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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 104. ENVIRONMENTAL HEALTH [106500 - 119406]** ( *Division 104 added by Stats. 1995, Ch. 415, Sec. 6.*  )

**PART 6. WHOLESALE FOOD [111940 - 113360]** ( *Part 6 added by Stats. 1995, Ch. 415, Sec. 6.*  )

**CHAPTER 5. Sanitary Control of Shellfish [112150 - 112280]** ( *Chapter 5 added by Stats. 1995, Ch. 415, Sec. 6.*  )

**ARTICLE 2. General Requirements [112160 - 112230]** ( *Article 2 added by Stats. 1995, Ch. 415, Sec. 6.*  )

**112160.** (a) The director may declare any area within the jurisdiction of this state to be a closed area if it is determined that shellfish taken from the growing area may be unsafe or unfit for human consumption.

(b) The director shall close to the taking of shellfish for a period deemed advisable any waters to which shellfish from a closed area may have been transferred.

(c) The director shall establish by order the areas that he or she declares unsafe or unfit for shellfish harvesting and shall modify or revoke the order in accordance with the results of chemical, toxicologic, and bacteriological surveys conducted by the department. The director shall file the order in the office of the department, and shall furnish copies of the orders describing closed areas to the Department of Fish and Game, the State Water Resources Control Board, and to any interested person without charge.

(d) Prior to the director's declaration that shellfish-growing waters may be unsafe and shellfish grown in these waters may not be taken for human consumption, the department shall do all of the following:

(1) Give at least 20 days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subject and issues involved, and the time when, the place where, and the manner in which, interested persons may present their views thereon.

(2) Afford all interested persons reasonable opportunity to submit data, views, or arguments orally or in writing. The department shall consider fully all written and oral submissions respecting the proposed action.

(e) If the department finds that the shellfish harvested from an area is unsafe or unfit for human consumption and states in writing its reasons for that finding, it may proceed without prior notice or hearing to take emergency action. The action may be effective for a period of not longer than 30 days, during which time the department shall initiate the procedures contained in subdivision (d).

(*Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.*)

**112165.** (a) The department shall adopt regulations regarding all of the following:

(1) The classification and minimum requirements for growing and harvesting areas, for relaying and depuration procedures, and for aquaculture facilities that are used for the cultivation and production of shellfish.

(2) Specifications for plant facilities and for the harvesting, transporting, storing, handling, packing, and repacking of shellfish.

(3) Fees.

(b) The department shall adopt regulations by January 1, 1999, to interpret and enforce the provisions of this chapter. The regulations shall be adopted by the department in the manner prescribed by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The regulations shall conform, so far as possible, to the standards or procedures established in the guidelines adopted by the National Shellfish Sanitation Program that pertain to the evaluation of shellfish-growing areas and handling facilities, but shall provide for regulating other wastes or contaminants not covered by the guidelines adopted by the National Shellfish Sanitation Program that would render shellfish unsafe or unfit for human consumption. If the department adopts standards or procedures that

exceed standards or procedures established in the guidelines adopted by the National Shellfish Sanitation Program, the department shall provide a written finding describing the public health need for those standards and procedures in the rulemaking process.

*(Amended by Stats. 1997, Ch. 236, Sec. 1. Effective January 1, 1998.)*

**112170.** (a) The director, or the director's duly authorized agent, shall conduct sanitary surveys of any shellfish growing water as deemed necessary to assure each of the following:

- (1) Any shellfish grown in the water is safe as an article of food and meets bacteriological, chemical, and toxicologic standards as prescribed by regulation.
- (2) Any shellfish grown in prohibited or restricted areas is either relayed to or depurated in approved water for a period of time as necessary to meet bacteriological, chemical, and toxicologic standards, as prescribed by regulation.
- (3) For good cause shown, a shellfish grower or harvester may request the resurvey of restricted or unapproved growing water, and the director, or the director's duly authorized agent, shall conduct the sanitary resurvey.

(b) If it is found that the shellfish and growing water are in compliance with the regulations promulgated under this chapter, the director shall issue a certificate attesting to the compliance to the lawful grower or harvester of the shellfish.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112175.** It is unlawful for any person to engage in commercial shellfish cultivation or the harvesting for human consumption of shellfish from naturally occurring populations, except as provided for in Sections 5670, 7850, 8500, and 15101 of the Fish and Game Code and in regulations adopted by the department pursuant to this chapter, with regard to growing areas, relaying and depuration procedures, and aquaculture facilities.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112180.** The director, or the director's duly authorized agent, may, at any reasonable hour of the day, do any of the following:

- (a) Enter and inspect any facility or area used for cultivation, production, depuration, processing, transporting, or sale of shellfish.
- (b) Obtain samples of water and shellfish. Upon request, split samples shall be given to the person from whose property the samples were obtained.
- (c) Inspect all shellfish plants and the practices followed in the handling and packaging of shellfish. If it is found that the operator is complying with the regulations promulgated under this chapter, the director shall issue a certificate attesting to the compliance.
- (d) Cause a reinspection to be made at any time and may revoke the certificate upon refusal of the operator to permit an inspection or free access at all reasonable hours, or upon a finding that the plant is not being operated in compliance with the regulations promulgated under this chapter.
- (e) No revocation, suspension, annulment, or withdrawal of any certificate is lawful unless, prior to the institution of department proceedings, the department gave notice by mail, to the certificate holder, of facts or conduct that warrants the intended action, and the certificate holder was given an opportunity to show compliance with all lawful requirements for the retention of the certificate, pursuant to Section 112265. This section does not preclude the department from taking immediate action in accordance with subdivision (e) of Section 112160.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112185.** It is unlawful for any person to take, sell, offer, or hold for sale any shellfish from an area declared by the director to be unsuitable for harvesting for human consumption, without complying with all regulations adopted by the department to ensure that the shellfish have been purified.

The intent of this section is not to prohibit the transplanting of shellfish from restricted or prohibited growing areas, if permission for the transplanting is first obtained from the Department of Fish and Game pursuant to Section 237 of Title 14 of the California Code of Regulations.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112190.** It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish that has not been harvested from a growing area which has been certified by the department or that has not been purified in accordance with Section 112170.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112195.** It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish that has not been handled and packaged in accordance with specifications under this chapter, and regulations adopted pursuant to this chapter.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112200.** It is unlawful for any person to sell, offer, or hold for sale any shellfish where the facilities for packaging and handling of the shellfish do not comply with regulations adopted by the department under this chapter.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112205.** It is unlawful for any person to operate a shellfish plant engaged in the handling and packaging of shellfish, either shucked or in the shell, without a valid certificate issued by the department for each plant or place of business.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112210.** It is unlawful for any person to sell, offer, or hold for sale any shellstock or shucked shellfish without a label that bears a valid certificate number and is in compliance with Chapter 4 (commencing with Section 110290) of Part 5.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112215.** It is unlawful for any person to sell, offer, or hold for sale any shellfish not in a container bearing a valid certificate number from a state or a nation whose shellfish certification program conforms to the then current Manual of Recommended Practice for Sanitary Control of the Shellfish Industry, issued by the United States Public Health Service.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112220.** The provisions of Sections 112210 and 112215, with respect to labeling requirements, shall not apply to any of the following:

(a) Shellstock held in dry storage under refrigerated conditions not for shipment or sale.

(b) Shellstock sold on premises when the sale is the ultimate point of sale.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112225.** Any shellfish that are held or offered for sale at retail or for human consumption, and that have not been handled and packaged in accordance with the specifications fixed by the department under this chapter, or that are not in a certified container as provided in Sections 112210 and 112215, or that are otherwise found by the director to be unfit for human consumption, are subject to immediate condemnation, seizure, and confiscation by the director or the director's duly authorized agent. The shellfish shall be held, destroyed, or otherwise disposed of as directed by the director.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*

**112230.** The director may suspend or revoke any certificate issued pursuant to this chapter for any violation of this chapter or the regulations adopted pursuant thereto.

*(Added by Stats. 1995, Ch. 415, Sec. 6. Effective January 1, 1996.)*