other relevant information that the commission or department possesses or receives, indicates a declining population trend has occurred over a period of time appropriate to that fishery. With regard to fisheries for which management is based on maximum sustainable yield, or in which a natural mortality rate is available, "depressed" means the condition of a fishery that exhibits declining fish population abundance levels below those consistent with maximum sustainable yield.

91. Discards

"Discards" means fish that are taken in a fishery but are not retained because they are of an undesirable species, size, sex, or quality, or because they are required by law not to be retained.

93. Essential fishery information

"Essential fishery information," with regard to a marine fishery, means information about fish life history and habitat requirements; the status and trends of fish populations, fishing effort, and catch levels; fishery effects on fish age structure and

on other marine living resources and users, and any other information related to the biology of a fish species or to taking in the fishery that is necessary to permit fisheries to be managed according to the requirements of this code.

94. Fishery

"Fishery" means both of the following:

- (a) One or more populations of marine fish or marine plants that may be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics.
- (b) Fishing for, harvesting, or catching the populations described in (a).

96. Marine living resources

"Marine living resources" includes all wild mammals, birds, reptiles, fish, and plants that normally occur in or are associated with salt water, and the marine habitats upon which these animals and plants depend for their continued viability.

96.5. Maximum sustainable yield

"Maximum sustainable yield" in a marine fishery means the highest average yield over time that does not result in a continuing reduction in stock abundance, taking into account fluctuations in abundance and environmental variability.

97. Optimum yield

"Optimum yield," with regard to a marine fishery, means the amount of fish taken in a fishery that does all of the following:

- (a) Provides the greatest overall benefit to the people of California, particularly with respect to food production and recreational opportunities, and takes into account the protection of marine ecosystems.
- (b) Is the maximum sustainable yield of the fishery, as reduced by relevant economic, social, or ecological factors.
- (c) In the case of an overfished fishery, provides for rebuilding to a level consistent with producing maximum sustainable yield in the fishery.

97.5. Overfished

"Overfished," with regard to a marine fishery, means both of the following:

- (a) A depressed fishery.
- (b) A reduction of take in the fishery is the principal means for rebuilding the population.

98. Overfishing

"Overfishing" means a rate or level of taking that the best available scientific information, and other relevant information that the commission or department possesses or receives, indicates is not sustainable or that jeopardizes the capacity of a marine fishery to produce the maximum sustainable yield on a continuing basis.

98.2. Participants

"Participants" in regard to a fishery means the sportfishing, commercial fishing, and fish receiving and processing sectors of the fishery.

98.5. Population or Stock

"Population" or "stock" means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

99. Restricted Access

"Restricted access," with regard to a marine fishery, means a fishery in which the number of persons who may participate, or the number of vessels that may be used in taking a specified species of fish, or the catch allocated to each fishery participant, is limited by statute or regulation.

99.5. Sustainable, Sustainable Use, and Sustainability

"Sustainable," "sustainable use," and "sustainability," with regard to a marine fishery, mean both of the following:

- (a) Continuous replacement of resources, taking into account fluctuations in abundance and environmental variability.
- (b) Securing the fullest possible range of present and long-term economic, social, and ecological benefits, maintaining biological diversity, and, in the case of fishery management based on maximum sustainable yield, taking in a fishery that does not exceed optimum yield.

105. Marine Resources Committee

The commission shall form a marine resources committee from its membership consisting of at least one commissioner. The committee shall report to the commission from time to time on its activities and shall make recommendations on all marine resource matters considered by the commission. The committee or its designee shall, to the extent practicable, attend meetings of the department staff, including meetings of the department staff with interested parties, in which significant marine living resource management documents are being developed.

PART 1.7. CONSERVATION AND MANAGEMENT OF MARINE LIVING RESOURCES

CHAPTER 1. GENERAL POLICIES

7050. Findings and Declarations

- (a) The Legislature finds and declares that the Pacific Ocean and its rich marine living resources are of great environmental, economic, aesthetic, recreational, educational, scientific, nutritional, social, and historic importance to the people of California.
- (b) It is the policy of the state to ensure the conservation, sustainable use, and, where feasible, restoration of California's marine living resources for the benefit of all the

citizens of the state. The objective of this policy shall be to accomplish all of the following:

- (1) Conserve the health and diversity of marine ecosystems and marine living resources.
- (2) Allow and encourage only those activities and uses of marine living resources that are sustainable.
- (3) Recognize the importance of the aesthetic, educational, scientific, and recreational uses that do not involve the taking of California's marine living resources.
- (4) Recognize the importance to the economy and the culture of California of sustainable sport and commercial fisheries and the development of commercial aquaculture consistent with the marine living resource conservation policies of this part.
- (5) Support and promote scientific research on marine ecosystems and their components to develop better information on which to base marine living resource management decisions.
- (6) Manage marine living resources on the basis of the best available scientific information and other relevant information that the commission or department possesses or receives.
- (7) Involve all interested parties, including, but not limited to, individuals from the sport and commercial fishing industries, aquaculture industries, coastal and ocean tourism and recreation industries, marine conservation organizations, local governments, marine scientists, and the public in marine living resource management decisions.
- (8) Promote the dissemination of accurate information concerning the condition of, or management of, marine resources and fisheries by seeking out the best available information and making it available to the public through the marine resources management process.
- (9) Coordinate and cooperate with adjacent states, as well as with Mexico and Canada, and encourage regional approaches to management of activities and uses that affect marine living resources. Particular attention shall be paid to coordinated approaches to the management of shared fisheries.

7051. Regulations Apply Only to Ocean Waters and Bays; Limitation on Authority of Department

- (a) A regulation adopted pursuant to this part shall apply only to ocean waters and bays. Notwithstanding any other provision of this part, nothing contained in this part grants the department or any other agency of the state any regulatory authority not in existence on January 1, 1999, in any river upstream of the mouth of such river, in the Sacramento-San Joaquin Delta or in any other estuary.
- (b) The policies in this part shall apply only to fishery management plans and regulations adopted by the commission on or after January 1, 1999. No power is delegated to the commission or the department by this part to regulate fisheries other than the nearshore fishery, the white sea bass fishery, emerging fisheries, and fisheries for which the commission or department had regulatory authority prior to January 1, 1999.

CHAPTER 2. MARINE FISHERIES GENERALLY

7055. Legislative Findings and Declaration

The Legislature finds and declares that it is the policy of the state that:

(a) California's marine sport and commercial fisheries, and the resources upon which they depend, are important to the people of the state and, to the extent practicable, shall be managed in accordance with the policies and other requirements of this part in order to assure the long-term economic, recreational, ecological, cultural, and social benefits of those fisheries and the marine habitats on which they depend.

(b) Programs for the conservation and management of the marine fishery resources of California shall be established and administered to prevent overfishing, to rebuild depressed stocks, to ensure conservation, to facilitate long-term protection and, where feasible, restoration of marine fishery habitats, and to achieve the sustainable use of the state's fishery resources.

(c) Where a species is the object of sportfishing, a sufficient resource shall be maintained to support a reasonable sport use, taking into consideration the necessity of regulating individual sport fishery bag limits to the quantity that is sufficient to provide a satisfying sport.

(d) The growth of commercial fisheries, including distant-water fisheries, shall be encouraged.

7056. Management of Commercial Fisheries; Objectives

In order to achieve the primary fishery management goal of sustainability, every sport and commercial marine fishery under the jurisdiction of the state shall be managed under a system whose objectives include all of the following:

(a) The fishery is conducted sustainably so that long-term health of the resource is not sacrificed in favor of short-term benefits. In the case of a fishery managed on the basis of maximum sustainable yield, management shall have optimum yield as its objective.

(b) The health of marine fishery habitat is maintained and, to the extent feasible, habitat is restored, and where appropriate, habitat is enhanced.

(c) Depressed fisheries are rebuilt to the highest sustainable yields consistent with environmental and habitat conditions.

(d) The fishery limits bycatch to acceptable types and amounts, as determined for each fishery.

(e) The fishery management system allows fishery participants to propose methods to prevent or reduce excess effort in marine fisheries.

(f) Management of a species that is the target of both sport and commercial fisheries or of a fishery that employs different gears is closely coordinated.

(g) Fishery management decisions are adaptive and are based on the best available scientific information and other relevant information that the commission or department possesses or receives, and the commission and department have available to them essential fishery information on which to base their decisions.

- (h) The management decisionmaking process is open and seeks the advice and assistance of interested parties so as to consider relevant information, including local knowledge.
- (i) The fishery management system observes the long-term interests of people dependent on fishing for food, livelihood, or recreation.
- (j) The adverse impacts of fishery management on small-scale fisheries, coastal communities, and local economies are minimized.
- (k) Collaborative and cooperative approaches to management, involving fishery participants, marine scientists, and other interested parties are strongly encouraged, and appropriate mechanisms are in place to resolve disputes such as access, allocation, and gear conflicts.
- (l) The management system is proactive and responds quickly to changing environmental conditions and market or other socioeconomic factors and to the concerns of fishery participants.
- (m) The management system is periodically reviewed for effectiveness in achieving sustainability goals and for fairness and reasonableness in its interaction with people affected by management.

7058. Regulations Adopted to Conform with Policies of Sections 7055 & 7056

Any fishery management regulation adopted by the commission shall, to the extent practicable, conform to the policies of Sections 7055 and 7056.

7059. Legislative Findings and Declarations

- (a) The Legislature finds and declares all of the following:
 - (1) Successful marine life and fishery management is a collaborative process that requires a high degree of ongoing communication and participation of all those involved in the management process, particularly the commission, the department, and those who represent the people and resources that will be most affected by fishery management decisions, especially fishery participants and other interested parties.
 - (2) In order to maximize the marine science expertise applied to the complex issues of marine life and fishery management, the commission and the department are encouraged to continue to, and to find creative new ways to, contract with or otherwise effectively involve Sea Grant staff, marine scientists, economists, collaborative factfinding process and dispute resolution specialists, and others with the necessary expertise at colleges, universities, private institutions, and other agencies.
 - (3) The benefits of the collaborative process required by this section apply to most marine life and fishery management activities including, but not limited to, the development and implementation of research plans, marine managed area plans, fishery management plans, and plan amendments, and the preparation of fishery status reports such as those required by Section 7065.
 - (4) Because California is a large state with a long coast, and because travel is time consuming and costly, the involvement of interested parties shall be facilitated, to the extent practicable, by conducting meetings and discussions in the areas of the coast and in ports where those most affected are concentrated.

(b) In order to fulfill the intent of subdivision (a), the commission and the department shall do all of the following:

(1) Periodically review marine life and fishery management operations with a view to improving communication, collaboration, and dispute resolution, seeking advice from interested parties as part of the review.

(2) Develop a process for the involvement of interested parties and for factfinding and dispute resolution processes appropriate to each element in the marine life and fishery management process. Models to consider include, but are not limited to, the take reduction teams authorized under the Marine Mammal Protection Act (16 U.S.C. Sec. 1361 et seq.) and the processes that led to improved management in the California herring, sea urchin, prawn, angel shark, and white seabass fisheries.

(3) Consider the appropriateness of various forms of fisheries comanagement, which involves close cooperation between the department and fishery participants, when developing and implementing fishery management plans.

(4) When involving fishery participants in the management process, give particular consideration to the gear used, involvement of sport or commercial sectors or both sectors, and the areas of the coast where the fishery is conducted in order to ensure adequate involvement.

CHAPTER 3. FISHERIES SCIENCE

7060. Legislative Finding and Declaration

(a) The Legislature finds and declares that for the purposes of sustainable fishery management and this part, essential fishery information is necessary for federally and state-managed marine fisheries important to the people of this state to provide sustainable economic and recreational benefits to the people of California. The Legislature further finds and declares that acquiring essential fishery information can best be accomplished through the ongoing cooperation and collaboration of participants in fisheries.

(b) The department, to the extent feasible, shall conduct and support research to obtain essential fishery information for all marine fisheries managed by the state.

(c) The department, to the maximum extent practicable and consistent with Section 7059, shall encourage the participation of fishermen in fisheries research within a framework that ensures the objective collection and analysis of data, the collaboration of fishermen in research design, and the cooperation of fishermen in carrying out research.

(d) The department may apply for grants to conduct research and may enter into contracts or issue competitive grants to public or private research institutions to conduct research.

7062. Program for External Peer Review; Department May Contract with Outside Entities

(a) The department shall establish a program for external peer review of the scientific basis of marine living resources management documents. The department, in its discretion and unless otherwise required by this part, may submit to peer review,

documents that include, but are not limited to, fishery management plans and plan amendments, marine resource and fishery research plans.

(b) The department may enter into an agreement with one or more outside entities that are significantly involved with researching and understanding marine fisheries and are not advocacy organizations. These entities may include, but not be limited to, the Sea Grant program of any state, the University of California, the California State University, the Pacific States Marine Fisheries Commission, or any other entity approved by the commission to select and administer peer review panels, as needed. The peer review panels shall be composed of individuals with technical expertise specific to the document to be reviewed. The entity with which the department enters into an agreement for a peer review shall be responsible for the scientific integrity of the peer review process. Each peer reviewer may be compensated as needed to ensure competent peer review. Peer reviewers shall not be employees or officers of the department or the commission and shall not have participated in the development of the document to be reviewed.

(c) The external peer review entity, within the timeframe and budget agreed upon by the department and the external scientific peer review entity, shall provide the department with the written report of the peer review panel that contains an evaluation of the scientific basis of the document. If the report finds that the department has failed to demonstrate that a scientific portion of the document is based on sound scientific knowledge, methods, and practices, the report shall state that finding, and the reasons for the finding. The department may accept the finding, in whole or in part, and may revise the scientific portions of the document accordingly. If the department disagrees with any aspect of the finding of the external scientific peer review, it shall explain, and include as part of the record, its basis for arriving at such a determination in the analysis prepared for the adoption of the final document, including the reasons why it has determined that the scientific portions of the document are based on sound scientific knowledge, methods, or practice. The department shall submit the external scientific peer review report to the commission with any peer reviewed document that is to be adopted or approved by the commission.

(d) The requirements of this section do not apply to any emergency regulation adopted pursuant to subdivision (b) of Section 11346.1 of the Government Code.

(e) Nothing in this section shall be interpreted, in any way, to limit the authority of the commission or department to adopt a plan or regulation.

CHAPTER 4. COMMISSION AND DEPARTMENT

7065. Annual Report

(a) The director shall report annually in writing to the commission on the status of sport and commercial marine fisheries managed by the state. The date of the report shall be chosen by the commission with the advice of the department. Each annual report shall cover at least one-fourth of the marine fisheries managed by the state so that every fishery will be reported on at least once every four years. The department shall, consistent with Section 7059, involve expertise from outside the department in compiling information for the report, which may include, but need not be limited to,

Sea Grant staff, other marine scientists, fishery participants, and other interested parties.

(b) For each fishery reported on in an annual report, the report shall include information on landings, fishing effort, areas where the fishery occurs, and other factors affecting the fishery as determined by the department and the commission. Each restricted access program shall be reviewed at least every five years for consistency with the policies of the commission on restricted access fisheries.

(c) Notwithstanding subdivision (a), the first annual report shall be presented to the commission on or before September 1, 2001, and shall cover all the marine fisheries managed by the state. To the extent that the requirements of this section and Section 7073 are duplicative, the first annual report may be combined with the plan required pursuant to Section 7073.

7066. Identification of Fishery Not Meeting Sustainability Policies

(a) The Legislature finds and declares that a number of human-caused and natural factors can affect the health of marine fishery resources and result in marine fisheries that do not meet the policies and other requirements of this part.

(b) To the extent feasible, the director's report to the commission pursuant to Section 7065 shall identify any marine fishery that does not meet the sustainability policies of this part. In the case of a fishery identified as being depressed, the report shall indicate the causes of the depressed condition of the fishery, describe steps being taken to rebuild the fishery, and, to the extent practicable, recommend additional steps to rebuild the fishery.

(c) The director's report to the commission pursuant to Section 7065, consistent with subdivision (m) of Section 7056, shall evaluate the management system and may recommend modifications of that system to the commission.

CHAPTER 5. FISHERY MANAGEMENT PLANS - GENERAL POLICIES

7070. Legislative Finding and Declaration; Management of Fisheries

The Legislature finds and declares that the critical need to conserve, utilize, and manage the state's marine fish resources and to meet the policies and other requirements stated in this part require that the state's fisheries be managed by means of fishery management plans.

7071. Exceptions

(a) Any white seabass fishery management plan adopted by the commission on or before January 1, 1999, shall remain in effect until amended pursuant to this part. Notwithstanding paragraph (2) of subdivision (b) of Section 7073, any white seabass fishery management plan adopted by the commission and in existence on January 1, 1999, shall be amended to comply with this part on or before January 1, 2002.

(b) In the case of any fishery for which the commission has management authority, including white seabass, regulations that the commission adopts to implement a fishery management plan or plan amendment for that fishery may make inoperative, in regard to that fishery, any fishery management statute that applies to that fishery,

including, but not limited to, statutes that govern allowable catch, restricted access programs, permit fees, and time, area, and methods of taking.

(c) On and after January 1, 2000, the commission may adopt regulations as it determines necessary, based on the advice and recommendations of the department, and in a process consistent with Section 7059, to regulate all emerging fisheries, consistent with Section 7090, all fisheries for nearshore fish stocks, and all fisheries for white seabass. Regulations adopted by the commission may include, but need not be limited to, establishing time and area closures, requiring submittal of landing and permit information, regulating fishing gear, permit fees, and establishing restricted access fisheries.

7072. Management Plans; Requirements

(a) Fishery management plans shall form the primary basis for managing California's sport and commercial marine fisheries.

(b) Fishery management plans shall be based on the best scientific information that is available, on other relevant information that the department possesses, or on the scientific information or other relevant information that can be obtained without substantially delaying the preparation of the plan.

(c) To the extent that conservation and management measures in a fishery management plan either increase or restrict the overall harvest or catch in a fishery, fishery management plans shall allocate those increases or restrictions fairly among recreational and commercial sectors participating in the fishery.

(d) Consistent with Article 17 (commencing with Section 8585), the commission shall adopt a fishery management plan for the nearshore fishery on or before January 1, 2002, if funds are appropriated for that purpose in the annual Budget Act or pursuant to any other law.

7073. Master Plan Contents; Submission to Commission

(a) On or before September 1, 2001, the department shall submit to the commission for its approval a master plan that specifies the process and the resources needed to prepare, adopt, and implement fishery management plans for sport and commercial marine fisheries managed by the state. Consistent with Section 7059, the master plan shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons.

(b) The master plan shall include all of the following:

(1) A list identifying the fisheries managed by the state, with individual fisheries assigned to fishery management plans as determined by the department according to conservation and management needs and consistent with subdivision (f) of Section 7056.

(2) A priority list for preparation of fishery management plans. Highest priority shall be given to fisheries that the department determines have the greatest need for changes in conservation and management measures in order to comply with the policies and requirements set forth in this part. Fisheries for which the department determines that current management complies with the policies and requirements of this part shall be given the lowest priority.

(3) A description of the research, monitoring, and data collection activities that the department conducts for marine fisheries and of any additional activities that might be needed for the department to acquire essential fishery information, with emphasis on the higher priority fisheries identified pursuant to paragraph (2).

(4) A process consistent with Section 7059 that ensures the opportunity for meaningful involvement in the development of fishery management plans and research plans by fishery participants and their representatives, marine scientists, and other interested parties.

(5) A process for periodic review and amendment of the master plan.

(c) The commission shall adopt or reject the master plan or master plan amendment, in whole or in part, after a public hearing. If the commission rejects a part of the master plan or master plan amendment, the commission shall return that part to the department for revision and resubmission pursuant to the revision and resubmission procedures for fishery management plans as described in subdivision (a) of Section 7075.

7074. Interim Fishery Research Protocols

(a) The department shall prepare interim fishery research protocols for at least the three highest priority fisheries identified pursuant to paragraph (2) of subdivision (b) of Section 7073. An interim fishery protocol shall be used by the department until a fishery management plan is implemented for that fishery.

(b) Consistent with Section 7059, each protocol shall be prepared with the advice, assistance, and involvement of participants in the various fisheries and their representatives, marine conservationists, marine scientists, and other interested persons.

(c) Interim protocols shall be submitted to peer review as described in Section 7062 unless the department, pursuant to subdivision (d), determines that peer review of the interim protocol is not justified. For the purpose of peer review, interim protocols may be combined in the following circumstances:

(1) For related fisheries.

(2) For two or more interim protocols that the commission determines will require the same peer review expertise.

(d) The commission, with the advice of the department, shall adopt criteria to be applied in determining whether an interim protocol may be exempted from peer review.

CHAPTER 6. FISHERY MANAGEMET PLAN PREPARATION, APPROVAL, AND REGULATIONS

7075. Preparation of Fishery Management Plans and Amendments

(a) The department shall prepare fishery management plans and plan amendments, including any proposed regulations necessary to implement plans or plan amendments, to be submitted to the commission for adoption or rejection. Prior to submitting a plan or plan amendment, including any proposed regulations necessary for implementation, to the commission, the department shall submit the plan to peer review pursuant to Section 7062, unless the department determines that peer review

of the plan or plan amendment may be exempted pursuant to subdivision (c). If the department makes that determination, it shall submit its reasons for that determination to the commission with the plan. If the commission rejects a plan or plan amendment, including proposed regulations necessary for implementation, the commission shall return the plan or plan amendment to the department for revision and resubmission together with a written statement of reasons for the rejection. The department shall revise and resubmit the plan or plan amendment to the commission within 90 days of the rejection. The revised plan or plan amendment shall be subject to the review and adoption requirements of this chapter.

(b) The department may contract with qualified individuals or organizations to assist in the preparation of fishery management plans or plan amendments.

(c) The commission, with the advice of the department and consistent with Section 7059, shall adopt criteria to be applied in determining whether a plan or plan amendment may be exempted from peer review.

(d) Fishery participants and their representatives, fishery scientists, or other interested parties may propose plan provisions or plan amendments to the department or commission. The commission shall review any proposal submitted to the commission and may recommend to the department that the department develop a fishery management plan or plan amendment to incorporate the proposal.

7076. Department to Seek Advice and Assistance; Peer Review Written Comments

(a) To the extent practicable, and consistent with Section 7059, the department shall seek advice and assistance in developing a fishery management plan from participants in the affected fishery, marine scientists, and other interested parties. The department shall also seek the advice and assistance of other persons or entities that it deems appropriate, which may include, but is not limited to, Sea Grant, the National Marine Fisheries Service, the Pacific States Marine Fisheries Commission, the Pacific Fishery Management Council, and any advisory committee of the department.

(b) In the case of a fishery management plan or a plan amendment that is submitted to peer review, the department shall provide the peer review panel with any written comments on the plan or plan amendment that the department has received from fishery participants and other interested parties.

7077. Public Review of Plans and Amendments

A fishery management plan or plan amendment, or proposed regulations necessary for implementation of a plan or plan amendment, developed by the department shall be available to the public for review at least 30 days prior to a hearing on the management plan or plan amendment by the commission. Persons requesting to be notified of the availability of the plan shall be notified in sufficient time to allow them to review and submit comments at or prior to a hearing. Proposed plans and plan amendments and hearing schedules and agendas shall be posted on the department's Internet website.

7078. Public Hearings; Adoption of Regulations; Requirements

(a) The commission shall hold at least two public hearings on a fishery management plan or plan amendment prior to the commission's adoption or rejection of the plan.

(b) The plan or plan amendment shall be heard not later than 60 days following receipt of the plan or plan amendment by the commission. The commission may adopt the plan or plan amendment at the second public hearing, at the commission's meeting following the second public hearing, or at any duly noticed subsequent meeting, subject to subdivision (c).

(c) When scheduling the location of a hearing or meeting relating to a fishery management plan or plan amendment, the commission shall consider factors, including, among other factors, the area of the state, if any, where participants in the fishery are concentrated.

(d) Notwithstanding Section 7550.5 of the Government Code, prior to the adoption of a fishery management plan or plan amendment that would make inoperative a statute, the commission shall provide a copy of the plan or plan amendment to the Legislature for review by the Joint Committee on Fisheries and Aquaculture or, if there is no such committee, to the appropriate policy committee in each house of the Legislature.

(e) The commission shall adopt any regulations necessary to implement a fishery plan or plan amendment no more than 60 days following adoption of the plan or plan amendment. All implementing regulations adopted under this subdivision shall be adopted as a regulation pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The commission's adoption of regulations to implement a fishery management plan or plan amendment shall not trigger an additional review process under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) Regulations adopted by the commission to implement a plan or plan amendment shall specify any statute or regulation of the commission that is to become inoperative as to the particular fishery. The list shall designate each statute or regulation by individual section number, rather than by reference to articles or chapters.

CHAPTER 7. CONTENTS OF FISHERY MANAGEMENT PLANS

7080. Contents of Summary

Consistent with subdivision (b) of Section 7072, each fishery management plan prepared by the department shall summarize readily available information about the fishery including, but not limited to, all of the following:

(a) The species of fish and their location, number of vessels and participants involved, fishing effort, historical landings in the sport and commercial sectors, and a history of conservation and management measures affecting the fishery.

(b) The natural history and population dynamics of the target species and the effects of changing oceanic conditions on the target species.

(c) The habitat for the fishery and known threats to the habitat.

(d) The ecosystem role of the target species and the relationship of the fishery to the ecosystem role of the target species.

(e) Economic and social factors related to the fishery.

7081. Fishery Research Protocol; Requirements

Consistent with subdivision (b) of Section 7072, each fishery management plan or plan amendment prepared by the department shall include a fishery research protocol that does all of the following:

- (a) Describe past and ongoing monitoring of the fishery.
- (b) Identify essential fishery information for the fishery, including, but not limited to, age and growth, minimum size at maturity, spawning season, age structure of the population, and, if essential fishery information is lacking, identify the additional information needed and the resources and time necessary to acquire the information.
- (c) Indicate the steps the department shall take to monitor the fishery and to obtain essential fishery information, including the data collection and research methodologies, on an ongoing basis.

7082. Measures for Conservation and Management of Fishery; Requirements

Each fishery management plan or plan amendment prepared by the department shall contain the measures necessary and appropriate for the conservation and management of the fishery according to the policies and other requirements in this part. The measures may include, but are not limited to, all of the following:

- (a) Limitations on the fishery based on area, time, amount of catch, species, size, sex, type or amount of gear, or other factors.
- (b) Creation or modification of a restricted access fishery that contributes to a more orderly and sustainable fishery.
- (c) A procedure to establish and to periodically review and revise a catch quota in any fishery for which there is a catch quota.
- (d) Requirement for a personal, gear, or vessel permit and reasonable fees.

7083. Incorporation of Existing Conservation and Management Measures

- (a) Each fishery management plan prepared by the department shall incorporate the existing conservation and management measures provided in this code that are determined by the department to result in a sustainable fishery.
- (b) If additional conservation and management measures are included in the plan, the department shall, consistent with subdivision (b) of Section 7072, summarize anticipated effects of those measures on relevant fish populations and habitats, on fishery participants, and on coastal communities and businesses that rely on the fishery.

7084. Measures to Minimize Adverse Effects on Habitat

- (a) Consistent with subdivision (b) of Section 7072, each fishery management plan or plan amendment prepared by the department for a fishery that the department has determined has adverse effects on marine fishery habitat shall include measures that, to the extent practicable, minimize adverse effects on habitat caused by fishing.
- (b) Subdivision (a) does not apply to activities regulated by Chapter 6 (commencing with Section 6650) of Part 1.

7085. Bycatch Requirements

Consistent with subdivision (b) of Section 7072, each fishery management plan or plan amendment prepared by the department, in fisheries in which bycatch occurs, shall include all of the following:

- (a) Information on the amount and type of bycatch.
- (b) Analysis of the amount and type of bycatch based on the following criteria:
 - (1) Legality of the bycatch under any relevant law.
 - (2) Degree of threat to the sustainability of the bycatch species.
 - (3) Impacts on fisheries that target the bycatch species.
 - (4) Ecosystem impacts.
- (c) In the case of unacceptable amounts or types of bycatch, conservation and management measures that, in the following priority, do the following:
 - (1) Minimize bycatch.
 - (2) Minimize mortality of discards that cannot be avoided.

7086. Identification of Fisheries that are Overfished

(a) Consistent with subdivision (b) of Section 7072, each fishery management plan or plan amendment prepared by the department shall specify criteria for identifying when the fishery is overfished.

(b) In the case of a fishery management plan for a fishery that has been determined to be overfished or in which overfishing is occurring, the fishery management plan shall contain measures to prevent, end, or otherwise appropriately address overfishing and to rebuild the fishery.

(c) Any fishery management plan, plan amendment, or regulation prepared pursuant to subdivision (b), shall do both of the following:

- (1) Specify a time period for preventing or ending or otherwise appropriately addressing overfishing and rebuilding the fishery that shall be as short as possible, and shall not exceed 10 years except in cases where the biology of the population of fish or other environmental conditions dictate otherwise.
- (2) Allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery.

7087. Plan Review and Amendment Procedure Required

(a) Each fishery management plan prepared by the department shall include a procedure for review and amendment of the plan, as necessary.

(b) Each fishery management plan or plan amendment prepared by the department shall specify the types of regulations that the department may adopt without a plan amendment.

7088. Plan to List Inoperative Statutes or Regulations

Each fishery management plan and plan amendment shall include a list of any statutes and regulations that shall become inoperative, as to the particular fishery covered by the fishery management plan or plan amendment, upon the commission's adoption of implementing regulations for that fishery management plan or plan amendment.

CHAPTER 8. NEW OR EMERGING FISHERIES

7090. Emerging Fisheries; Proactive Management

- (a) The Legislature finds and declares that a proactive approach to management of emerging fisheries will foster a healthy marine environment and will benefit both commercial and sport fisheries and other marine-dependent activities. Therefore, the commission, based upon the advice and recommendations of the department, shall encourage, manage, and regulate emerging fisheries consistent with the policies of this part.
- (b) "Emerging fishery," in regard to a marine fishery, means both of the following:
- (1) A fishery that the director has determined is an emerging fishery, based on criteria that are approved by the commission and are related to a trend of increased landings or participants in the fishery and the degree of existing regulation of the fishery.
 - (2) A fishery that is not an established fishery. "Established fishery," in regard to a marine fishery, means, prior to January 1, 1999, one or more of the following:
 - (A) A restricted access fishery has been established in this code or in regulations adopted by the commission.
 - (B) A fishery, for which a federal fishery management plan exists, and in which the catch is limited within a designated time period.
 - (C) A fishery for which a population estimate and catch quota is established annually.
 - (D) A fishery for which regulations for the fishery are considered at least biennially by the commission.
 - (E) A fishery for which this code or regulations adopted by the commission prescribes at least two management measures developed for the purpose of sustaining the fishery. Management measures include minimum or maximum size limits, seasons, time, gear, area restriction, and prohibition on sale or possession of fish.
- (c) The department shall closely monitor landings and other factors it deems relevant in each emerging fishery and shall notify the commission of the existence of an emerging fishery.
- (d) The commission, upon the recommendation of the department, may do either, or both, of the following:
- (1) Adopt regulations that limit taking in the fishery by means that may include, but not be limited to, restricting landings, time, area, gear, or access. These regulations may remain in effect until a fishery management plan is adopted.
 - (2) Direct the department to prepare a fishery management plan for the fishery and regulations necessary to implement the plan.
- (e) A fishery management plan for an emerging fishery shall comply with the requirements for preparing and adopting fishery management plans contained in this part. In addition to those requirements, to allow for adequate evaluation of the fishery and the acquisition of essential fishery information, the fishery management plan shall provide an evaluation period, which shall not exceed three years unless extended by the commission. During the evaluation period, the plan shall do both of the following:

(1) In order to prevent excess fishing effort during the evaluation period, limit taking in the fishery by means that may include, but need not be limited to, restricting landings, time, area, gear, or access to a level that the department determines is necessary for evaluation of the fishery.

(2) Contain a research plan that includes objectives for evaluating the fishery, a description of the methods and data collection techniques for evaluating the fishery, and a timetable for completing the evaluation.

(f) The commission is authorized to impose a fee on an emerging fishery in order to pay the costs of implementing this chapter. The fees may include, but need not be limited to, ocean fishing stamps and permit fees. The fees may not be levied in excess of the necessary costs to implement and administer this chapter. The commission may reduce fees annually if it determines that sufficient revenues exist to cover costs incurred by the department in administering this chapter. The commission and the department, with the advice of fishery participants and other interested parties, shall consider alternative ways to fund the evaluation of emerging fisheries.

(g) An emerging fishery is subject to this section unless the department incorporates the fishery into a fishery management plan developed under Sections 7070 to 7088, inclusive.

(h) In the event that this section is found to conflict with Section 8606, 8614, or 8615, this section shall prevail.

Article 17. Nearshore Fisheries Management Act

8585. Title of Article

This article shall be known and may be cited as the Nearshore Fisheries Management Act.

8585.5. Legislative Finding and Declaration

The Legislature finds and declares that important commercial and recreational fisheries exist on numerous stocks of rockfish (genus *Sebastes*), California sheephead (genus *Semicossyphus*), kelp greenling (genus *Hexagrammos*), cabezon (genus *Scorpaenichthys*), and scorpionfish (genus *Scorpaena*), in the nearshore state waters extending from the shore to one nautical mile offshore the California coast, that there is increasing pressure being placed on these fish from recreational and commercial fisheries, that many of these fish species found in the nearshore waters are slow growing and long lived, and that, if depleted, many of these species may take decades to rebuild. The Legislature further finds and declares that, although extensive research has been conducted on some of these species by state and federal governments, there are many gaps in the information on these species and their habitats and that there is no program currently adequate for the systematic research, conservation, and management of nearshore fish stocks and the sustainable activity of recreational and commercial nearshore fisheries. The Legislature further finds and declares that recreational fishing in California generates funds pursuant to the Federal Aid in Sport Fish Restoration Act (16 U.S.C. Secs. 777 to 777I, inclusive), with revenues used for, among other things, research,

conservation, and management of nearshore fish. The Legislature further finds and declares that a program for research and conservation of nearshore fish species and their habitats is needed, and that a management program for the nearshore fisheries is necessary. The Legislature further finds and declares that the commission should be granted additional authority to regulate the commercial and recreational fisheries to assure the sustainable populations of nearshore fish stocks. Lastly, the Legislature finds and declares that, whenever feasible and practicable, it is the policy of the state to assure sustainable commercial and recreational nearshore fisheries, to protect recreational opportunities, and to assure long-term employment in commercial and recreational fisheries.

8586. Definitions

The following definitions govern the construction of this article:

(a) "Nearshore fish stocks" means any of the following: rockfish (genus *Sebastes*) for which size limits are established under this article, California sheephead (*Semicossyphus pulcher*), greenlings of the genus *Hexagrammos*, cabezon (*Scorpaenichthys marmoratus*), scorpionfish (*Scorpaena guttata*), and may include other species of finfish found primarily in rocky reef or kelp habitat in nearshore waters.

(b) "Nearshore fisheries" means the commercial or recreational take or landing of any species of nearshore finfish stocks.

(c) "Nearshore waters" means the ocean waters of the state extending from the shore to one nautical mile from land, including one nautical mile around offshore rocks and islands.

8586.1. Funding

Funding to pay the costs of this article shall be made available from the revenues deposited in the Fish and Game Preservation Fund pursuant to Sections 8587, 8589.5, and 8589.7, and other funds appropriated for these purposes.

8587. Valid Nearshore Fishing Permit Required

Any person taking, possessing aboard a boat, or landing any species of nearshore fish stock for commercial purposes shall possess a valid nearshore fishery permit issued to that person that has not been suspended or revoked, except that when using a boat to take nearshore fish stocks at least one person aboard the boat shall have a valid nearshore fishery permit. Nearshore fishing permits are revocable. The fee for a nearshore fishing permit is one hundred and twenty five dollars (\$125).

8587.1. Commission May Adopt Regulations

(a) The commission may adopt regulations as it determines necessary, based on the advice and recommendations of the department, to regulate nearshore fish stocks and fisheries. Regulations adopted by the commission pursuant to this section may include, but are not limited to, requiring submittal of landing and permit information, including logbooks; establishing a restricted access program; establishing permit fees; and establishing limitations on the fishery based on time, area, type, and amount of gear, and amount of catch, species, and size of fish.

(b) Regulations adopted by the commission pursuant to this section may make inoperative any fishery management statute relevant to the nearshore fishery. Any regulation adopted by the commission pursuant to this subdivision shall specify the particular statute to be made inoperative.

(c) The circumstances, restrictions, and requirements of Section 219 do not apply to regulations adopted pursuant to this section.

(d) Any regulations adopted pursuant to this section shall be adopted following consultation with fishery participants and other interested persons consistent with Section 7059.

8588. Minimum Size Limits

(a) Notwithstanding any other provision of this code or any regulation adopted by the commission, no fish listed under this section taken pursuant to a commercial fishing license, shall be possessed, sold, or purchased unless it exceeds the specified minimum total length in the round or dressed with head on, as established under subdivision (b), except that nearshore finfish taken in trawls and landed dead are exempt from these size limits.

(b) The minimum size limits are as follows:

(1) Black and yellow rockfish	(<i>Sebastes chrysomelas</i>)	10 in. or 254 mm
(2) Gopher rockfish	(<i>Sebastes carnatus</i>)	10 in. or 254 mm
(3) Kelp rockfish	(<i>Sebastes atrovirens</i>)	10 in. or 254 mm
(4) California scorpionfish or sculpin	(<i>Scorpaena guttata</i>)	10 in. or 254 mm
(5) Greenlings of the Genus Hexagrammos(<i>Hexagrammos spp.</i>)		12 in. or 305 mm
(6) China rockfish	(<i>Sebastes nebulosus</i>)	12 in. or 305 mm
(7) Grass rockfish	(<i>Sebastes rastrelliger</i>)	12 in. or 305 mm
(8) California sheephead	(<i>Semicossyphus pulcher</i>)	12 in. or 305 mm
(9) Cabezon	(<i>Scorpaenichthys marmoratus</i>)	14 in. or 356 mm

(c) The commission may adopt regulations to modify the minimum size limits or to specify maximum size limits based on the best available scientific information.

(d) Regulations adopted by the commission pursuant to subdivision (c) shall only be adopted following public notice and not less than one public hearing.

(e) Any nearshore fish as defined in this article or in regulations adopted by the commission pursuant to this section that are taken in a nearshore fishery shall be measured immediately upon being brought aboard the vessel and released immediately if not in compliance with the size limits specified.

(f) This section shall remain in effect until the adoption of regulations implementing a fishery management plan for nearshore fish stocks by the commission, and as of that date, is repealed.

8589. Funding

Funding to prepare the plan pursuant to subdivision (d) of Section 7072 and any planning and scoping meetings shall be derived from moneys deposited in the Fish and Game Preservation Fund pursuant to Section 8587 and other funds appropriated for these purposes.

8589.5. Suspension or Revocation of Permits

The commission shall temporarily suspend and may permanently revoke the nearshore fishing permit of any person convicted of a violation of this article. In addition to, or in lieu of, a license or permit suspension or revocation, the commission may adopt and apply a schedule of fines for convictions of violations of this article.

8589.7. Fees; Adoption and Use

(a) Fees received by the department pursuant to Section 8587 shall be deposited in the Fish and Game Preservation Fund to be used by the department to prepare, develop, and implement the nearshore fisheries management plan and for the following purposes:

(1) For research and management of nearshore fish stocks and nearshore habitat. For the purposes of this section, "research" includes, but is not limited to, investigation, experimentation, monitoring, and analysis and "management" means establishing and maintaining a sustainable utilization.

(2) For supplementary funding of allocations for the enforcement of statutes and regulations applicable to nearshore fish stocks, including, but not limited to, the acquisition of special equipment and the production and dissemination of printed materials, such as pamphlets, booklets, and posters aimed at compliance with nearshore fishing regulations.

(3) For the direction of volunteer groups assisting with nearshore fish stocks and nearshore habitat management, for presentations of related matters at scientific conferences and educational institutions, and for publication of related material.

(b) The department shall maintain internal accounts that ensure that the fees received pursuant to Section 8587 are disbursed for the purposes stated in subdivision (a).

(c) The commission shall require an annual accounting from the department on the deposits into, and expenditures from, the Fish and Game Preservation Fund, as related to the revenues generated pursuant to Section 8587. Notwithstanding Section 7550.5 of the Government Code, a copy of the accounting shall be provided to the Legislature for review by the Joint Committee on Fisheries and Aquaculture, and if that committee is not in existence at the time, by the appropriate policy committee in each house of the Legislature.

(d) Unencumbered fees collected pursuant to Section 8587 during any previous calendar year shall remain in the fund and expended for the purposes of subdivision (a). All interest and other earnings on the fees received pursuant to Section 8587 shall be deposited in the fund and shall be used for the purposes of subdivision (a).

8842. Take Shrimp - Trawl Nets

(a) Trawl nets of a design prescribed by the commission may be used or possessed to take shrimps or prawns under a permit issued by the department under regulations adopted by the commission.

Sections 8831, 8833, 8835, and 8836 do not apply to trawl nets used or possessed under a permit issued pursuant to this section.

(b) When fishing for pink shrimp (*Pandalus jordani*) under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,500 pounds of incidentally taken

fish per calendar day of a fishing trip, except Pacific whiting, shortbelly rockfish, and arrowtooth flounder, which may be taken in any amount not in excess of federal regulations. No Pacific halibut and not more than 150 pounds of California halibut shall be possessed or landed when fishing under a permit issued pursuant to this section. When fishing for ridgeback prawn and spotted prawn under a permit issued pursuant to this section, it is unlawful to possess in excess of 1,000 pounds of incidentally taken fish per trip.

(c) This section shall become operative on April 1, 2001.

9001.7. Finfish Traps; Limitations

Finfish traps authorized for use to take fish other than sablefish and hagfish in waters of the state between the California-Oregon border and a line extending due west magnetic from Point Arguello, Santa Barbara County, shall be subject to the following limitations:

- (a) Lobster, and crabs of the genus *Cancer*, shall not be used as bait in finfish traps.
- (b) During the period from one hour after sunset to one hour before sunrise, finfish traps that are left in the water shall be unbaited with the door secured open. If, for reasons beyond the control of the permittee, all trap doors cannot be secured open prior to one hour after sunset, the permittee shall immediately notify the department.
- (c) Timed buoy release mechanisms commonly termed "popups" shall not be used on buoy lines attached to finfish traps.
- (d) Trap destruction devices used on finfish traps shall conform to the current requirements for those devices adopted by the commission.
- (e) No finfish traps shall be set within 750 feet of any pier, breakwall, or jetty in District 6, 7, 17, or 18.
- (f) No more than 50 finfish traps may be used in state waters along the mainland shore.
- (g) Effective January 1, 2000, the mesh of any finfish trap used pursuant to this section shall measure not less than two inches by two inches.

GOVERNMENT CODE

11125.6. Emergency Meetings

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.