

## Cal.Fish & G.Code § 5654 -

(a)(1) Notwithstanding Section 5523 and except as provided in paragraph (2), the director, within 24 hours of notification of a spill or discharge, as those terms are defined in Section 8670.3 of the Government Code, where any fishing, including all commercial, recreational, and nonlicensed subsistence fishing, may take place, or where aquaculture operations are taking place, shall close to the take of all fish and shellfish all waters in the vicinity of the spill or discharge or where the spilled or discharged material has spread, or is likely to spread. In determining where a spill or discharge is likely to spread, the director shall consult with the Administrator of the Office of Spill Prevention and Response. At the time of closure, the department shall make all reasonable efforts to notify the public of the closure, including notification to commercial and recreational fishing organizations, and posting of warnings on public piers and other locations where subsistence fishing is known to occur. The department shall coordinate, when possible, with local and regional agencies and organizations to expedite public notification.

(2) Closure pursuant to paragraph (1) is not required if, within 24 hours of notification of a spill or discharge, the Office of Environmental Health Hazard Assessment finds that a public health threat does not or is unlikely to exist.

(b) Within 48 hours of notification of a spill or discharge subject to subdivision (a), the director, in consultation with the Office of Environmental Health Hazard Assessment, shall make an assessment and determine all of the following:

(1) The danger posed to the public from fishing in the area where the spill or discharge occurred or spread, and the danger of consuming fish taken in the area where the spill or discharge occurred or spread.

(2) Whether the areas closed for the take of fish or shellfish should be expanded to prevent any potential take or consumption of any fish or shellfish that may have been contaminated by the spill or discharge.

(3) The likely period for maintaining a closure on the take of fish and shellfish in order to prevent any possible contaminated fish or shellfish from being taken or consumed or other threats to human health.

(c) Within 48 hours after receiving notification of a spill or discharge subject to subdivision (a), or as soon as is feasible, the director, in consultation with the Office of Environmental Health Hazard Assessment, shall assess and determine the

potential danger from consuming fish that have been contained in a recirculating seawater tank onboard a vessel that may become contaminated by the vessel's movement through an area where the spill or discharge occurred or spread.

(d) If the director finds in his or her assessment pursuant to subdivision (b) that there is no significant risk to the public or to the fisheries, the director may immediately reopen the closed area and waive the testing requirements of subdivisions (e) and (f).

(e) Except under the conditions specified in subdivision (d), after complying with subdivisions (a) and (b), the director, in consultation with the Office of Environmental Health Hazard Assessment, but in no event more than seven days from the notification of the spill or discharge, shall order expedited tests of fish and shellfish that would have been open for take for commercial, recreational, or subsistence purposes in the closed area if not for the closure, to determine the levels of contamination, if any, and whether the fish or shellfish is safe for human consumption.

(f)(1) Within 24 hours of receiving a notification from the Office of Environmental Health Hazard Assessment that no threat to human health exists from the spill or discharge or that no contaminant from the spill or discharge is present that could contaminate fish or shellfish, the director shall reopen the areas closed pursuant to this section. The director may maintain a closure in any remaining portion of the closed area where the Office of Environmental Health Hazard Assessment finds contamination from the spill or discharge persists that may adversely affect human health.

(2) The director, in consultation with the commission, may also maintain a closure in any remaining portion of the closed area where commercial fishing or aquaculture occurs and where the department determines, pursuant to this paragraph, that contamination from the spill or discharge persists that may cause the waste of commercial fish or shellfish as regulated by Section 7701.

(g) To the extent feasible, the director shall consult with representatives of commercial and recreational fishing associations and subsistence fishing communities regarding the extent and duration of a closure, testing protocols, and findings. If a spill or discharge occurs within the lands governed by a Native American tribe or affects waters flowing through tribal lands, or tribal fisheries, the director shall consult with the affected tribal governments.

(h) The director shall seek full reimbursement from the responsible party or parties for the spill or discharge for all reasonable costs incurred by the department in carrying out this section, including, but not limited to, all testing.

(Added by Stats.2008, c. 564 (A.B.2935), § 1. Amended by Stats.2009, c. 294 (A.B.1442), § 13; Stats.2016, c. 209 (A.B.2912), § 1, eff. Jan. 1, 2017; Stats.2016, c. 542 (S.B.1287), § 2, eff. Jan. 1, 2017.)

Current as of January 18, 2019